



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.:

SB-08-CRM-0307 to 0370

FOR 0307 to 0338: Violation of Sec. 3(e), RA 3019

FOR 0339 to 0370: Falsification of Public Documents

- versus -

CELSO Z. FERNANDEZ, III
Accused.

Present:

Lagos, J., Chairperson,
Mendoza –Arcega, J., and
Corpus-Mañalac, J.

Promulgated:

September 05, 2018 Jail

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution is the Prosecution's *Motion to Set Aside Court Resolution*¹ and accused Celso Fernandez, III's *Comment/Opposition (To: Motion to Set Aside Court Resolution dated July 6, 2018)*².

¹ Record, Volume 6, pages 391-395.

² Record, Volume 6, pages 400-402.

RESOLUTION

SB-08-CRM-0307 to 0370

People vs. Celso Z. Fernandez III

x ----- x

The prosecution now assails the Resolution³ issued by the Court ordering the continuation of presentation of documentary exhibits for further comparison and remarking.

In the present motion, the prosecution reiterates the defense' failure to appear on the scheduled setting on April 20 and 25, 2018 for the presentation of documentary exhibits. The prosecution also claims that on the same date, April 25, 2018, the prosecution moved for the waiver of the defense' right as a consequence of its absence during the scheduled hearing. To remind this Court of its ruling during the May 2, 2018 proceedings, the prosecution cites the Transcript of Stenographic Notes⁴ taken on record. The prosecution maintains that this Court has provided the defense ample opportunity when it ordered the latter to file its Motion for Reconsideration. Thus, the defense' Comment has been filed after the Court has ruled on the prosecution's oral motion. It was more appropriate for the defense to file a Motion for Reconsideration, however it failed to file the same within the period accorded by the Court.

In its Comment, the defense raised the following points: (1) this Court brought the attention of the defense about the existence of the said motion during the May 2, 2018 hearing and the arguments/issues raised by the prosecution cannot be possibly met because it was done orally without the presence of the accused Fernandez and counsel, furthermore, a copy of the Resolution dated April 25, 2018 was only received by the accused through his

³ Dated July 6, 2018.

⁴ "CHAIRPERSON:

Yes, atty. David, we understand that but the problem is when it was your turn to present evidence, you have it reset three times (3x). The last time, you asked for these additional marking and comparisons, we allowed that.

ATTY. DAVID:

Yes, your Honor.

CHAIRPERSON:

You did not appear on April 20 which you could have, you know, threshed out these exhibits. Now, the prosecution has already moved that your absence is a waiver of his additional marking and comparison and we agree with the prosecution. Now, we will have to sustain the prosecution here. Okay. You let him identify his affidavit.

ATTY. DAVID:

May we ask for a reconsideration, your Honor?

CHAIRPERSON:

You move for it in writing, Atty. David.

x x x

CHAIRPERSON:

So, Atty. David, if you want to file a written Motion for Reconsideration, you do it May 23?

ATTY. DAVID:

Yes, your Honor."



x ----- x

counsel on May 31, 2018; (2) since there was no formal written order granting the prosecution's "Motion to Consider Waived, etc." from which the defense could file either a Motion for Reconsideration or appeal, the period within which to file the same could not be said to have started to run, in which case, the alleged oral ruling on May 2, 2018, have not and could not have attained finality; and (3) when this Court noted the defense' Motion to Admit the Attached Comment, wherein the prosecution did not oppose nor did it file any reply to the Comment. Finally, the accused emphasized the rationale of the Court in its July 6, 2018 Resolution, which recognized the primacy of the constitutional right of the accused to be heard and matters of procedure should not prevail over substantial rights guaranteed by the Constitution.

Upon consideration of the fundamental rights of the accused, We rule to deny the prosecution's motion.

Despite the prosecution's emphasis on Our ruling in open court during the May 2, 2018 proceedings, this Court still maintains its Resolution⁵ promulgated on July 6, 2018, to reiterate:

“ As one of fundamental rights of the accused, he is entitled to be informed of the accusations against him and accordingly refute the same by presenting his defense. Article III, Section 14 (2) of the 1987 Constitution provides in part that in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel. Reinforcing this right is Section 1(c), Rule 115⁶, which provides that the accused has the right to be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment.

X X X

The determination of the accused to present the original of the exhibits is a manifestation of his willingness to be heard and to present evidence in support his defense. The mere non-appearance of the accused and his counsel for two consecutive hearings should not necessarily imply a waiver of the accused's Constitutional right to be heard.

⁵ Record, Vol. 6, pages 384-387.

⁶ Revised Rules on Criminal Procedure.

It is apparent that the accused sought for a number of postponements and We have granted the same since it is the mandate of substantial justice to give the accused a day in court. A speedy disposition of the case at the expense of the accused's fundamental right should not be encouraged in any proceeding. Thus, to afford the accused an ample opportunity to be heard, this Court allows the reception of the documentary exhibits for comparison with those already presented and subject the same for remarking. ”

While sustaining the prosecution's oral motion, the accused is also given the opportunity to plead and clarify before the Court the reasons for his absence and ultimately for reconsideration of the incidents. Indeed, there were procedural infirmities present in this case, but the substantive rights of the accused must be given paramount importance over pure technicalities. The doctrine in *Philippine Amusement and Gaming Corporation v. Angara*⁷ appropriately explains this point, thus:

“ While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and the swift unclogging of court dockets is a laudable objective, it nevertheless must not be met at the expense of substantial justice. Time and again, this Court has reiterated the doctrine that the rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. x x x ”

The Court must not be precluded from rectifying their own errors of judgment, especially so that maintaining the former would involve the sacrifice of justice for technicality. Under Rule 1, Section 6 of the Rules of

⁷ G.R. No. 142937, November 15, 2005, 475 SCRA 41.

x ----- x

Civil Procedure⁸, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Lastly, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.⁹

The accused may have failed to file his Motion for Reconsideration as ordered by the Court, however, it is deemed appropriate to relax such technical rules of procedure in order to afford accused Fernandez the fullest opportunity to establish the merits of his evidence rather than deprive him of such and make him suffer his liberty for mere procedural error which he has no direct control. It is most prudent for the Court to excuse a technical lapse rather than let the accused suffer by barring the reception of documentary evidence for mere comparison and re-marking. Thus, We affirm the ruling in the assailed Resolution.

WHEREFORE, premises considered, the prosecution's *Motion to Set Aside Court Resolution* is hereby **DENIED** for lack of merit.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice

⁸ These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

⁹ Sebastian vs. Hon. Morales, 445 Phil. 585, 605 (2003), as reiterated in Land Bank of the Philippines vs. Ascot Holdings and Equities, Inc., G.R. No. 175163, October 19, 2007.