



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 10 October 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 No. SB-18-CRM-0152 - People vs. ISIDRO LEBRILLA HEMEDES, JR.

This resolves the following:

1. The prosecution's "MOTION FOR RECONSIDERATION" dated 5 September 2018;¹
2. Accused Isidro Hemedes, Jr.'s "OPPOSITION TO THE MOTION FOR RECONSIDERATION" dated 17 September 2018;²
3. The prosecution's "SUPPLEMENTAL MOTION FOR RECONSIDERATION" dated 21 September 2018;³ and
4. Accused Isidro Hemedes, Jr.'s "COMMENT TO THE SUPPLEMENTAL MOTION FOR RECONSIDERATION" dated 5 October 2018.⁴

TRESPESES, J.

Before the Court is the prosecution's motion for reconsideration of our Order dated 24 August 2018⁵ given in open court, where, after noting the prosecution's manifestation (and accused's confirmation) that the parties are willing to submit the case for judgment on the basis of their Joint Stipulation of Facts,⁶ the Court deemed the case submitted for decision and gave the parties sixty (60) days to file their respective memoranda.

¹ *Rollo*, pp. 298-301.

² *Id.* at 308-310.

³ *Id.* at 314-318.

⁴ *Id.* at 320-323.

⁵ *Id.* at 280.

⁶ *Id.* at 262-274.

THE PROSECUTION'S MOTION

In its motion for reconsideration, the prosecution avers that after a thorough discussion with the panel of prosecutors, the prosecution finds it necessary to adduce additional evidence to ensure that all available remedies have been exhausted in prosecuting the case.

The prosecution further alleges that it has "made initial communication" with prosecution witnesses whose testimonies are invaluable to the prosecution of the case, in particular, representatives from the Luzon Development Bank (LDB), Bangko Sentral ng Pilipinas (BSP) and the Office of the Ombudsman for Luzon (OMB-Luzon).

In effect, the prosecution seeks reconsideration of the Court's 24 August 2018 Order and requests two trial dates within which to present additional testimonial and documentary evidence.

ACCUSED'S OPPOSITION

On the other hand, in his Opposition, accused stresses that after a series of exchanges, both parties agreed to a Joint Stipulation of Facts, which the Court approved in a Pre-Trial Order dated 28 August 2018.⁷ As clearly manifested by the parties, there are no more factual issues to be resolved. Hence, the Court set the promulgation of the judgment on the case on 1 February 2019, on the basis of the records of the case and the Joint Stipulation of Facts. The parties were also directed to file their respective Memoranda in support of their positions.

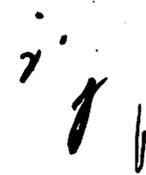
Accused argues that the prosecution's motion should be denied because Section 4 of Rule 118 of the Rules of Court⁸ provides that the Pre-Trial Order shall bind the parties, limit the trial to matters not disposed of, and control the course of action during the trial, unless modified by the court to prevent manifest injustice.

Citing *LCK Industries, Inc., et al. v. Planters Development Bank*,⁹ accused avers that the pre-trial is primarily intended to make certain that all issues necessary to the disposition of a case are properly raised. To obviate the element of surprise, parties are expected to disclose at the pre-trial conference all issues of law and fact they intend to raise at the trial.

⁷ *Rollo*, pp. 281-291.

⁸ Sec. 4. Pre-trial order. – After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.

⁹ 563 Phil. 957-976 (2007).



**THE PROSECUTION'S
SUPPLEMENTAL MOTION FOR RECONSIDERATION**

In its Supplemental Motion for Reconsideration, the prosecution elucidated that to prove the second element of Section 3(h) of R.A. No. 3019, it intends to present the following witnesses:

1. Ms. Melissa M. Baro – As Assistant Corporate Secretary of LDB, she will testify and identify documentary exhibits on the monetary or pecuniary benefits received by accused from LDB from 2007 to 6 February 2014.
2. Atty. Elmore O. Capule or his representative – Being the Assistant Governor and General Counsel of the Office of the General Counsel and Legal Services of the BSP, he will give a legal opinion on whether Presidential Decree No. 119 (PD No. 119) qualifies as a law that prohibits a public official from having interest in a private business as contemplated under Section 3(h) of Republic Act No. 3019 (R.A. No. 3019). He may also testify on monetary benefits received by accused from LDP based on financial reports submitted by LDBP to the BSP.
3. Calvin John DJ Macayana – In his capacity as Records Officer/SALN-in-Charge of the Case Records Evaluation, Monitoring and Enforcement Bureau (CREMEB) of OMB-Luzon, he will testify on the existence of the Statement of Assets, Liability and Networth (SALN) of accused for the years 2007 to 2014. The prosecution adds that accused did not declare his financial interest in LDP in his SALNs.

ACCUSED'S COMMENT

In his Comment/Opposition, accused counters that the prosecution's manifestations strongly indicate that it filed an Information against accused without probable cause.

Accused notes that the prosecution had the opportunity to study and gather evidence during the preliminary investigation conducted by the Office of the Ombudsman, with the pieces of evidence attached to its records. Then, there were stipulations, admissions and pre-marking of evidence during the preliminary conference and pre-trial. Despite this, it is only now that the prosecution thought of looking for evidence to prove the material charges in

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the Information. Accused concludes that it would be manifest injustice to allow the prosecution to proceed with its fishing expedition.

Accused also alleges that the prosecution's proposed presentation of Atty. Elmore O. Capule to give his legal opinion on P.D. No. 119 in relation to Section 3(h) of R.A. No. 3019 is an insult to the Court because under our legal system, it is the Court that renders legal opinion and interprets the law under given factual circumstances.

Moreover, accused states that the prosecution's proposed presentation of Mr. Macayana to testify on accused's SALN is irrelevant and immaterial to the case.

Finally, accused reiterates Section 4, Rule 118 of the Rules of Court stating that the Pre-Trial Order shall bind the parties.

OUR RULING

We deny the prosecution's motion for reconsideration for lack of merit.

Pre-trial is procedural device intended to clarify and limit the basic issues between the parties. It paves the way for a less cluttered trial and resolution of the case. Its main objective is to simplify, abbreviate and expedite the trial, or totally dispense with it. Prescinding therefrom, it is a basic legal precept that the parties are bound to honor the stipulations they made during the pre-trial.¹⁰

Thus, Section 4 of Rule 118 of the Rules of Court clearly provides:

Sec. 4. Pre-trial order. – After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.

In the instant case, the records show that the parties had two preliminary conferences on 25 May 2018¹¹ and 3 July 2018¹² before they voluntarily submitted their Joint Stipulation of Facts for the Court's approval on 17 August 2018.¹³ It may reasonably be expected that during this three-month long process, the parties have sufficiently reflected on the stipulations contained therein, including their agreement to dispense with trial, considering that the issues to be resolved are purely legal.

¹⁰ *Interlining Corp. v. Philippine Trust Co.*, 428 Phil. 584-590 (2002).

¹¹ *Rollo*, pp. 208-230.

¹² *Id.* at 231-258.

¹³ *Id.* at 275.

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Accordingly, the Court noted and approved the Joint Stipulation of Facts and eventually issued a Pre-Trial Order dated 28 August 2018¹⁴ based thereon.

On 24 August 2018, pursuant to the prosecution's manifestation (and accused's confirmation) that the parties are willing to submit the case for judgment on the basis of their Joint Stipulation of Facts, the Court deemed the case submitted for decision and gave the parties sixty (60) days to file their respective memoranda.

Now, the prosecution unceremoniously seeks reconsideration of the Court's Order submitting the case for judgment on the basis of the parties' Joint Stipulation of Facts. Notably, the only reason put forth by the prosecution for changing its mind is the "thorough discussion by the undersigned panel of prosecutors."

The prosecution's reasoning is not good cause to allow it to introduce additional testimonial evidence and deviate from the Pre-Trial Order and Joint Stipulation of Facts.

In *Bayas v. Sandiganbayan*,¹⁵ the parties submitted to the Sandiganbayan their Joint Stipulations of Facts, which counsel for the accused later moved to withdraw on the ground that the said stipulation of facts leaves less or no room for the accused to defend themselves. The Sandiganbayan denied the motion, and the Supreme Court upheld its ruling, emphasizing, among others, that:

Petitioners fail to appreciate the indispensable role of stipulations in the speedy disposition of cases. The new Rules on Criminal Procedure mandate parties to agree on matters of facts, issues and evidence. Such stipulations are greatly favored because they simplify, shorten or settle litigations in a faster and more convenient manner. They save costs, time and resources of the parties and, at the same time, help unclog court dockets.

Once validly entered into, stipulations will not be set aside unless for good cause. They should be enforced especially when they are not false, unreasonable or against good morals and sound public policy. When made before the court, they are conclusive. And the party who validly made them can be relieved therefrom only upon a showing of collusion, duress, fraud, misrepresentation as to facts, and undue influence; or upon a showing of sufficient cause on such terms as will serve justice in a particular case. Moreover, the power to relieve a party from a stipulation validly made lies in the court's sound discretion which, unless exercised with grave abuse, will not be disturbed on appeal.

¹⁴ *Rollo*, pp. 281-291.

¹⁵ 440 Phil. 54-72 (2002).

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While petitioners wish to be relieved from the stipulations, they, however, do not allege that these were false or misleading or were obtained through force or fraud. On the contrary, they do not dispute the finding of the anti-graft court that no fraud or serious mistake vitiated their and their counsel's consent to the signing of these stipulations. They even admitted, in answer to its query, that they had freely given their consent.

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To be a ground for relief against a stipulation, a mistake must be one of fact — not, as in this case, a mere lack of full knowledge of facts because of failure to exercise due diligence in ascertaining it.

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There is nothing irregular or unlawful in stipulating facts in criminal cases. The policy encouraging it is consistent with the doctrine of waiver, which recognizes that ". . . everyone has a right to waive and agree to waive the advantage of a law or rule made solely for the benefit and protection of the individual in his private capacity, if it can be dispensed with and relinquished without infringing on any public right and without detriment to the community at large.

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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. Even if placed at a disadvantageous position, a party may not be allowed to rescind them unilaterally; it must assume the consequences of the disadvantage. Xxx (Footnotes omitted.)

In the case at bar, the Joint Stipulation made by the parties was a waiver of the right to present additional evidence apart from that already adduced and admitted by them.

The records show that this waiver was voluntary and is, in fact, sanctioned by the Rules on Criminal Procedure. Meanwhile, the prosecution does not allege that the stipulations made were false or misleading or that its agreement to the Joint Stipulation of Facts was vitiated by fraud or serious mistake.

Manifestly, nothing in the prosecution's motion persuades the Court to reconsider its questioned Order.

Moreover, we note that the prosecution seeks reconsideration of the questioned Order because it wishes to present witnesses whose testimonies are allegedly "invaluable in the prosecution of this case."¹⁶ In its

¹⁶ Rollo, p. 298.

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Supplemental Motion for Reconsideration, the prosecution names these witnesses as Ms. Melissa M. Baro, Atty. Elmore O. Capule or his representative, and Calvin John DJ Macayana.

However, none of these names appear in the prosecution's list of witnesses in its Pre-Trial Brief filed on 10 April 2018.¹⁷ The prosecution's brief only lists a representative from the Securities and Exchange Commission and a representative from Department of Interior and Local Government, Region IV as its witnesses.

Evidently, the alleged necessity of the testimonies of the new set of proposed prosecution witnesses is a mere afterthought, if not an indication of lack of prior preparation in the prosecution of its case.

WHEREFORE, in view of the foregoing, the prosecution's motion for reconsideration of the Court's Order dated 24 August 2018 is **DENIED** for lack of merit.

The parties are given **sixty (60) days** from notice within which to file their respective memoranda, after which the case shall be submitted for judgment.

SO ORDERED.


ZALDY W. TRESPESSES
Associate Justice

WE CONCUR:


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


GEORGINA D. HIDALGO
Associate Justice

¹⁷ Rollo, pp. 178-181.