



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 31 August 2018.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson
Justice ZALDY V. TRESPESES----- Member
Justice GEORGINA D. HIDALGO----- Member

The following resolution was adopted:

Crim. Case No. SB-15-CRM-0147 - People vs. REX FUSINGAN DAPITAN

This resolves the following:

1. Prosecution's "FORMAL OFFER OF DOCUMENTARY EVIDENCE" dated June 18, 2018;¹
2. Accused Dapitan's "COMMENT (to the Prosecution's Formal Offer of Exhibits)" dated August 7, 2018.²

TRESPESES, J.

Acting on the Formal Offer of Documentary Evidence filed by the prosecution, as well as accused Rex Fusingan Dapitan's Comment, the Court resolves to:

ADMIT Exhs. A (Annual Audit Report [AAD] on the Sultan Kudarat State University, Tacurong City for the Year Ended December 31, 2010 consisting of 98 pages), **Exh. A-1** (paragraphs 35 to 45 appearing on pages 25 and 26 of the AAD), **Exh. B** (Obligation Request No. RA-10-10-3936), **Exh. C** (Disbursement Voucher No. 10-10-1861 dated October 26, 2010), **Exh. D** (Development Bank of the Philippines Check No. 32478148 [front and dorsal portion]), **Exh. E** (Travel Order dated October 26, 2010), **Exh. F** (Travel Order dated October 26, 2010), **Exh. G** (Wedding Invitation consisting of two pages),³ **Exh. H** (Training Design consisting of three pages), **Exh. I** (Summary of Expenses), **Exh. J** (Audit Observation Memorandum (AOM)

¹ *Rollo*, Vol. 1, pp. 336-541.

² *Id.* at 542-545.

³ Prosecution witness Jessie Joy Paclibar brought to court the original copy of Exh. G and compared with it the marked document which appears to be faithful reproduction (TSN, 17 January 2018, pp. 11-12).

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No. 10-004-2010), **Exh. K** (letter of Rex Dapitan dated February 24, 2011 addressed to Jose T. Mercado), and **Exh. L** (Notice of Disallowance No. 11-002), there being no objection interposed by the defense. The foregoing exhibits are all certified true copies of the original documents and were identified by prosecution witness Jose T. Mercado in the course of his testimony.

ADMIT Exh. P (Affidavit-Complaint of Dolorcita E. Pauya consisting of 26 pages), although the document marked was a mere photocopy. It appears that during the preliminary conference conducted on 20 October 2016, counsel for accused compared the pre-marked exhibit with the original and admitted that it is a faithful reproduction.⁴ Prosecution witness Dolorcita Pauya likewise confirmed that the marked document was the same complaint-affidavit she executed.⁵

ADMIT Exh. U-1 (Service Record of Jessie Joy Faculin Paclibar) and **Exh. V-1** (Service Record of Meilaflor Arienza Paclibar), there being no objection interposed by the defense. Both documents are original copies and identified by prosecution witness Rosalie S. Ibot.

ADMIT Exhs. Y to Y-3 (photographs taken during the wedding of spouses Jessie Joy and Meilaflor Paclibar). Accused Dapitan objects to their admission on the ground that they have not been authenticated in accordance with the Rules on Electronic Evidence. Accused argues that the person who identified the photographs was not the person who actually took them.

We do not agree.

Sec. 1 of Rule 11 of the Rules on Electronic Evidence as amended by A.M. No. 01-7-01-SC (Re: Expansion of the Coverage of the Rules on Electronic Evidence) provides:

Section 1. Audio, video and similar evidence. – Audio, photographic and video evidence of events, acts or transactions shall be admissible provided it shall be shown, presented or displayed to the court and shall be identified, explained or authenticated by the person who made the recording or *by some other person competent to testify on the accuracy thereof.* (emphasis supplied)

Therefore, based on the above quoted provision, the photographer is not the only person who can identify the pictures. The faithful representation of the photograph may be proved *prima facie* by the testimony of those who were

⁴ TSN, 20 October 2016, p. 13.

⁵ TSN, 5 February 2018, p. 9.

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present at the time it was taken, or by any other competent witness who can testify as to its exactness and accuracy.⁶

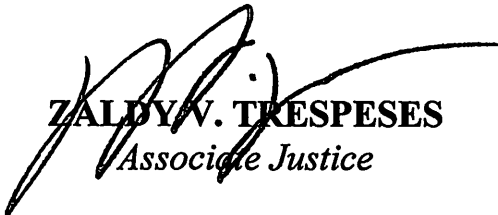
In this case, the *prima facie* correctness of the photographs as faithful reproduction of what they depict was established through the testimony of Jessie Joy Paclibar. The photographs were identified by Paclibar, who testified that they were taken during his wedding. He also identified from the photographs the persons who attended the wedding.⁷

It is to be noted that the admission of these exhibits is subject to the Court's appreciation of their probative value as to the purposes for which they were offered. In view of the admission of the documentary exhibits, the prosecution is deemed to have rested its case.


The parties are reminded of the setting for the presentation of defense evidence on **October 9 and 10, 2018 at 8:30 in the morning at the Fourth Division Courtroom.**

SO ORDERED.

Quezon City, Philippines.


ZALDY V. TRESPESES
Associate Justice

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


GEORGINA D. HIDALGO
Associate Justice

⁶ *Republic of the Philippines v. Court of Appeals, et al.*, G.R. No. 103882 & 105276, 25 November 1998.

⁷ *Rollo*, Vol. 1, pp. 284-285 (page 4 of Paclibar's Judicial Affidavit).