



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

MINUTES of the proceedings held June 11, 2018

PRESENT:

HON. SARAH JANE T. FERNANDEZ.....Chairperson

HON. KARL B. MIRANDA.....Associate Justice

HON. KEVIN NARCE B. VIVERO.....Associate Justice

The following resolution was adopted:

SB-15-CRM-0068 to 0071 –

PEOPLE vs. NICANOR C. DE LEON, ET AL.

The Court resolves to **DENY** the *Objections to Questions in the Judicial Affidavit of Juanita A. Capili*¹ filed by accused Nicanor C. De Leon and Pacita N. De Leon (accused Spouses De Leon), praying that Questions No. 23 to 954 of the *Judicial Affidavit*² dated April 27, 2016 of Juanita A. Capili be stricken off the records.

Although some of the documentary exhibits which witness Capili identified during her oral testimony were the same as those in her *Judicial Affidavit*, the questions asked were not the same. The questions asked of witness Capili during her oral testimony pertained to the conduct of the fraud audit investigation, the documents gathered in connection therewith, and the issuance of the Audit Observation Memorandum and the Notices of Disallowance. On the other hand, in her *Judicial Affidavit*, the questions asked pertained more to the schemes the accused allegedly employed. At any rate, even if the questions were exactly or substantially the same, accused Spouses De Leon’s claim that it will unnecessarily confuse the issue is unfounded.

The questions in connection with “who are liable for the irregular disbursement(s)?” are not without basis. Witness Capili, during her oral testimony, answered some questions pertaining to the issuance of the Notices of Disallowance.³ The subject *Judicial Affidavit* is merely a continuation of witness Capili’s direct examination. Furthermore, as pointed out by the prosecution in its *Comment/Opposition (Re: Objections to Questions in the Judicial Affidavit of*

¹ Dated May 8, 2018; Record, Vol. 2, pp. 321-322

² Record, Vol. 2-A and 2-B

³ TSN, June 2, 2016, pp. 37-51; TSN, October 5, 2016, pp. 16-32

Juanita Capili),⁴ witness Capili is being presented as the auditor who conducted the fraud audit investigation of the subject transactions.

Finally, contrary to accused Spouses De Leon's claim, Questions No. 23 to 954 are part of the offer of testimony. In the *Judicial Affidavit*, it was stated, "3. She will testify on other matters relevant to the purpose of her testimony and the allegations in the information." The questions pertaining to the different checks issued are relevant to the allegations in the Information in the present cases.

On the other hand, this Court resolves to **PARTIALLY GRANT** the *Comment/Objection (To the Judicial Affidavit of Juanita Agbisit Capili)*⁵ of accused Remudaro and Macasio, over the objection of the prosecution in its *Comment/Opposition (Re: Objections to Questions in the Judicial Affidavit of Juanita Capili)*.⁶ As previously discussed, the questions pertaining to "who are liable for the irregular disbursement(s)?" are not without basis. However, the said accused' objection to the questions pertaining to the reason as to why Land Bank – Tuguegarao encashed the checks, as well as the follow-up questions, is well taken.

It was not established, either in the *Judicial Affidavit* or during her oral testimony, that witness Capili is competent to answer questions with regard to bank procedures. Prior to the question on the reason for encashing the checks, there was nothing showing that witness Capili had personal knowledge of facts surrounding the encashment of the checks, or for that matter, anything showing that her findings in the fraud audit investigation include the procedure followed by banks in the encashment of checks. Necessarily, the follow-up questions pertaining to the accountant's advice are rendered without any basis.

As prayed for, the questions pertaining to the reason for the encashment of the checks, specifically, **Questions No. 34, 56 (2nd), 77, 98, 120, 147, 175, 196, 227, 255, 284, 319, 347, 374, 405, 427, 449, 471, 493, 515, 537, 564, 586, 612, 639, 666, 715, 742, 759, 781, 803, 832, 849, 870, 891, 915, 934 and 948;** and the follow-up questions pertaining to the accountant's advice, specifically, **Questions No. 35, 36, 37, 56 (2nd, [a]), 57, 61 (p. 15 of the *Judicial Affidavit*), 79, 100, 101, 127, 128, 149, 150, 176, 177, 198, 199, 228, 229, 257, 258, 285, 286, 320, 321, 348, 349, 375, 376, 406, 407, 428, 429, 450, 451, 472, 473, 494, 495, 516, 517, 538, 539, 565, 566, 587, 588, 613, 614, 640, 641, 667, 668, 689, 690, 716, 717, 743, 744, 760, 761, 782, 783, 804, 805, 833, 834, 850, 851, 871, 872, 892, 893, 916, 917, 935, 936, 949 and 950,** are hereby **STRICKEN OFF** the records.

SO ORDERED.



⁴ Dated May 18, 2018; Record, Vol. 2, pp. 331-334

⁵ Dated May 15, 2018; Record, Vol. 2, pp. 326-330

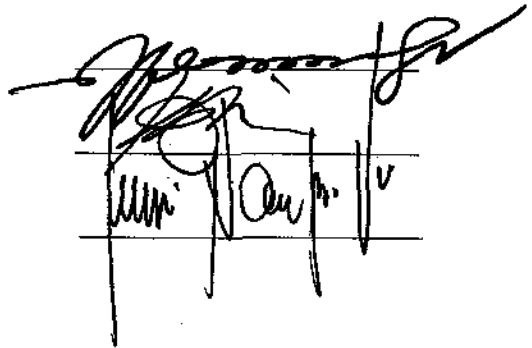
⁶ Dated May 30, 2018 and filed on May 31, 2018

APPROVED:

FERNANDEZ, SJ, J.,

MIRANDA, J.

VIVERO, J.



Handwritten signatures of the three individuals listed in the 'APPROVED' section: Fernandez, SJ, J.; Miranda, J.; and Vivero, J. The signatures are written in black ink and are somewhat stylized and overlapping.