



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

Fifth Division

**PEOPLE OF THE PHILIPPINES,**

*Plaintiff,*

**SB-16-CRM-0727**

- versus -

**For: Malversation of Public  
Funds Under Art. 217 of the  
Revised Penal Code**

**ALBERT G. AMBAGAN JR., et al.,**

*Accused.*

*Present:*

**LAGOS, J., Chairperson,  
MENDOZA-ARCEGA, and  
MAÑALAC, JJ.**

*Promulgated:*

October 18, 2018 *led*

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**RESOLUTION**

**LAGOS, J.:**

For the Court's consideration is accused Albert G. Ambagan, Jr.'s September 25, 2018 *MOTION FOR RECONSIDERATION (of the Resolution dated September 7, 2018)*,<sup>1</sup> whereby the Court in its Resolution<sup>2</sup> granted the prosecution's "Motion to Admit Additional Witness with the Attached Judicial Affidavit of Belen A. Bebe,"<sup>3</sup> and the prosecution's *Opposition*<sup>4</sup> dated October 10, 2018 to the present motion.

<sup>1</sup> Records, Vol. 2, p. 452.

<sup>2</sup> *Id.*, p. 430.

<sup>3</sup> *Id.*, p. 366.

<sup>4</sup> *Id.*, p. 457.

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The prosecution in its *Opposition* claims that: (i.) the accused's motion was "filed out of time"<sup>5</sup> or beyond the 5-day period allowed under the rules, (ii.) "[c]onsidering the instant motion is a litigious one and it failed to comply with the mandatory requirement of hearing, the same is nothing more than a mere scrap of paper and should be denied outright,"<sup>6</sup> (iii.) "[t]he arguments of accused are mere rehash of his *Opposition* to the prosecution's Motion to Admit Additional Witness"<sup>7</sup> which was the object of the Court's subject Resolution, and (iv.) "[t]he testimony of witness Belen A. Bebe is material and relevant to this case and the prosecution had already shown good cause for her presentation."<sup>8</sup>

On the timeliness of the filing of accused's motion, the record shows that at the hearing held on September 20, 2018, accused Ambagan, Jr. was given five (5) days from thereon within which to file any motion for reconsideration on the resolution granting the prosecution's motion to present additional witness. Hence, accused's motion was timely filed as of September 25, 2018. Also, the Court deems it more in keeping with a keen sense of justice to allow and give due consideration to accused's motion despite the absence of a notice of hearing at this particular instance. The other two (2) remaining grounds are pertinent, but need not be separately addressed relative to the accused's motion for reconsideration.

The accused in his *Motion for Reconsideration* posits that, "[w]ith due respect, we disagree the Honorable Court's finding that '[a]ccused Ambagan Jr.'s *Opposition* is based merely on suspicion and conjectures. It presumes bad faith – which is not favored in law – due to alleged inaction of the Office of the Ombudsman for failing essentially to implead Ms. Bebe during the preliminary investigation of the case, or on the part of the prosecution for its failure to include her name in its list of witnesses in the Pre-Trial Order",<sup>9</sup> and asserts, as follows:

3. On the contrary, accused Ambagan's *Opposition* is based on the following facts:

i. The existence of Ms. Bebe was already known to the prosecution before the pre-trial; and

ii. The prosecution admitted that Ms. Bebe's name was not included in the list of witnesses because at that time the prosecution "did not know yet what would be the version of the events or if it could be useful to the prosecution's case (see par. 8, Motion).

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<sup>5</sup> *Ibid.*

<sup>6</sup> *Id.*, par. 9, p. 458.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Id.*, p. 459.

<sup>9</sup> *Id.*, par. 2, Motion for Reconsideration, Records, p. 412



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Based on the foregoing facts, accused Ambagan cannot agree to the claim of the Prosecution that the testimony of Ms. Bebe is “**newly discovered evidence.**”<sup>10</sup>

To be sure, the Court in its Resolution did not rule that the intended testimony of Ms. Bebe, as “additional witness” for the prosecution, to be “**newly discovered evidence.**” The Court’s Resolution speaks for itself. It was based more on substantial grounds or reasons, to wit:

After due consideration, the Court deems it more in keeping with **substantial justice**, and as prayed for by the prosecution, to admit Belen Ambon Bebe as additional witness in this case and allow her testimony and/or give due course to the admission of her Judicial Affidavit, which the prosecution has attached to its motion, **subject to the right of the defense to cross-examine said witness and such other rights appurtenant thereto.**

The Court finds the proposed testimony of proposed witness Ms. Belen Ambon<sup>11</sup> Bebe to be **relevant** and **material** to the pertinent issues involved in this case, and it would be tantamount to a **miscarriage of justice**, if her testimony is suppressed, as advocated by both herein accused.<sup>12</sup>

As noted in the subject Resolution, “xxx if true – as boldly claimed by accused Ambagan, Jr., that the intended testimony of Ms. Bebe ‘**actually confirms the allegations in the Joint- Counter Affidavit of Ambagan, Jr. and Ambat that it was Ms. Bebe who actually got the advances from Ambat,**’ then the truth shall set them free.”<sup>13</sup> The subject Resolution was issued by the Court fair and square to all concerned and not based on the principle of “newly discovered evidence,” as adverted to by the accused.

**WHEREFORE**, in view of the foregoing, the accused’s *MOTION FOR RECONSIDERATION* (of the Resolution dated September 7, 2018) is **DENIED** for lack of merit.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

WE CONCUR:

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

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

<sup>10</sup> *Id.*, pp. 452-453; emphasis supplied.

<sup>11</sup> In the Court’s Resolution, the name was erroneously mentioned as “Ambat.”

<sup>12</sup> *Id.*, Note 2, pp. 433-434; emphasis supplied.

<sup>13</sup> *Id.*, p. 435; underscoring supplied.