



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-17-CRM-2167 & 2168

**For: Violation of Section 3
(e) & (h), R.A. No. 3019 as
amended**

-vs-

**SATURNINO MANIPOL MEDINA,
JR., ET AL.,**

Accused.

Present:

**LAGOS, J., Chairperson
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.**

Promulgated:

May 24, 2018 *led*

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution are the Motion for Reconsideration¹, filed by the People, through the Office of the Special Prosecutor, on February 28, 2018 and the Comment filed by accused Saturnino Manipol Medina and Nolette B. Medina, through counsel, on April 24, 2018.

The prosecution, in its motion avers that the Court should not sustain the quashal of the Informations on the lone basis of the affidavit of desistance of private

¹ Record, pp. 278 -281.

led

complainant Gregorio M. Cerillo. The prosecution, in elaborating its position, reiterated the case of *People v. Ballabare*, wherein the Supreme Court ruled that “any recantation must be tested in a public trial with sufficient opportunity given to the party adversely affected by it to cross-examine the recanting witness.”² In addition, the prosecution maintains that the Informations are sufficient in form and substance and contain the specific allegations of facts and circumstances necessary to constitute the offense for violation of Section 3 e and (h) of R.A. 3019, as amended.

In response, the accused submitted their Comment, through counsel, stating that: 1) the motion is a mere scrap of paper for failure to comply with the rudiments of the Rules of Court; 2) the subject motion should be denied for failure of the prosecution to present new matters that will merit the reconsideration of this Court of its previous ruling; and 3) the prosecution is deemed to have waived its opportunity to cross-examine the witness, Gregorio M. Cerillo (Cerillo), for its failure to include all its objections in its Consolidated Comment on the Omnibus Motion to Quash filed by the accused.

Hence, this resolution.

First. In resolving the procedural aspect of the motion for reconsideration, a reexamination of the Rules of Court is essential. Section 4 of the Rules of Court explicitly states:

Section 4. *Hearing of motion.* — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice. (4a)

From the foregoing, it can be deduced that the three (3) day notice requirement in motion under Section 4, Rule 15 of the Rules of Court is mandatory. The said rule is for the purpose of informing the adverse party of a pending motion and to give said party sufficient time to study the motion and to enable them to meet the arguments interposed therein. In consequence, a motion which does not comply with the requirements of the rule is a worthless piece of paper which the Court has no authority to act upon and being a fatal defect, its filing does not toll the running of the prescriptive period to appeal or to file a motion for reconsideration.

The accused in the present case capitalizes on the alleged invalidity of the notice of hearing as the date and time in the Court’s copy of the motion differed from the copy received by the accused, not to mention the prosecution’s failure to present proof of notice to the accused of the amended date of hearing. In addition, the copy of the motion was sent via registered mail on February 28, 2018 and was received by the accused only on March 6, 2018, or merely two days from the date of the intended hearing date, which is in clear violation of Section 4, par. (2), Rule 15 of

² G.R. No. 108871, November 19, 1996.

the Rules of Court, which requires that a copy of the motion should be received by the adverse party at least three (3) days before the date of the hearing.

The Court is not convinced.

The three (3) day notice requirement is not a hard and fast rule, especially so if the adverse party was afforded the opportunity to be heard and has indeed been heard through pleadings filed in opposition to the motion. The purpose of the rule is deemed realized and the procedural due process substantially complied with once the adverse party was not in any way deprived of their day in Court. The Supreme Court, time and again, explains that rules of procedure are tools intended to promote a just, speedy and inexpensive disposition of every action and Courts should avoid strict application which would result in technicalities that frustrate rather than promote the ends of justice.

As applied in the present case, a perusal of the records of the case shows that there was substantial compliance of the rules of procedure, considering that the adverse party had the opportunity to be heard through its Comment to the subject motion. The true test is the presence of the opportunity to be heard as well as ample time to study the motion to intelligently interpose their objections or controvert the allegations contained therein.

Notwithstanding that the accused received a copy of the subject motion two (2) days before the schedule of the hearing, their right to due process was not violated as they were given the opportunity to argue their position.

After resolving the procedural aspect of the case, the Court will now discuss the substantive merit of the subject motion.

The grounds for filing a motion for reconsideration is provided under Section 1 of Rule 37 of the Rules of Court, which states:

Section 1. Grounds of and period for filing motion for new trial or reconsideration.

Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

A party aggrieved by a decision or ruling of a Court may move to set aside the same and reconsideration thereof may be granted when: 1) the judgment awarded was excessive; 2) there was insufficiency of evidence to justify the decision; or 3) the decision was against the law.³

A motion for reconsideration based on ground number 2 and 3 must point out specifically the findings and conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions.⁴ However, a perusal of the subject motion reveals that the grounds relied upon by the prosecution are mere reiteration of arguments previously set forth in its Consolidated Comment dated January 29, 2018, which the Court already considered, weighed and resolved against the prosecution when the Court rendered a ruling granting the Omnibus Motion of the accused, which accordingly dismissed the instant cases on the ground that the facts charged in the Informations do not constitute an offense.

In addition, it is important to note that the recanting witness, Cerillo, is the private complainant himself, who categorically stated under oath that the instant cases were a product of his initial misapprehension of facts and that his declarations, which negated the facts stated in the Information, was already in existence at the time of the filing of the present cases having been part of its records.

Finally, the right to cross-examine a witness is a personal right which may be waived. As correctly pointed out by the accused, the prosecution had the opportunity to invoke its right to cross-examine from the time of the submission of the affidavit of desistance executed by Cerillo, nevertheless, it failed to assert such right even at the time of the filing of the Motion to Quash by the accused. This belated move on the part of the prosecution may easily be viewed as a desperate attempt on its part to prevent the inevitable finality of the dismissal of the present cases

WHEREFORE, in view of the foregoing, the Motion for Reconsideration is **DENIED** for utter lack of merit.


SO ORDERED.



MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

³ Section 1 (c), Rule 37, Rules of Court

⁴ Section 2, third paragraph, Rule 37, Rules of Court.

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice