



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

MINUTES of the proceedings held on October 15, 2018.

Present:

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| 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 No. SB-17-CRM-0219 – People of the Philippines vs. Alex B. Wangkay, et al.

This resolves the following:

1. Prosecution’s “MOTION FOR RECONSIDERATION (RESOLUTION DATED 21 SEPTEMBER 2018)” dated September 27, 2018;¹
2. Accused Alex B. Wangkay’s “COMMENT/OPPOSITION” dated October 3, 2018;² and
3. Accused Roberto S. Semilla’s “COMMENT/OPPOSITION” dated October 4, 2018.³

HIDALGO, J.:

Before this Court are the prosecution’s Motion for Reconsideration of this Court’s Resolution⁴ dated September 21, 2018 on the accused’s separate Formal Offer of Evidence; and accused Semilla and Wangkay’s respective Comment/Opposition.

In its Motion for Reconsideration, the prosecution assails the admission of the following exhibits of the defense:

Exhibits “2,” “2-A,” “7-D,” “20,” and “21” for accused Semilla. The prosecution submits that these are mere photocopies and not properly authenticated by the custodian of those documents, thus, in violation of the Best Evidence Rule.

¹ Record, Vol. 2, pp. 370-375.

² Id. at 376-378.

³ Id. at 384-386.

⁴ Id. at 362-365.

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Exhibits “15” to “18” for accused Semilla and Exhibit “8” for accused Wangkay. The prosecution maintains that the Office of the Ombudsman-Mindanao did not properly authenticate these documents even though they were certified by the latter office that they are true copies of the documents on file.

Exhibits “4” and “14” for accused Semilla and Exhibits “1” and “14” for accused Wangkay. The prosecution avers that these documents were not authenticated. The Affidavit of Publication, by itself, is not sufficiently authenticated even if notarized. The affiant should have identified such affidavit in court.

In his Comment/Opposition, accused Wangkay counters that the exhibits sought to be excluded by the prosecution are all parts of the records of the Office of the Ombudsman and are parts of the folder of the preliminary investigation of this case. Said exhibits were identified by accused Semilla’s lone witness, Rolando C. Layague, whose testimony and exhibits had been adopted by accused Wangkay.

Accused Semilla argues in his Comment/Opposition that the alleged lack of authentication of Exhibits “15,” “18,” “4,” and “14” is belied by the stipulation of the parties that the said documents are “certified true copies” of the documents on file with the Office of the Ombudsman-Mindanao.

The Court rules to deny the Motion for Reconsideration.

For Accused Semilla

Exhibits “2” and “2-A” (Excerpts from the Minutes of the Special Session of the Sangguniang Barangay of Quiapo, Jose Abad Santos, Davao del Sur; also the prosecution’s Exhibit “FF”); and Exhibit “7-D” (Performance Bond dated April 15, 2009). As this Court already held in its assailed Resolution dated September 21, 2018, these documents, although mere photocopies, are common exhibits of the prosecution and accused Semilla and stipulated on by the parties during trial.⁵

Exhibits “20” and “21” (Disbursement Vouchers). This Court also held in its assailed Resolution that these documents, although photocopies, were stipulated as to their existence on January 23, 2017. These are also Annexes “B” and “C” of the Affidavit Complaint of prosecution witness Primo Foronda and are part of the prosecution’s exhibits.⁶

⁵ See this Court’s Resolution dated April 11, 2018 on the Formal Offer of the Prosecution’s Documentary Exhibits, Record, Vol. 2, p. 216. See also TSN, November 23, 2017, pp. 56-58.

⁶ See Record, Vol. 2, pp. 133, 139-140; and accused Semilla’s folder of exhibits.

Exhibits “15” to “18” (Bidder’s Bond and Bids of Semilla Construction, Lambayong Construction, and Masulot Construction). The Court admitted them based on the Certifications of the Ombudsman-Mindanao that they are true copies of the documents on file. Such copies were duly signed and certified by the administrative officer of the Ombudsman having custody of said documents. Thus, they are faithful reproductions of said documents. The Court also acknowledged the fact that these exhibits are all parts of the records of the Office of the Ombudsman and are parts of the folder of the preliminary investigation of this case.

Exhibits “4” and “14” (Mindanao Post newspaper and Affidavit of Publication). The Court reiterates that the original copy of the Mindanao Post newspaper⁷ published March 11, 2009 is attached to the records. The Affidavit of Publication, the original copy of which is included in accused Semilla’s folder of exhibits, was also admitted because it is intimately related to the fact that such publication existed as evidenced by the original copy of the Mindanao Post newspaper.

For Accused Wangkay

Exhibits “8” (Performance Bond dated April 15, 2009). This is Exhibit “7-D” of accused Semilla which we admitted as stated above and also certified by the Ombudsman-Mindanao as a true copy of the document on file.

Exhibit “1” (Mindanao Post newspaper). The Court has already admitted this exhibit as this is accused Semilla’s Exhibit “4” stated above.

Contrary to what is stated in the Motion for Reconsideration, **there is no Exhibit “14” for accused Wangkay, as he only has up to Exhibit “11.”**

The evidentiary value of the documentary exhibits, nevertheless, shall be left to the determination of this Court. Perforce, the admission of these exhibits is subject to the Court’s appreciation of their probative value as to the purposes for which they were offered.

WHEREFORE, the Motion for Reconsideration (Resolution dated 21 September 2018) is **DENIED.**

Both the prosecution and the accused are ordered to file their respective Memoranda within 30 days from receipt of this Resolution. With or without Memoranda from the parties, the case is hereby submitted for decision after the lapse of said period.

⁷ Record, Vol. 1, p. 166-A.

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Promulgation of judgment is set on February 22, 2019 at 8:30 in the morning.

SO ORDERED.



GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:



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



ZALDY W. TRESPESSES
Associate Justice