



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0153 to 0156

- versus -

**For: Violation of Sec. 3 (e),
R.A. 3019, as amended**

JEJOMAR C. BINAY, SR., et al.,

Accused.

Present:

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

Promulgated:

July 13, 2018 *gal*

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RESOLUTION

LAGOS, J.:

For the Court's resolution is accused **Leonila de Guzman Querijero's Motion for Reconsideration** dated July 5, 2018, respecting the Court's June 7, 2018 Resolution¹ denying the said accused's Motion to Quash Information². The prosecution filed its *Comment* thereto, dated July 11, 2018.

After due consideration, the Court finds accused's motion devoid of merit.

It is admitted in her *Motion for Reconsideration* that "[o]n **22 June 2018**, Accused received a Resolution dated June 7, 2018 issued in the above-

¹ Records, Vol. 2, p. 369.

² *Id.*, Vol. 1, p. 421.

RESOLUTION

People vs. Binay, Sr., et al.

SB-18-CRM-0153 to 0156

Page 2 of 4

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entitled case, which DENIED the Motion to Quash...”³ (Emphasis supplied.) Appropos, the prosecution in its *Comment* posits that under Sec. III (c) of the *Revised Guidelines on Continuous Trial*,⁴ “the motion for reconsideration of a meritorious motion shall be filed within a non-extendible period of five (5) days from receipt of such resolution and motions that do not conform to such requirement shall be considered unmeritorious and denied outright.” Thus, “[d]uring the June 22, 2018 hearing on the above captioned cases, all the parties, including the prosecution and accused-movant Querijero, received a copy of the assailed Resolution. Clearly, the Motion for Reconsideration of accused-movant Querijero was filed out of time and should be denied outright.” (Underscoring supplied.) Since subject motion is dated July 5, 2018, it was clearly filed after the deadline. On this score alone, the instant motion ought to be denied.

Likewise, the Court finds that the arguments presented by accused-movant are a mere rehash of what have been raised and said in her earlier Motion to Quash. The instant motion for reconsideration does not raise any new or substantial ground or reason to justify the reconsideration sought. As asserted by the prosecution in its *Comment*, “The ground raised by the accused-movant, to wit: the facts charged do not constitute a violation of Section 3 (e) of R.A. 3019, is a mere reiteration of the argument cited in her Motion to Quash. Such ground has been judiciously discussed by this Honorable Court as embodied in its Resolution promulgated on June 7, 2018 denying the quashal of the information.” The prosecution contends, citing *Pilapil vs. Sandiganbayan*⁵, that:

...the presence or absence of the elements of the crime are evidentiary in nature and are matters of defense, the truth of which can best be passed upon after a full blown trial on the merits.

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Whether an act was done causing undue injury to the government and whether the same was done with manifest partiality or evident bad faith can only be made out by proper and sufficient testimony.

³ Motion for Reconsideration, par. 1, p. 1.

⁴ Sec. III (c) of the *Revised Guidelines for Continuous Trial* provides:

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“The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible of five calendar days from the expiration of the five-day period to submit comment.”

⁵ 221 SCRA 349, 360-361 (1993).

RESOLUTION

People vs. Binay, Sr., et al.

SB-18-CRM-0153 to 0156

Page 3 of 4

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Necessarily, a conclusion can be arrived at when the case has already proceeded on sufficient proof.⁶ (Underscoring omitted.)

In particular, the subject Court's Resolution recites in particular:

According to the accused, "[t]he act attributed to the Accused in the Information is **vague and fails to constitute an offense**. Such is **predicated on Accused's signatures** on different disbursement vouchers." Further, "[t]he mere act of signing, without more, is not a crime. In the Information, there is no allegation that the accused signed the documents with knowledge of any irregularity."⁷

The same above-quoted arguments appear **verbatim**, emphases included, in the accused's *Motion for Reconsideration*, to wit:

7. The act attributed to the Accused in the Information is **vague and fails to fails to constitute an offense**. Such is **predicated on the Accused's signatures** to different disbursement vouchers.

8. *The mere act of signing, without more, is not a crime. In the Information there is no allegation that the accused signed the documents with knowledge of any irregularity.*⁸

And, as tackled and discussed by the Court in its Resolution:

The Court cannot dwell on alleged extenuating circumstances, acts or omissions, of the accused regarding the covered transactions. They are evidentiary matters and must be borne by proper evidence, to be duly presented and offered during trial. The accused's motion must be measured and considered based on the face and a close reading of the four (4) subject informations. Among other things, as pointed out by the prosecution, "[t]he Information[s] filed contains specific facts and circumstances necessary to constitute a violation of Section 3 (e) of the Anti-Graft and Corrupt Practices Act (R.A. 3019. Upon a cursory reading of the Information[s], accused-movants are readily apprised of the acts and/or omissions imputed."⁹

Lastly, the Court notes that movant's counsel failed to acknowledge and address in the present *Motion for Reconsideration*, the Court's observation in the subject Resolution that he did not supply any citations for the Supreme Court cases cited in support of the earlier Motion to Quash, namely: **U.S. v. Dichao, Consigna v. People of the Philippines, Arias v. Sandigabayan, Albert v. Gangan, Sistoza v. Desierto, People v. Dizon, et al., and Sabiano v. Court of Appeals.**¹⁰ Stumped or not, movant's counsel's silence is taken to mean that he takes no exception to the Court's observation or admonition.

⁶ Comment, p. 2.

⁷ *Supra*, note 1; emphasis in the original; citations omitted.


⁸ Motion for Reconsideration, p. 2.

⁹ *Supra*, note 1, p. 372.

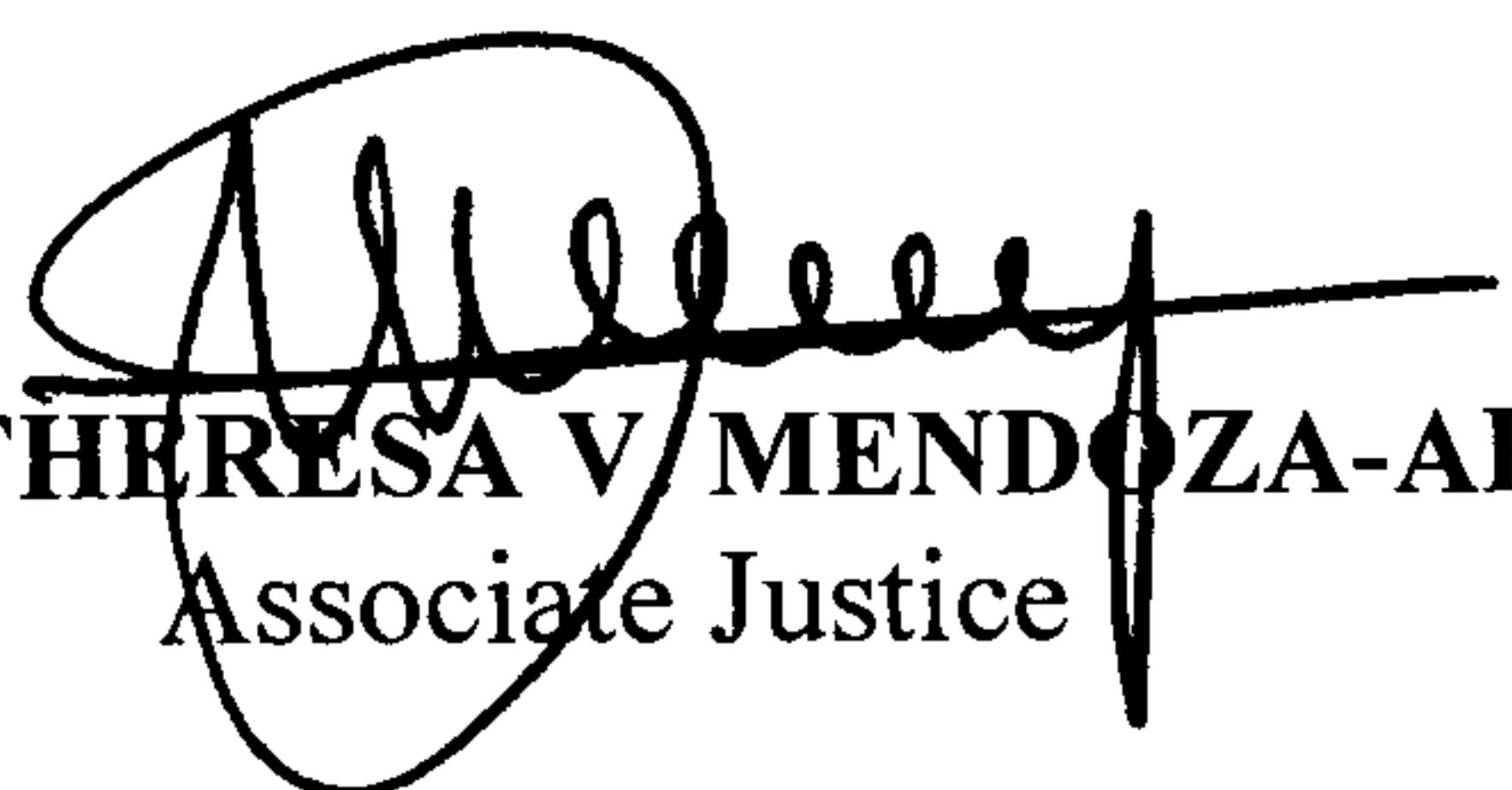
¹⁰ *Id.*

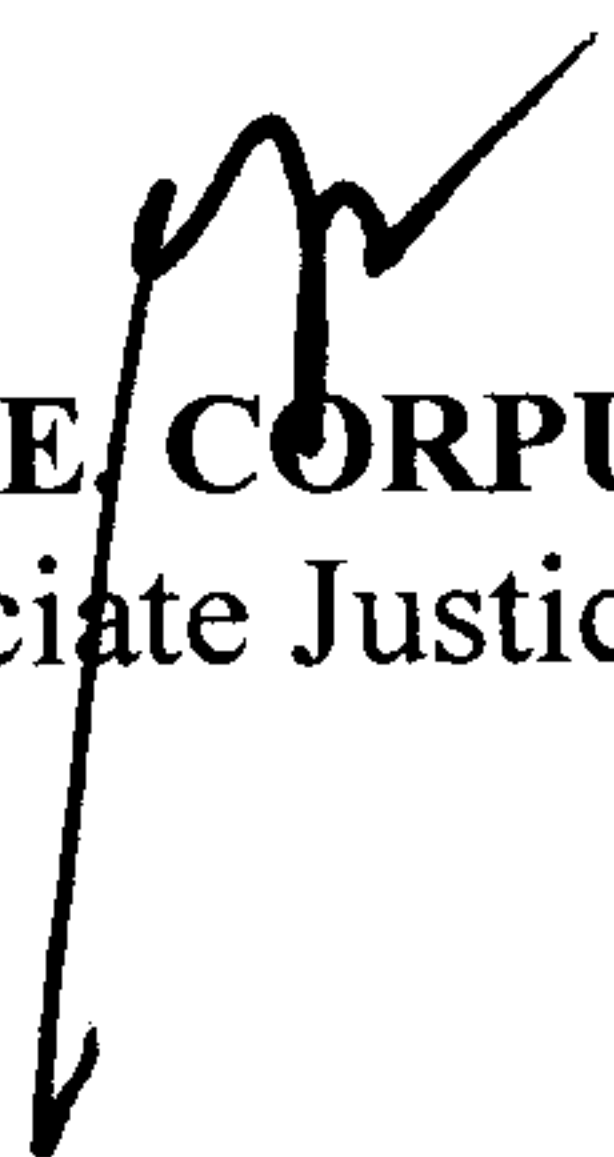
WHEREFORE, premises considered, accused **Leonila de Guzman Querijero's Motion for Reconsideration** is **DENIED**.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


MARIA THERESA V MENDOZA-ARCEGA
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice