



**REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
QUEZON CITY**

\*\*\*

**FIFTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**

**Plaintiff,**

**SB-18-CRM-0589 to 0592**

**For: Violation of  
Article 217 of the  
Revised Penal Code  
(Malversation)**

**-vs-**

**MELVIN L. CUEVAS**

**Accused.**

*Present:*

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

*Promulgated:*

October 22, 2018 *Lat*

X-----X

**RESOLUTION**

**MENDOZA-ARCEGA, J.:**

For consideration of the Court are the Motion for Reconsideration (To the Resolution dated September 4, 2018)<sup>1</sup>, filed by the accused, through his counsel, on September 24, 2018 and the Comment/Opposition<sup>2</sup>, filed by the prosecution, through the Office of the Special Prosecutor, on September 26, 2018.

<sup>1</sup> Record, Vol. 2, pp. 297 – 300.

<sup>2</sup> Record, Vol. 2, pp. 308 – 314.

*F  
M  
C*  
1

The accused, in his motion, pleads for a reconsideration of the Court's resolution dated September 4, 2018, admitting all the documentary exhibits of the prosecution. In support of his allegation, the accused avers that the evidence submitted by the prosecution are inadmissible for being incompetent and irrelevant. Moreover, according to him (accused), Exhibits B to Q and S should have been denied for being mere *Certified Xerox Copy from the Xerox Copy on File* or *Certified Photo Copy*, which are not considered best evidence.

The prosecution, by way of Comment/Opposition, counters that: 1) the subject motion is a mere reiteration of arguments which were already resolved by the Court; 2) the accused failed to specifically point out the errors allegedly committed by the Court, which is a requirement under the Rules of Court; 3) the prosecution clarified that Exhibits Q<sup>3</sup> is an original document, while Exhibit S<sup>4</sup> is a certified true copy; and 4) the documentary evidence offered by the prosecution are authenticated and are admissible as an official entry or record, which under the rules is an exception to the hearsay rule.

Hence, this resolution.

The provisions of the Rules of Court on Motion for Reconsideration are as follows:

The rule in our jurisdiction is that a party aggrieved by a decision of a trial court may move to set aside the decision and reconsideration thereof may be granted when (a) the judgment had awarded "excessive damages;" (b) there was "insufficiency of the evidence to justify the decision;" or (c) "the decision was against the law."<sup>5</sup>

A motion for reconsideration based on ground (b) or (c) above must point out specifically the findings and conclusions of the judgment which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions.<sup>6</sup>

A motion for reconsideration, when sufficient in form and substance that is, when it satisfies the requirements of Rule 37 of the Rules of Court interrupts the running of the period to perfect an appeal.<sup>7</sup> A motion for reconsideration that does not comply with those requirements will, upon the other hand, be treated as pro forma intended merely to delay the proceedings and as such, the motion will not stay or suspend the reglementary period.<sup>8</sup>

The accused, in his motion made an effort to explain the grounds upon which it is based. The motion pointed out specifically the documentary evidence objected to and the findings of the Court which are alleged to be in violation of the law, although the grounds relied upon by the accused are mere repetition of the matters

---

<sup>3</sup> Service Record of Melvin Cuevas

<sup>4</sup> Subsidiary Ledger for the unsettled accounts of Melvin Cuevas.

<sup>5</sup> Section 1 (c), Rule 37, Rules of Court.

<sup>6</sup> Section 2, third paragraph, Rule 37, Rules of Court.

<sup>7</sup> Section 3, Rule 41, Rules of Court.

<sup>8</sup> E.g., Nieto v. De los Angeles, 109 SCRA 229 (1981); City of Cebu v. Mendoza, 62 SCRA 440 (1975); Alvero v. De la Rosa, 76 Phil. 428 (1946); Reyes v. Court of Appeals, 74 Phil. 235 (1943).

raised in its previous pleading, it is undeniable that it is substantially compliant with the requirements above mentioned.

The conclusion that the present motion is not pro forma however does not imply that the same is meritorious, thus a reexamination by the Court of the matters raised by the accused becomes imperative.

The accused basically anchors his motion on the admissibility of exhibits B to Q and S, which according to him are not the best evidence for being *Certified Xerox Copy from the Xerox Copy on File* or *Certified Photo Copy*.

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

**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.** (Emphasis supplied)

It is explicit in the above provision that one of the exceptions to the best evidence rule are public records in the custody of a public officer or documents recorded in a public office.

A perusal of the exhibits shows that exhibits “B” to “P”<sup>9</sup> are public records which are either in the custody of a public officer or recorded in a public office and although described as *Certified Xerox Copy from the Xerox Copy on File* or *Certified Photo Copy*, these are admissible in evidence, being an exception to the best

---

<sup>9</sup> Exhibit “B”—Authorization from Mayor Antolin A. Oreta III dated April 15, 2014; Exhibit “B-1”—Order from the Office of the City Prosecutor, Malabon City, dated July 15, 2014; Exhibit “C”—Certified True Copy of the Demand Letter dated November 30, 2010, issued by the city Auditor’s Office of Malabon City; Exhibit “D”—Statement of Cash Advances and Liquidations as of September 0, 2010; Exhibit “E”—Demand Letter issued by the Office of the Auditor of the City of Malabon dated March 1, 2005; Exhibit “F”—Demand Letter issued by the City Auditor’s Office of Malabon City dated April 27, 2011; Exhibit “G”—Narrative Report on Unliquidated Cash Advances issued by Roberto Factoran, State Auditor V, Supervising Auditor; Exhibit “H”— Statement of Cash Advances and Liquidations as of March 31, 2011; Exhibit “I”—Disbursement Voucher of the City of Malabon dated May 23, 2000, certified by City Vice Mayor, Jay Jay Gutierrez Yambao and acting City Accountant, Blesilda O. Mangunay; Exhibit “J”—PNB Check No. 5767 dated May 23, 2002, issued by the City of Malabon; Exhibit K- Certified True Copy of the Disbursement Voucher as Cash Advance in connection with the 1<sup>st</sup> Island Congress of the Metro Manila Philippine Councilors League (MMPCL); Exhibit “L”— Certified Copy of PNB Check No. 7022, issued by the City of Malabon; Exhibit “M”— Certified True Copy of the Disbursement Voucher as Cash Advance in connection with the “OPLAN KALULUWA”; Exhibit “N”— Certified Copy of PNB Check No. 6203 dated September 18, 2003, issued by the City of Malabon; Exhibit “O”— Certified True Copy of the Disbursement Voucher, as Cash Advance to defray the expenses in connection to the 2<sup>nd</sup> Joint Executive-National Meeting and Planning Workshop on October 7-10, 2003; Exhibit “P”— Certified True Copy of the Disbursement Voucher, as Cash Advance in connection with the 3<sup>rd</sup> NEB Conference cum workshop and Sanggunian Legislators Forum.

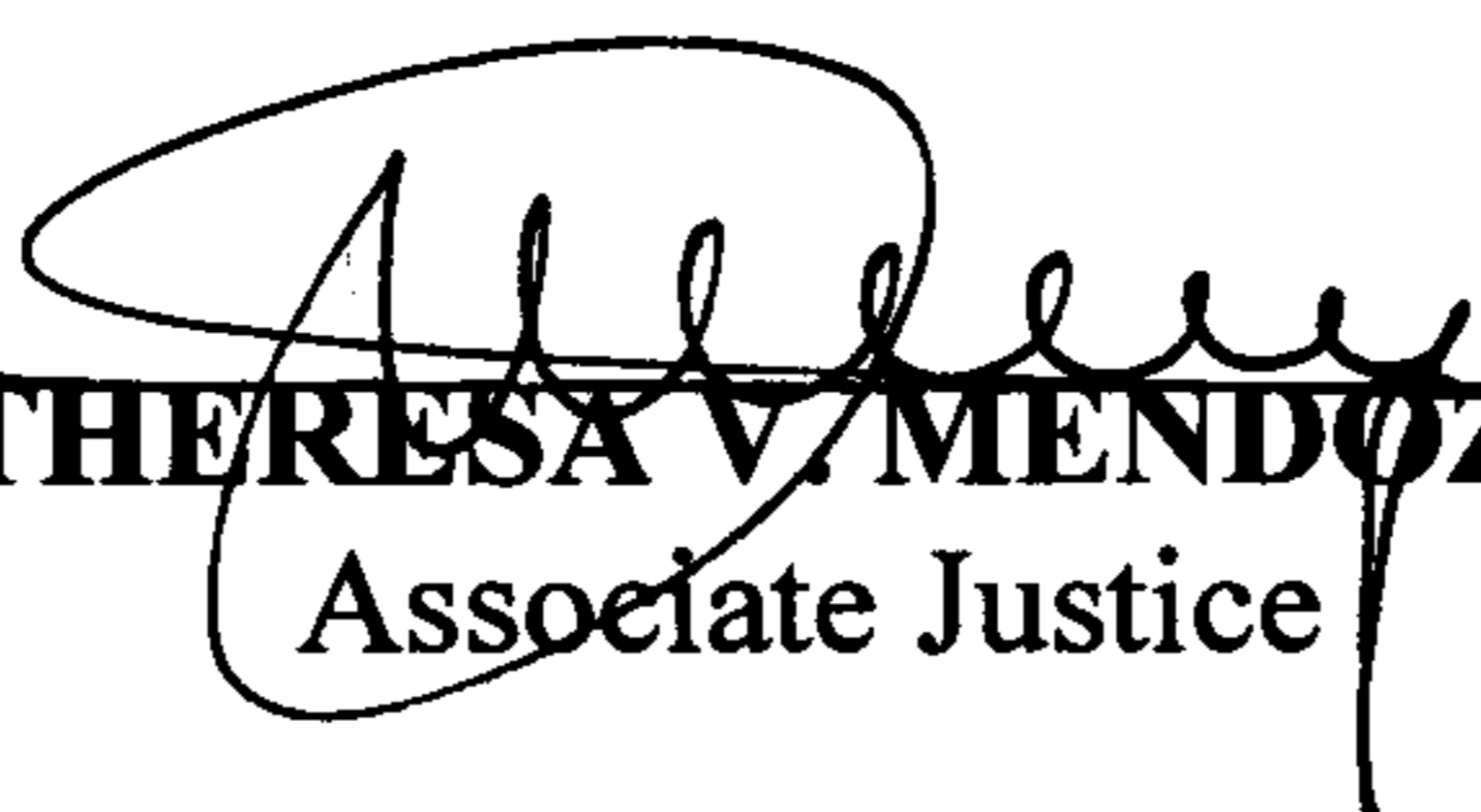
evidence rule. Exhibit "Q" on the other hand is an original document bearing the seal of the City of Malabon-Human Resource Management and Development Department, while Exhibit "S" is a certified photo copy of the Subsidiary Ledger of the City Government Malabon, hence there is no question as to their admissibility under the rules.

Since there are no other material allegation of any quintessential value to persuade the Court to change its earlier ruling, as the grounds relied upon by the accused were the same allegations raised in its Comment and Opposition (To the Formal Offer of Prosecution's Documentary Exhibits) dated September 3, 2018,<sup>10</sup> the instant motion should necessarily fail.

**WHEREFORE**, in view of the foregoing, the Motion for Reconsideration of the accused is hereby **DENIED**.


Accordingly, the initial presentation of the defense evidence is set on November 8, 2018 at 8:30 in the morning as previously scheduled.

**SO ORDERED.**

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

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Chairperson

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

---

<sup>10</sup> Record, Vol. 2, pp. 115-153.