



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-18-CRM-0101**  
Plaintiff, For: Violation of Section 3(h)  
of R.A. 3019 as amended

*Present*

- versus -

**ANTONIO R. FLOIRENDO, JR.,** **FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**TRESPESES,\* J.**  
Accused.

*Promulgated:*

**MAY 04 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves accused Antonio R. Floirendo, Jr.'s *Motion for Reconsideration (Of the Resolution dated April 12, 2018)*,<sup>1</sup> seeking reconsideration of the Resolution dated April 12, 2018<sup>2</sup> denying his *Omnibus Motion for Leave*.

The accused prays that this Court (1) direct the Ombudsman to complete the preliminary investigation in the present case, and (2) suspend/defer his arraignment pending the completion of the preliminary investigation. He avers:

1. He was not afforded his fundamental right to due process. He was not given an opportunity to submit additional evidence to fully controvert the charges against him.

\* J. Trespeses participated in the assailed Resolution; 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 IX, Sec. 2[a])

<sup>1</sup> Dated April 23, 2018; Record, pp. 455-460

<sup>2</sup> Record, pp. 418-422

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2. The Office of the Ombudsman violated his right to due process when it did not give him the opportunity to defend himself during the preliminary investigation despite his prior requests.

In its *Comment/Opposition (To the Motion for Reconsideration dated 23 April 2018)*,<sup>3</sup> the prosecution counters:

1. The Motion of the accused is anchored on the claim that he was denied due process in the proceedings before the Office of the Ombudsman.
2. The essence of due process is the opportunity to explain one's side or seek reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met.
3. The accused was given the opportunity to present his defense and submit evidence in support thereof. He was allowed to file his Counter-Affidavit, two (2) motions for extension of time to file the same, and his rejoinder. He was likewise given the opportunity to file his motion for reconsideration of the Resolution dated September 4, 2017 of the Office of the Ombudsman.
4. Said Resolution and Order of the Office of the Ombudsman apprised the accused of the issues involved and the reasons for the conclusions reached.
5. The Office of the Ombudsman, in its Resolution dated April 16, 2018,<sup>4</sup> already resolved the accused' Motion for Reconsideration dated February 6, 2018.

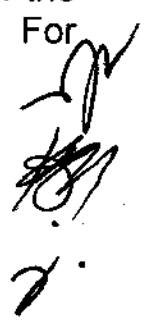
### THE COURT'S RULING

The Motion for Reconsideration of the accused should be denied.

The accused, in his Motion for Reconsideration, raises no new arguments and merely insists that he was denied due process. In the assailed Resolution, this Court already considered such argument and ruled that the accused' *Omnibus Motion for Leave* is a prohibited pleading because it is effectively a motion for reinvestigation on the grounds of (1) his innocence, and (2) the denial of due process. For

<sup>3</sup> Dated April 26, 2018 and filed on April 27, 2018

<sup>4</sup> Annex "C" of the prosecution's *Comment/Opposition*



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convenience, the pertinent portion of the assailed Resolution is hereunder quoted:<sup>5</sup>

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, 2017 (henceforth referred to as First Motion). The Office of the Ombudsman, in the Order dated December 28, 2017, 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* (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 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)

At any rate, it appearing that the Office of the Ombudsman already issued the Resolution dated April 16, 2018 denying the accused' Motion for Reconsideration dated February 6, 2018, any lingering doubt he may still have as to the completion of the preliminary investigation has been removed. It is unnecessary to order the Office

<sup>5</sup> Resolution dated April 12, 2018, pp. 3-4; Record, pp. 420-421



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of the Ombudsman to complete the preliminary investigation, as well as suspend or defer his arraignment.

**WHEREFORE**, the Motion for Reconsideration of the accused is hereby DENIED.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

***We Concur:***

  
**KARL B. MIRANDA**  
Associate Justice

  
**ZALDY V. TRESPESES**  
Associate Justice