



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0166 to 0187**
Plaintiff, For: Violation of Sec. 3(e)
of R.A. No. 3019

SB-18-CRM-0188 to 0227
For: Falsification of Public
Documents (Art. 171, par. 4, RPC)

SB-18-CRM-0228
For: Malversation of Public Funds
(Art. 217, RPC)

- versus -

Present

JOHN ESTELITO G. DOLLOSA,
JR., ET AL.,

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Accused.

Promulgated:

SEP 14 2018 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Consolidation*¹ filed by accused Datuali K. Abpi, Samsudin U. Sema, Omar B. Camsa, and Yahiya A. Kandong.

They aver that the cases pending before the Fifth Division of the Sandiganbayan involve the same accused, a common set of evidence, common witnesses, related transactions and practically the same subject matter as that in the present cases. Thus, they pray that the

¹ Dated July 5, 2018; Record, Vol. 6, pp. 483-511

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present cases be consolidated with those pending before the Fifth Division of the Sandiganbayan, pursuant to the provisions on consolidation of cases² in the *Revised Guidelines on the Continuous Trial of Criminal Cases*³ and Rule 119, Sec. 14 of the Rules of Court.

In its *Comment/Opposition (In re: Accused Abpi, Sema, Camasa, and Kandong's Motion for Consolidation dated July 5, 2018)*,⁴ the prosecution counters:

1. There is no ground for the consolidation of the present cases with those pending before the Fifth Division.
2. Although the present cases and those pending before the Fifth Division arose from the Resolution dated July 11, 2016 in OMB-C-C-14-0124, and were the result of the special audit conducted by the Special Audit Team, the cases should not be consolidated.
3. Cases may be consolidated pursuant to the objective of attaining justice with the least expense and vexation to the litigants.
4. One of the requisites for the consolidation of cases is that the joint trial should not give one party undue advantage, or prejudice the substantial rights of any of the parties.
5. The accused in the present cases, except for accused Sema, are also the accused in the cases pending before the Fifth Division.
6. The suppliers involved are not the same. In the cases before the Fifth Division, the supplier is Abo Lumberyard. Here, it is Ismael Lumberyard.
7. Although some pieces of evidence to be utilized in the present cases will be the same as those in the cases pending before the Fifth Division, it will be necessary to present additional evidence because accused Sema is not an accused in the cases pending before the Fifth Division, and because documents showing the payments made to Ismael Lumberyard are not part of the evidence in the cases pending before the Fifth Division.
8. The consolidation of the present cases with those pending before the Fifth Division will unduly burden accused Sema.

² III. 5. Consolidations

³ A.M. No. 15-06-10-SC

⁴ Dated July 31, 2018; Record, Vol. 6, pp. 515-520



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9. Consolidating the present cases involving Ismael Lumberyard will cause delay in the pre-trial in the cases involving Abo Lumberyard pending before the Fifth Division.

THE COURT'S RULING

The Court resolves to deny the *Motion for Consolidation* of accused Abpi, Sema, Camsa and Kandong.

Consolidation, or joint trial, in criminal cases, is governed by Rule 119, Sec. 22 of the Rules of Court. To wit:

Sec. 22. *Consolidation of trials of related offenses.* – Charges for offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the discretion of the court.

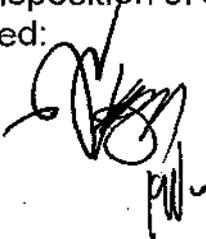
(underscoring supplied)

Rule XII, Sec. 2 of the *Revised Internal Rules of the Sandiganbayan* similarly provides that cases may be consolidated when they arise from the same incidents, or involve common questions of fact and law. The provision reads:

Sec. 2. *Consolidation of Cases.* – Cases arising from the same incident or series of incidents, or involving common questions of fact and law, may be consolidated in the Division to which the case bearing the lowest docket number is raffled.

It bears stressing that consolidation of cases is not automatically allowed based on the mere fact that separate cases arose from the same set of facts or incidents. The Court may, in its discretion, allow consolidation if the result will be aligned with its objective, *i.e.*, the swift dispensation of justice with the least expense and vexation to the parties.

In *Neri v. Sandiganbayan*,⁵ the Supreme Court recognized that indeed, consolidation of cases may expedite trial. However, it may also result in delay in the disposition of cases, and may cause prejudice to the accused. It explained:



⁵ G.R. No. 202243, August 7, 2013

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Jurisprudence has laid down the requisites for consolidation of trial. As held in *Caños v. Peralta*, joint trial is permissible "where the [actions] arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence, provided that the court has jurisdiction over the cases to be consolidated and that a joint trial will not give one party an undue advantage or prejudice the substantial rights of any of the parties." More elaborately, joint trial is proper

where the offenses charged are similar, related, or connected, or are of the same or similar character or class, or involve or arose out of the same or related or connected acts, occurrences, transactions, series of events, or chain of circumstances, or are based on acts or transactions constituting parts of a common scheme or plan, or are of the same pattern and committed in the same manner, or where there is a common element of substantial importance in their commission, or where the same, or much the same, evidence will be competent and admissible or required in their prosecution, and if not joined for trial the repetition or reproduction of substantially the same testimony will be required on each trial.

In terms of its effects on the prompt disposition of cases, consolidation could cut both ways. It may expedite trial or it could cause delays. Cognizant of this dichotomy the Court, in *Dacanay v. People*, stated the dictum that "the resulting inconvenience and expense on the part of the government cannot not be given preference over the right to a speedy trial and the protection of a person's life, liberty or property." Indeed, the right to a speedy resolution of cases can also be affected by consolidation. As we intoned in *People v. Sandiganbayan*, a case involving the denial by the anti-graft court of the prosecution's motion to consolidate a criminal case for indirect bribery with another case for plunder, consolidation should be refused if it will unduly expose a party, private respondent in that instance, to totally unrelated testimonies, delay the resolution of the indirect bribery case, muddle the issues, and expose him to the inconveniences of a lengthy and complicated legal battle in the plunder case. Consolidation, the Court added, has also been rendered inadvisable by supervening events—in particular, if the testimonies sought to be introduced in the joint trial had already been heard in the earlier case.

x x x

Clearly then, consolidation, assuming it to be proper owing to the existence of the element of commonality of the lineage of the offenses charged contemplated in Sec. 22 of Rule 119, should be ordered to achieve all the objects and purposes underlying the rule on consolidation, foremost of which, to stress, is the swift dispensation of justice with the least expense and vexation to the parties. It should, however, be denied if it subverts any of the aims of consolidation. x x x



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Here, the Court finds that consolidation of the present cases with those pending before the Fifth Division may cause delay in, rather than expedite, the proceedings. While the present cases and those pending before the Fifth Division appear to involve the same offenses, common accused, and transactions of similar nature, the evidence to be presented will not be the same because the present cases involve transactions different from those pending before the Fifth Division, and because accused Sema is not an accused in any of the cases pending before the Fifth Division. Furthermore, the cases before the Fifth Division are already in the trial and pre-trial stages. The disposition of the cases before the Fifth Division will take longer if consolidation is allowed because of the presentation of additional evidence, considering the number of cases involved.

WHEREFORE, the *Motion for Consolidation* filed by accused Abpi, Sema, Camsa and Kandong is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice