



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0101

For: Violation of Section 3(h)
of R.A. 3019 as amended

Present

- versus -

FERNANDEZ, SJ, J.,

Chairperson

MIRANDA, J. and

TRESPESES, J.

ANTONIO R. FLOIRENDO, JR.,
Accused.

Promulgated:

APR 12 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Antonio R. Floirendo, Jr.'s *Omnibus Motion for Leave: A). To Suspend/Defer Arraignment; B). Direct Office of the Ombudsman to Complete Preliminary Investigation.*¹

The accused prays that this Court (1) allow the filing of his motion to suspend/defer arraignment, (2) direct the Ombudsman to complete the preliminary investigation, and (3) suspend/defer his arraignment until after the completion of the preliminary investigation. He avers:

1. The Office of the Ombudsman has not yet completed the preliminary investigation in the present case.
2. He received the order denying his motion to allow him to present additional evidence on February 1, 2018. He has five (5) days within which to file his motion for reconsideration of said order

* The incident was submitted for resolution upon the filing of the prosecution's *Comment/Opposition* on March 26, 2018 (Record, p. 342); In view of the vacancy in the Sixth Division (Per Administrative Order No. 071-2018 dated February 1, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule XII, Sec. 3)

¹ Dated March 19, 2018; Record, pp. 345-353

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3. He filed his motion for reconsideration of said order on February 6, 2018. The Office of the Ombudsman has yet to act on the same.
4. His motion for reconsideration being unresolved, the present case is not yet ripe for filing with the Court.

In its *Comment/Opposition (To the Omnibus Motion for Leave dated 19 March 2018)*,² the prosecution counters:

1. A motion to suspend the arraignment based on grounds not stated in Sec. 11, Rule 116 of the Rules of Court is a prohibited motion³ under the Revised Guidelines for Continuous Trial of Criminal Cases⁴ (Revised Guidelines).
2. That the preliminary investigation has not yet been completed by the Office of the Ombudsman is not a ground for the suspension of the arraignment of the accused under Sec. 11, Rule 116.
3. Assuming that the accused' Motion may be given due course, it must nonetheless be denied.
4. The Office of the Ombudsman has already completed the preliminary investigation. Prior to the filing of the accused' Motion for Reconsideration dated February 6, 2018, he already filed his *Omnibus Motion A) For Reconsideration of Resolution dated September 4, 2017; and B) To Reopen Case for Submission of Additional Documentary and/or Testimonial Evidence* on October 9, 2017.
5. The accused' Motion filed on October 9, 2017 was denied in the Order dated December 28, 2017. Thus, the Motion for Reconsideration filed on February 6, 2018 is essentially a second motion for reconsideration, which is proscribed under Section 7 (a), Rule II of the Rules of Procedure of the Office of the Ombudsman.
6. The accused' recent Motion for Reconsideration seeks the same relief sought for in his earlier Omnibus Motion, which was denied in the Order dated December 28, 2017.
7. The Information had already been filed with the Court. Even if the action on the accused' motion for reconsideration is favorable, the same will still be subject to the consideration of the Court.

² Dated March 26, 2018; Record, pp. 361-398

³ III. 2. (b) vi.

⁴ A.M. No. 15-06-10-SC

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8. The accused' motion for reconsideration had been rendered moot and academic when the Court issued a warrant of arrest against the accused.

THE COURT'S RULING

The Court resolves to deny the motion of the accused.

The accused filed his *Omnibus Motion A). For Reconsideration of Resolution Dated September 4, 2017; and B). To Reopen Case for Submission of Additional Documentary and/or Testimonial Evidence* dated October 9, 2017⁵ (henceforth referred to as First Motion). The Office of the Ombudsman, in the Order dated December 28, 2017,⁶ denied the accused' First Motion, which is essentially a motion for reconsideration and/or reinvestigation. The accused now prays that this Court suspend his arraignment and order the Office of the Ombudsman to complete the preliminary investigation on the ground that he filed his *Motion for Reconsideration of the Order dated December 28, 2017*⁷ (henceforth referred to as Second Motion).

Although the accused' *Omnibus Motion for Leave* appears to be a motion praying that this Court order the Office of the Ombudsman to complete the preliminary investigation, an examination of his Second Motion reveals that he is seeking reinvestigation on the grounds that (1) he is innocent, *i.e.*, he had no participation in the negotiation or approval of the JVA, and that he did not intervene in any way in its approval or execution; and (2) he was denied due process.

The instant *Omnibus Motion for Leave* is prohibited under the Revised Guidelines, III. 2. (b) iii. of which reads:

(b) *Prohibited Motions.* – Prohibited motions shall be denied outright before the scheduled arraignment without need of comment and/or opposition.

iii. Motion for reinvestigation of the prosecutor recommending the filing of the information once the information has been filed before the court (1) if the motion is filed without prior leave of court; (2) when preliminary investigation is not required under Sec. 8, Rule

⁵ Annex "A" of the prosecution's *Comment/Opposition*; Record, pp. 367-386

⁶ Annex "B" of the prosecution's *Comment/Opposition*; Record, pp. 387-398

⁷ Annex "A" of the accused' *Omnibus Motion for Leave*; Record, pp. 349-351

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112; and (3) when the regular grounds relied upon in the motion are not meritorious, such as issues of credibility, admissibility of evidence, innocence of the accused, or lack of due process when the accused was actually notified, among others.

(underscoring supplied)

Even if the instant motion is not prohibited under the Revised Guidelines, it must nonetheless be denied. There is no need to order the Office of the Ombudsman to complete the preliminary investigation because it has been completed.

Under Sec. 7, Rule II of the Rules of Procedure of the Office of the Ombudsman,⁸ only one motion for reconsideration or reinvestigation is allowed. Said provision reads:

Section 7. Motion for reconsideration –

- a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;
- b) The filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion.

The accused filed his motion for reconsideration and/or reinvestigation (First Motion), which the Office of the Ombudsman denied in the Order dated December 28, 2017. With the denial of the accused' First Motion, the preliminary investigation was completed.

There is likewise no valid ground for the suspension or deferment of the accused' arraignment. Under the Revised Guidelines, a motion to suspend arraignment based on grounds not stated under Section 11, Rule 116 of the Rules of Court is a prohibited motion.⁹

WHEREFORE, the motion of the accused hereby DENIED

⁸ Administrative Order No. 07

⁹ III. 2. (b) vi.

RESOLUTION

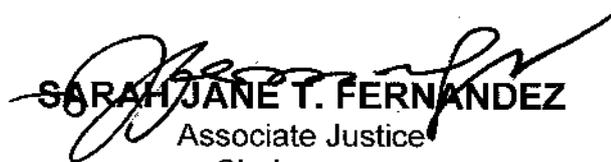
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SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


ZALDY V. TRESPESES
Associate Justice