



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

CRIM. CASE Nos. SB-17-  
CRM-0283

*-versus-*

For: Violation of Section 3(e),  
R.A. No. 3019, as amended

MELQUIADES A. ROBLES, et al.,  
*Accused.*

*Present:*  
Lagos, J., Chairperson,  
Mendoza-Arcega, J., and  
Corpus-Mañalac, J.

Promulgated:

August 08, 2018 Jcl

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution are the following:

1. Prosecution's *Manifestation and Motion* dated June 11, 2018;<sup>1</sup>
2. Accused Melquiades A. Robles' *Comment/Opposition (To the Manifestation and Motion dated 11 June 2018)* dated June 25, 2018;<sup>2</sup>
3. Accused Dennis B.N. Acorda's *Comment/Opposition* dated June 26, 2018;<sup>3</sup> and

<sup>1</sup> Records, Volume (Vol.) 4, pp. 330-555.

<sup>2</sup> Records, Vol. 5, pp. 270-276.

<sup>3</sup> Ibid., pp. 303-308.

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4. Accused *Marilou B. Liscano's Comment (To the Prosecution's Manifestation and Motion dated June 11, 2018)* dated July 3, 2018.<sup>4</sup>

In its *Manifestation and Motion*, the prosecution declared that during the preliminary conference of this case, the original of its marked exhibits were not presented and compared due to its unavailability. Recently, however, the prosecution was able to locate some of the original and certified true copies of the prosecution's marked exhibits from the Commission on Audit (COA) – Special Audits Office (SAO). For this purpose, the prosecution seeks to submit the Judicial Affidavit of Lolita M. Soriano (“Soriano”), Supervising Administrative Officer of the COA-SAO, who has custody of the original and certified true copies of the documents related to the transaction of the LRTA with the Joint Venture of COMM Builders and Technology Philippines Corporation, PMP Incorporated, and Gradski Saobracaj GRAS (“Joint Venture”). Soriano is not specifically named as a witness in the Pre-trial Order<sup>5</sup> but since she is the incumbent official custodian of the subject documents of this case, she is more competent to identify the same. Thus, the prosecution requests that it be allowed to present Lolita M. Soriano in lieu of Joy Corteza, who was specifically mentioned in the Pre-trial Order<sup>6</sup>.

By way of opposition, accused Melquiades A. Robles averred that in the Minutes of the Proceedings<sup>7</sup> on January 16, 2018, the prosecution manifested that it cannot provide the original of the marked exhibits and it will just resort to the presentation of secondary evidence during trial. Robles maintained that the prosecution cannot present Soriano as its witness since the latter was never mentioned in the pre-trial conference nor in the Pre-trial Order<sup>8</sup>. Soriano, as shown in her judicial affidavit, was already connected with the COA-SOA since March 20, 2015. So, the sudden change of witness was a complete surprise to the accused. If the said witness was indeed more competent to testify as an officer holding the said position since March 20, 2015, she should have been named and mentioned during the pre-trial conference as well in the said order.

As for accused Dennis B.N. Acorda, he reasoned that the prosecution should not be allowed to present Soriano as its witness since it had more than a year to locate its exhibits and prepare its witnesses. Yet, it only manifested that it would present certified true copies of its exhibits on June 11, 2018, a mere ten (10) days prior to the presentation of its first witness who would allegedly attest to the authenticity and integrity of its newly-found original exhibits. Although the prosecution reserved its right to present additional

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<sup>4</sup> Ibid., pp. 309-312.

<sup>5</sup> Supra note 1, pp. 197-213.

<sup>6</sup> Ibid.

<sup>7</sup> Annex “1” of Melquiades A. Robles’ Comment/Opposition, Records, Vol. 5, p. 276.

<sup>8</sup> Supra note 5.

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witnesses in the course of the trial, that right is subject to the showing of a good cause for the same. It is Acorda's stance that it is scarcely believable that after a year of searching, the originals of the documentary exhibits sought to be presented by the prosecution were suddenly found in the custody of the prosecution's intended replacement witness, Lolita M. Soriano. The circumstances which led to the discovery of such alleged original documents were not even adequately explained.

In her Comment, accused Marilou B. Liscano insisted that the intended witness Soriano is not among those listed in the Pre-trial Order<sup>9</sup>. Although the prosecution made a reservation, the reservation is always subject to a good cause which necessarily means that the witness was unknown to the prosecution at the time when the list was submitted to the Court. She further asseverated that there must be a showing that there was an impossibility that the prosecution could have known the identity of the said witness at the time of pre-trial conference.

### **THE COURT'S RULING**

After an assiduous examination of the records, the Court finds the instant motion meritorious.

To begin with, pre-trial is a tool to expedite and simplify the conduct of proceedings before the trial courts. Pre-trial in criminal cases is mandatory in cases cognizable by the Municipal Trial Court, Municipal Circuit Trial Court, Metropolitan Trial Court, Regional Trial Court, and the Sandiganbayan.<sup>10</sup> Jurisprudence<sup>11</sup> elaborated on the importance of pre-trial, viz:

“Pre-trial, by definition, is a procedural device intended to clarify and limit the basic issues raised by the parties<sup>12</sup> and to take the trial of cases out of the realm of surprise and maneuvering.<sup>13</sup> It is an answer to the clarion call for the speedy disposition of cases. Hailed as the most important procedural innovation in Anglo-Saxon justice in the nineteenth century,<sup>14</sup> it thus paves the way for a less cluttered trial and resolution of the case.<sup>15</sup>”

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<sup>9</sup> Ibid.

<sup>10</sup> Sec. 1, Rule 118 of the Rules of Court; Sec.2 of R.A. No. 8493 (otherwise known as the “Speedy Trial Act of 1998”).

<sup>11</sup> Chua, et al. v. Sps. Cheng, et al., G.R. No. 219309, November 22, 2017.

<sup>12</sup> Ibid., citing Interlining Corporation v. Philippine Trust Company, 428 Phil. 584, 588 (2002).

<sup>13</sup> Ibid., citing Permanent Concrete Products, Inc. v. Teodoro, 135 Phil. 364, 367 (1968).

<sup>14</sup> Ibid., citing Tiu v. Middleton, 369 Phil. 829, 835 (1999).

<sup>15</sup> Ibid.

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The trial court shall conduct a pre-trial conference and upon its termination, a pre-trial order shall be issued reciting the actions taken, the facts stipulated, and evidence marked.<sup>16</sup> Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.<sup>17</sup>

On March 14, 2018, the pre-trial of the instant case was closed and terminated<sup>18</sup> but the name of Lolita M. Soriano was not included in the Pre-trial Order<sup>19</sup> as one of the prosecution witnesses. This fact was even admitted by the prosecution. Nevertheless, it is Our view that the prosecution should be allowed to present Soriano as one of its witnesses. A perusal of her Judicial Affidavit<sup>20</sup> demonstrates that her testimony is significant in the determination of the merits of the case as the documents to be identified will shed light on the allegations in the Information.

We are mindful that the pre-trial order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial.<sup>21</sup> This rule, however, is not without an exception. The court can modify the said order to prevent manifest injustice.<sup>22</sup> Strict adherence to the rules shall be dispensed with if it will result into injustice. This is in accord with the case of Chua, et al., v. Sps. Cheng, et al., to wit:<sup>23</sup>

“Time and again, this Court has recognized "the importance of pre-trial procedure as a means of facilitating the disposal of cases by simplifying or limiting the issues and avoiding unnecessary proof of facts at the trial, and x x x to do whatever may reasonably be necessary to facilitate and shorten the formal trial."<sup>24</sup> The need for strict adherence to the rules on pre-trial thus proceeds from its significant role in the litigation process.<sup>25</sup>

**This is not to say, however, that the rules governing pre-trial should be, at all times, applied in absolute terms. While faithful compliance with these rules is undoubtedly desirable, they may be relaxed in cases where their application would frustrate, rather than facilitate, the ends of justice.<sup>26</sup> The relaxation of these rules,**

<sup>16</sup> Sec. 4, Rule 118 of the Rules of Court; Sec. 5 of R.A. No. 8493.

<sup>17</sup> Ibid.

<sup>18</sup> Supra note 1, p. 196.

<sup>19</sup> Supra note 5.

<sup>20</sup> Supra note 1, pp. 343-353.

<sup>21</sup> Supra note 16.

<sup>22</sup> Ibid.

<sup>23</sup> Supra note 11.

<sup>24</sup> Ibid., citing *Lim v. Animas*, 159 Phil. 1010, 1012 (1975).

<sup>25</sup> Ibid., citing *Spouses Salvador v. Spouses Rabaja*, 753 Phil. 175, 191-192 (2015).

<sup>26</sup> Ibid., citing *Vette Industrial Sales Co., Inc. v. Cheng*, 539 Phil. 37, 48, 49 and 52 (2006).

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**however, is contingent upon a showing of compelling and persuasive reasons to justify the same.**<sup>27</sup> (Emphasis supplied.)

More in point is that herein accused will have the opportunity to cross-examine Soriano and that they will not be deprived of their day in court. The circumstances in the instant case warrant the relaxation of the procedural rules so as to facilitate the administration of justice. Cases must be decided and terminated based on the merits and not on mere technicalities.

At this juncture, the disquisition of the Supreme Court in *Anson Trade Center, Inc., et al. v. Pacific Banking Corporation* is instructive.<sup>28</sup>

**“Litigation is not a game of technicality, in which one more deeply schooled and skilled in the subtle art of movement and position entraps and destroys the other. It is rather a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfection of forms and technicalities of procedure, asks that justice be done upon the merits.** Lawsuits, unlike duels, are not to be won by a rapier’s thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts.<sup>29</sup>” (Emphasis supplied.)

**WHEREFORE**, clearly viewed in the light of all the foregoing considerations, the *Manifestation and Motion* dated June 11, 2018 filed by the prosecution is **GRANTED**.

Accordingly, the Judicial Affidavit of Lolita M. Soriano is hereby **ADMITTED**.

**SO ORDERED.**

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

<sup>27</sup> *Ibid.*, citing *Domingo v. Spouses Singon*, G.R. Nos. 203287 & 207936, April 5, 2017, p. 9.

<sup>28</sup> *Anson Trade Center, Inc., et al. v. Pacific Banking Corporation*, G.R. No. 179999, March 17, 2009

<sup>29</sup> *Ibid.*, citing *Alonso v. Villamor*, 16 Phil. 315, 322 (1910).

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**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
*Associate Justice*  
*Chairperson*

  
**MARYANNE E. CORPUS-MAÑALAC**  
*Associate Justice*

