



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-15-CRM-0002**
Plaintiff, For: Violation of Sec. 3(e)
of R.A. No. 3019

Present

- versus -

ALLAN P. DAMAS

Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
MUSNGI,* J.

Promulgated:

AUG 07 2018 

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Reconsideration*¹ filed by accused Allan P. Damas.

The accused prays that this Court reverse its Decision dated June 22, 2018,² and that he be acquitted. He contends:

1. Good faith is always presumed. Bad faith must be established by clear and convincing evidence.
2. The prosecution failed to overcome the presumption of good faith.
3. The prosecution failed to prove the relationship between him and Nellie Toledo (Toledo).

* J. Musngi participated in the assailed Decision (Per Administrative Order No. 057-2018 dated January 29, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule IX, Sec. 2[a])

¹ Dated July 2, 2018; Record, Vol. 2, pp. 58-66

² Record, Vol. 2, pp. 30-48



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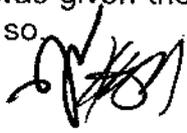
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- a. There are discrepancies as to the names and dates in the various documents purportedly showing the relationship between him and Toledo.
 - b. Such discrepancies in the documents should create reasonable doubt enough to acquit him.
 - c. It was never shown that such discrepancies were the result of typographical errors. Witness Sir Ryan Anthony D. Amad admitted that there were no applications for the correction of any of the entries in said documents.
 - d. The prosecution should have presented the actual relatives and other descendants of the persons referred to in the documents.
 - e. Witness Corazon S. Cedeño's testimony is full of lies and conflicts. In the *Joint Affidavit By Two Disinterested Persons*, she declared that she was not related to him. However, she later testified that she mistakenly made such statement.
 - f. Witness Cedeño claimed that the fact that he and Toledo are cousins is of public knowledge, but no member of the "public" was presented to corroborate her testimony.
 - g. Witness Cedeño admitted that there were no official documents showing that he and Toledo are cousins.
4. The prosecution failed to prove that his acts caused the giving of unwarranted benefits to Toledo.
 5. Toledo was previously the officer-in-charge of the Municipal Budget Office. She possessed all the qualifications for the position of head of a department of the Municipal Government, and none of the disqualifications therefor.

In its *Comment/Opposition (To Accused Allan P. Damas' Motion For Reconsideration Re: Decision dated 22 June 2018)*,³ the prosecution counters:

1. The accused did not rebut the evidence showing his relationship to Toledo. He was given the opportunity to adduce his evidence, yet he did not do so.



³ Dated July 17, 2018; Record, Vol. 2, pp. 70-75

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2. The statement in the *Joint Affidavit By Two Disinterested Persons*, disclaiming any relationship to the accused, pertains to witness Cedeño's co-affiant.
3. The Court, in concluding that the accused is related to Toledo, already considered the discrepancies in the documents showing such relation.
4. The accused' claim that Toledo did not possess any of the disqualifications for the position of the Municipal Treasurer is anchored on the fact that the prosecution failed to prove his relationship to Toledo.
5. As the Court found in the assailed Decision, the prosecution was able to prove the relationship between the accused and Toledo.

THE COURT'S RULING

The Court finds no reason to warrant the reversal of the Decision dated June 22, 2018.

The accused' arguments are premised on his claim that the prosecution failed to prove that he and Toledo are cousins.

I. Witness Cedeño's testimony

The accused contends that this Court should not have given credence to witness Cedeño's testimony because it is uncorroborated and is full of inconsistencies. His contention does not persuade.

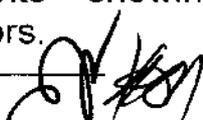
First, witness Cedeño's declaration in the *Joint Affidavit By Two Disinterested Persons* dated February 19, 2010,⁴ that "we are not relatives within any degree either by consanguinity or affinity with Mayor ALLAN POLIRAN DAMAS, Treasurer NELLIE POLIRAN TOLEDO, or former Vice Mayor Tatcho C. Dacula," was explained as a mistake. She clarified that she is a relative of the accused because her husband is a second-degree cousin of the accused.⁵

Second, witness Cedeño's testimony is corroborated by the various documents⁶ showing that the accused and Toledo have common ancestors.

⁴ Exhibit G

⁵ TSN, May 10, 2017, p.10; *Judicial Affidavit* dated March 9, 2017, p. 4

⁶ Exhibits F-1, F-5, F-7, F-11, F-12, F-18, F-19 and F-22



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II. The discrepancies in certain names and dates in the documents presented by the prosecution.

The accused insists that the discrepancies in the names and dates in the various documents presented by the prosecution creates reasonable doubt sufficient for his acquittal. This Court is not convinced.

In the assailed Decision, this Court, in finding that the accused and Toledo are cousins, already considered such discrepancies. The pertinent portion ⁷ of said Decision is hereunder quoted for convenience:

Nellie P. Toledo, whose maiden name is Nellie A. Poliran, is the daughter of Simeon Poliran, married to Paulina Aranton. The accused, on the other hand, is the son of Vicente Damas, married to Agatona Poliran. Simeon Poliran and Agatona Poliran are siblings, their parents being Abraham Poliran and Gaudencia Cedenio.

Although there are discrepancies as to the spellings of some names, as well as the year of the marriage of Simeon Poliran and Paulina Aranton, the names and relationships are similar enough that the following may be reasonably inferred:

1. Semeon Poliran, who was married to Paulina Arganton on February 20, 1963, is one and the same person as Simeon Poliran, who was married to Paulina Aranton on February 20, 1962.
2. Agatona Poleran, the child of Abraham Poleran and Gaudencia Cedenio,⁸ is one and the same person as Agatona Poliran, the child of Abraham Poliran and Gaudencia Cedenio.

The names in the documentary evidence adduced by the prosecution fall under the rule of *idem sonans*, the test of which is whether the sound of the variant spelling is the same or similar.⁹ This rule was applied in *Manebo v. Acosta*¹⁰ as follows:

While the initial police report stated that the name of the person who was seated beside the victim when the latter was shot was Liza Gragasan, such report would not conclusively establish that Liza Gragasan could not have been Flordeliza Bagasan, the witness

⁷ Record, Vol. 2, pp. 40-41; Decision dated June 22, 2018, pp. 11-12

⁸ Exhibit F-10

⁹ Please see *Tajanlangit v. Cozeñas*, G.R. No. L-18894, June 30, 1962

¹⁰ G.R. No. 169554, October 28, 2009

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who executed an affidavit four months after the incident. Notably, Flordeliza's nickname is Liza, and her surname Bagasan sounds similar to Gragasan. Under the rule of *idem sonans*, two names are said to be "idem sonantes" if the attentive ear finds difficulty in distinguishing them when pronounced. The question whether a name sounds the same as another is not one of spelling but of pronunciation. While the surname Bagasan was incorrectly written as Gragasan, when read, it has a sound similar to the surname Bagasan. Thus, the presence of Bagasan at the crime scene was established, contrary to the conclusion arrived at by the DOJ Secretary.

(underscoring supplied)

Similarly, when read, "Semeon" and "Simeon" would sound similar. This also applies for "Poliran" and "Poleran," as well as for "Aranton" and "Arganton."

Furthermore, it is unlikely that the following circumstances are merely coincidence:

1. Semeon Poliran and Paulina Arganton were married on February 20, 1963 in Plaridel, Misamis Occidental;¹¹ and Simeon Poliran and Paulina Aranton were married on February 20, 1962 in Plaridel, Occidental Misamis.¹²
2. Abraham Poleran and Gaudencia Cedenio had a child named Agatona Poleran;¹³ and Abraham Poliran and Gaudencia Cedenio had a child named Agatona Poliran.¹⁴

The similarities in the sounds of the names alone may not be enough to support the finding that the different names refer to the same persons, but coupled with the relationships between said persons, as shown in the various documents, it can be reasonably concluded that notwithstanding the minor variations in the spellings, the names in the documents pertain to the very same persons.

In fine, the prosecution proved beyond reasonable doubt that the accused and Toledo are cousins.



¹¹ Exhibits F-1 and F-15

¹² Exhibit F-18

¹³ Exhibit F-10

¹⁴ Exhibit F-19

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The accused' insistence in the absence of the third element of violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019), *i.e.*, the giving of unwarranted benefits to Toledo, also relies on the prosecution's purported failure to prove the relationship between the accused and Toledo. Having established that the accused and Toledo are cousins, it is clear that this contention also fails.

It must be noted that the accused was given the opportunity to adduce his evidence when this Court denied¹⁵ his *Motion for Leave of Court to File Demurrer to Evidence*.¹⁶ Instead of adducing his evidence, the accused decided to waive his right to present his evidence by submitting his *Demurrer to the Prosecution's Evidence* without leave of court. Hence, the prosecution's evidence, including witness Cedeño's declarations in her *Judicial Affidavit*, that the relationship between the accused and Toledo is of public knowledge in the municipality, and that she heard the accused and Toledo introduce themselves as cousins,¹⁷ remains unrebutted.

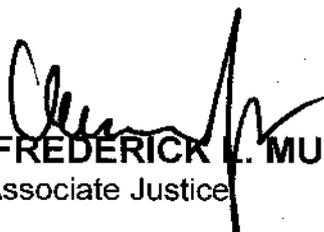
WHEREFORE, the *Motion for Reconsideration* of accused Allan P. Damas is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


MICHAEL FREDERICK L. MUSNGI
Associate Justice

¹⁵ Record, Vol. 1, p. 520

¹⁶ Dated November 15, 2017; Record, Vol. 1, pp. 496-498

¹⁷ *Judicial Affidavit* dated March 9, 2017, p. 3