



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-15-CRM- 0144

For: Violation of Section 3 (e) of
R.A. 3019, as amended.

-vs-

NIEL D. TUPAS, SR., LYD P. TUPAS,
SANDRA C. BIONAT AND RAMIE S.
SALCEDO,

Accused.

Present:

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

Promulgated:

November 19, 2018 *Jal*

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution is the Urgent Motion to Lift Hold Departure Order (HDO) or Alternative Motion for Permission/Authority to Travel Abroad, filed by accused, Sandra C. Bionat (Bionat), through counsel on November 3, 2018.

The accused asks for the lifting of the HDO issued in relation to this case on September 16, 2015 or to at least allow her to travel to Thailand to spend at least a week with her son who is to receive an award this November, 2018.

The prosecution in response posed an objection to the accused's Motion to Lift Hold Departure Order.

Hence, this resolution.

Section 6, Article 3 of the 1987 Constitution states:

Sec. 6 – The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

The aforementioned provision secures the right of the people to travel, this same provision however admits of exceptions and does not operate to delimit or diminish the inherent power of the courts to use all necessary means to carry their order and processes into effect.

Accused Bionat in her motion prays that she be allowed to visit her son in Thailand who is set to receive an award this November 2018 and to celebrate the same momentous event by taking a trip to Cambodia after the awarding ceremony.

It can be recalled that the present case has already been dismissed by this Court by virtue of its Resolution dated February 20, 2018, which granted the Demurrers to Evidence by accused Ramie S. Salcedo, Lyd P. Tupas and Sandra C. Bionat. The prosecution as a final recourse filed a petition for certiorari, after this Court denied its subsequent Motion for Reconsideration, following the doctrine of double jeopardy.

Although this case is already the subject of a petition for certiorari, this Court under Section 9, Rule 41 of the Rules of Court¹ may still exercise its residual jurisdiction considering that the crux of the present motion does not involve any matter litigated by the appeal or the petition.

Since the above entitled case has already been decided in favor of the accused, this Court in the exercise of its inherent powers to amend and control its processes and orders so as to make them conformable to law and justice, is inclined to give due course to the present motion subject to the conditions herein imposed.

¹ "Section 9, Rule 41 of the Rules of Court mentions three (3) instances when the trial court is allowed to exercise "residual" jurisdiction after the perfection of the appeal, namely: (1) to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal; (2) to approve compromises offered by the parties prior to the transmittal of the record on appeal to the appellate court; and (3) to permit the prosecution of pauper's appeals."(Emphasis supplied)

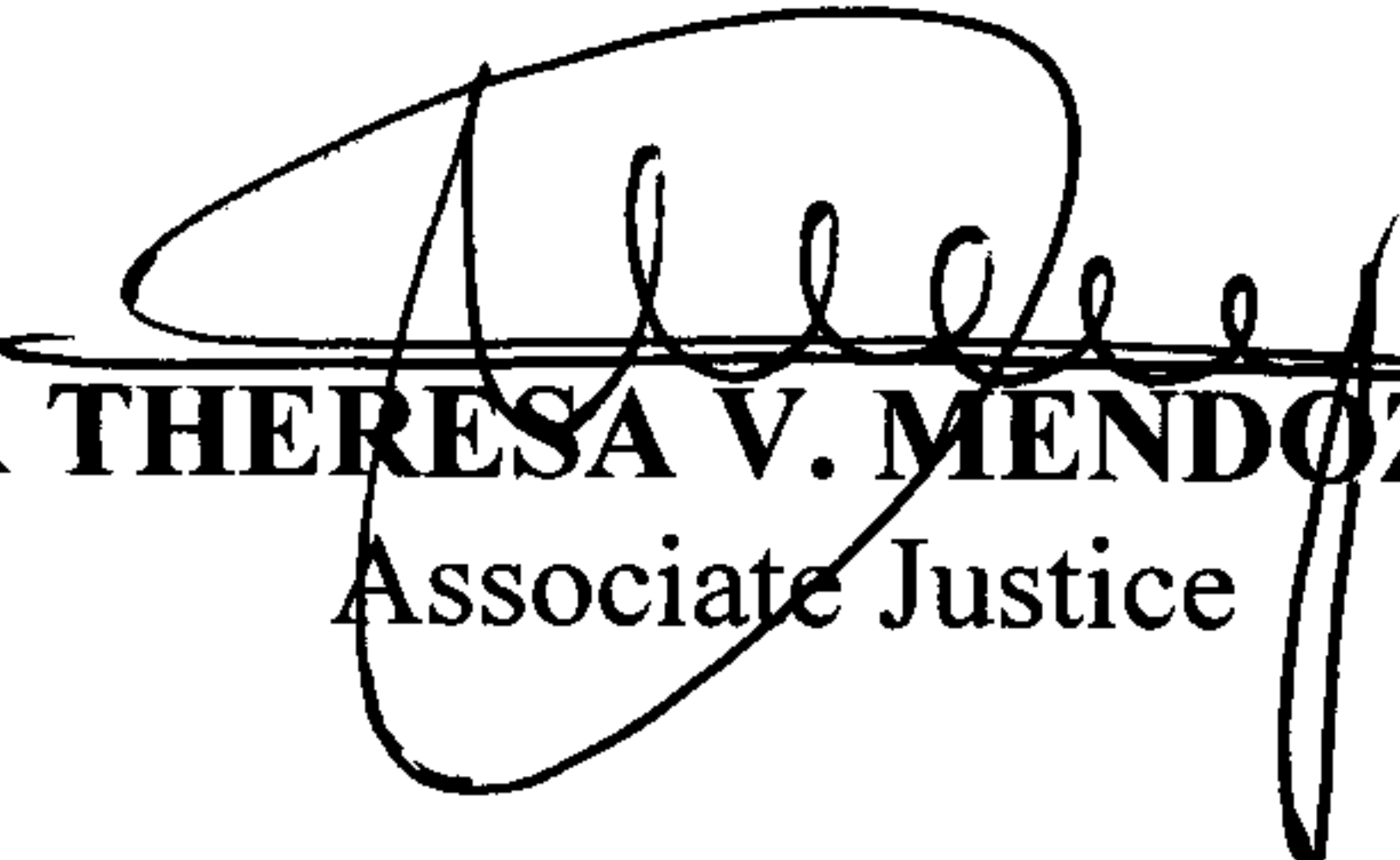
WHEREFORE, in view of the foregoing, the Urgent Motion to Lift Hold Departure Order or Alternative Motion for Permission/Authority to Travel Abroad is **PARTLY GRANTED**.

The accused, Sandra C. Bionat, is hereby authorized or permitted to travel to Thailand and/or Cambodia from November 28, 2018 to December 15, 2018, under the following conditions:


1. That the accused post a bond double the amount of her bail bond under the Information against her, as recommended by the Office of the Special Prosecutor to guarantee her faithful compliance with the terms and conditions imposed herein;
2. That the accused submit to this Court a copy of her plane ticket / travel itinerary showing the departure and intended return of the accused to the Philippines, within three (3) days from receipt hereof and prior to leaving the country.
3. That the accused furnish this Court with hotel vouchers/confirmations, the complete addresses and contact numbers of said hotels. She is likewise ordered to provide her personal contact number for the Court to reach her at any time while she is abroad; and
4. That the accused present herself and submit a report within five (5) days from her return to the Philippines.


Meanwhile, the Hold Departure Order issued against the accused, in relation to the above entitled case **SUBSISTS**.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice