



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

MINUTES of the proceedings held on October 12, 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 Nos. SB-14-CRM-0438 to 0441 – People of the Philippines vs. Laurencia S. Edma, et al.

This resolves the following:

1. Prosecution's "MOTION FOR PRODUCTION OF ORIGINAL DOCUMENTS" dated August 30, 2018;¹

HIDALGO, J.:

Before this Court for resolution is the prosecution's Motion for Production of Original Documents dated August 30, 2018, of the following:

- (i) Mindanao Philippines Sunday Journal Volume XXIII S. 36, Cagayan de Oro, Philippines 1st Week of November 2003; and
- (ii) Mindanao Philippines Sunday Journal Volume XXIII S. 37, Cagayan de Oro, Philippines 2nd Week of November 2003.

This is for the purpose of allowing the prosecution to inspect and compare the same with its exhibits.² The prosecution stated in its Motion that the defense had offered for stipulation the fact that "there were copies of Mindanao Philippines Sunday Journal issue for the first week of November 2003, Volume [XXIII] S.36 and for the issue in the second week of November 2003, Volume XXIII S.37, **which did not contain the 'Invitation to Bid' involving the conduct of a public bidding x x x,**"³ indicating that such originals really exist.⁴

¹ Record, Vol. 5, pp. 364-367.

² Id. at 364.

³ Id. at 103. Pre-Trial Order dated October 7, 2015. Emphasis added.

⁴ Id. at 365.

Handwritten signature/initials

It must be noted that these documents are common exhibits of the prosecution and the defense: Exhibits "A-67" to "A-70" and "A-71" to "A-74"; and Exhibits "7" & "7-a" and "7-b" & "7-c," respectively. The prosecution stipulated on the existence, authenticity, and due execution of these documentary exhibits with accused Edma, et al. (except Landicho).⁵

Likewise, the Court, in its Pre-Trial Order dated October 7, 2015, noted that the defense had offered for stipulation the fact that "the copies of the same issues of the newspaper (Mindanao Philippines Sunday Journal) for the first week of November 2003, Volume [XXIII] S.36 and for the second week of November 2003, Volume XXIII S.37 **which contained the 'Invitation to Bid' involving the conduct of a public bidding x x x were the one[s] released and circulated by the publisher x x x.**"⁶

These copies refer to Exhibits "6" & "6-a" and "6-b" & "6-c" of accused Edma, et al. (except Landicho), which were stipulated on by the prosecution as to their existence.⁷

Since the prosecution, in its Motion, adverted to the Mindanao Philippines Sunday Journal issues **which did not contain the "Invitation to Bid" involving the conduct of a public bidding**, the Court deems that the prayer of the prosecution to produce original documents pertains to these journal issues, particularly Exhibits "7" & "7-a" and "7-b" & "7-c" of the defense.

According to the prosecution, accused Bernardita G. Basay is in possession, custody, and full control of both documents being the publisher and as established by witness Celso L. Vocal's testimony that he had seen copy of the originals at the office of the publisher.⁸

The accused, however, did not file any comment and/or opposition to the prosecution's Motion for Production of Original Documents despite the opportunity given them to do so.

Thus, in its Order dated September 5, 2018, the Court submitted the above Motion for resolution.⁹

This Court rules to grant the prosecution's Motion.

Section 3, Rule 130 of the Rules of Court states:

⁵ Id. at 93.

⁶ Id. at 103. Emphasis added.

⁷ Id. at 88, 93.

⁸ Id. at 364.

⁹ Record, Vol. 6, p. 47.

1. Best Evidence Rule

Section 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

- (a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;**
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office.
(2a) (emphasis added)

Sec. 3, Rule 130 of the Rules of Court provides that when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself. The purpose of the rule requiring the production by the offeror of the best evidence is the prevention of fraud, because if a party is in possession of such evidence and withholds it and presents inferior or secondary evidence in its place, the presumption is that the best evidence is withheld from the court and the adverse party for a fraudulent or devious purpose which its production would expose and defeat. Hence, as long as the original evidence can be had, the Court should not receive in evidence that which is substitutionary in nature, such as photocopies, in the absence of any clear showing that the original has been lost or destroyed or cannot be produced in court. Such photocopies must be disregarded, being inadmissible evidence and barren of probative weight.¹⁰

Ordinarily, the purpose in the filing of a Motion for Production of Original Documents is to complete the groundwork for the admissibility of secondary evidence. Under Rule 130, as couched, it is axiomatic that before a party is allowed to adduce secondary evidence to prove the contents of the

¹⁰ *Pacasum vs. People*, G.R. No. 180314, April 16, 2009, citing a Sandiganbayan ruling.

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original of a deed or document, the party has to prove with the requisite quantum of evidence, the loss or destruction or unavailability of all the copies of the original of the said deed or document.¹¹

In these cases, the subject Mindanao Philippines Sunday Journal publications, which are photocopies submitted to this Court, are the parties' common exhibits and were already stipulated on by the parties as to their existence, authenticity, and due execution during the pre-trial. This means that both parties had already introduced secondary evidence without presenting the original documents. It would have appeared that the parties violated the Best Evidence Rule were it not for the fact that they had stipulated on the existence of said documents.

Stipulations freely and voluntarily made are valid and binding and will not be set aside unless for good cause. The Rules of Court mandate parties in a criminal case to stipulate facts. Once the stipulations are reduced into writing and signed by the parties and their counsels, they become binding on the parties who made them. They become judicial admissions of the fact or facts stipulated.¹²

Here, the parties stipulating on and reproducing copies of the subject journals satisfy the requirement of the rule on pre-trial; thus, they need not present the original copies.

To reiterate, the purpose of the prosecution's Motion is to inspect and compare the journals with its exhibits. This is akin to a mode of discovery under Rule 27, Section 1 of the Rules of Court, that is, production or inspection of documents or things.¹³ The prosecution, as this Court finds, has shown good cause for its Motion. The Supreme Court held in *Republic vs. Sandiganbayan*,¹⁴ viz:

x x x Indeed, it is the purpose and policy of the law that the parties—before the trial if not indeed even before the pre-trial—should discover or inform themselves of all the facts relevant to the action, not only those known to them individually, but also those known to their

¹¹ *Ebreo vs. Ebreo, et al.*, G.R. No. 160065, February 28, 2006.

¹² *Bayas vs. Sandiganbayan*, G.R. Nos. 143689-91, November 12, 2002.

¹³ Rule 27, Production or Inspection of Documents or Things

Section 1. *Motion for production or inspection; order.* — Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control, or (b) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. (1a) (emphasis added)

¹⁴ G.R. No. 90478, November 21, 1991.

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adversaries x x x. The experience in other jurisdictions has been that ample discovery before trial, under proper regulation, accomplishes one of the most necessary ends of modern procedure: it not only eliminates unessential issues from trials thereby shortening them considerably, but also requires parties to play the game with the cards on the table x x x.

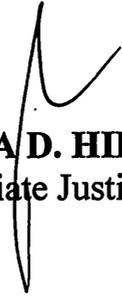
In this light, the Court grants the prosecution's Motion, without prejudice to accused Bernardita G. Basay's right against self-incrimination upon her presentation of the original copies of the journals.

WHEREFORE, the prosecution's Motion for Production of Original Documents dated August 30, 2018 is **GRANTED**.

Accused Bernardita G. Basay is thus directed to **PRODUCE** the original copies of (i) Mindanao Philippines Sunday Journal Volume XXIII S. 36, Cagayan de Oro, Philippines 1st Week of November 2003; and (ii) Mindanao Philippines Sunday Journal Volume XXIII S. 37, Cagayan de Oro, Philippines 2nd Week of November 2003, both copies of which do not contain the "Invitation to Bid" involving the conduct of a public bidding, and **PRESENT** them to this Court for purposes of inspection by the prosecution on January 14, 2019 at 8:30 in the morning.

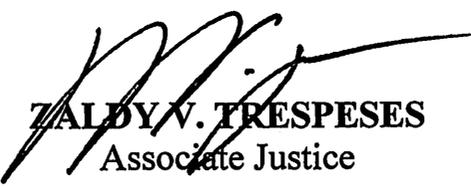
Set for continuance of presentation of witnesses on January 14 and 15, 2019, both at 8:30 in the morning.

SO ORDERED.


GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:


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


ZALBY V. TRESPESES
Associate Justice