



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1424 and 1425**
Plaintiff, For: Violation of Sec. 3(e)
of R.A. No. 3019

- versus -

ALFREDO G. GERMAR,
Accused.

Present

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

NOV 12 2018 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Alfredo G. Germar's *Manifestation (Re: Supreme Court Decision Declaring That the Accused Acted Legally in Entering Into the Contracts Subject of These Cases) With Motion to Suspend Proceedings.*¹

In his Motion, the accused prays for the suspension of the proceedings. He argues:

1. The Office of the Ombudsman found him guilty of grave misconduct in the administrative case which arose from the same facts as that in the present cases.
2. In *Germar v. Legaspi*,² the Supreme Court reversed said finding of administrative liability. It was held that he did not have to secure a separate authorization from the Sangguniang Bayan for the subject contracts for consultancy services, and therefore, he acted within the parameters of law in entering said contracts.

¹ Dated October 25, 2018 and filed on October 26, 2018

² G.R. No. 232532, October 1, 2018

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3. The rule on conclusiveness of judgment, as applied in *People v. Sandiganbayan*,³ may be a basis for the dismissal of the present cases.
4. Considering that the administrative case and the present cases share the same factual antecedents, and involve the same core issues, the Supreme Court's ruling in *Germar v. Legaspi* applies. He should be acquitted without further proceedings.
5. He received a copy of said Decision on October 17, 2018. Hence, it has not yet attained finality. The proceedings in the present cases should be suspended until then.
6. Continuing with the trial in the present cases despite the likelihood that no further proceedings will be necessary will not promote orderly proceedings and the efficient administration of justice. Moreover, it would needlessly burden him with the presentation of evidence that could prove to be unnecessary.
7. The suspension of the proceedings may, by analogy, be based on the rules on suspension of criminal actions on account of a prejudicial question. The issue addressed in *Germar v. Legaspi* was the very same question which must be resolved in the present cases.

In its *Comment/Opposition (Re: Manifestation with Motion To Suspend Proceedings)*,⁴ the prosecution counters:

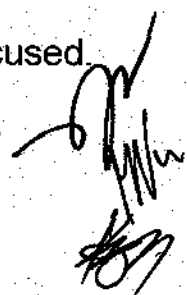
1. The same wrongful act of a public officer may give rise to civil, criminal, or administrative liability.
2. An administrative case and a criminal case may proceed separately even if both involve similar operative facts. Each requires a different quantum of evidence.
3. In the present cases, the prosecution had already rested its case and offered its evidence to substantiate the charges against the accused.
4. There is no cogent reason to suspend the proceedings in the present cases.

THE COURT'S RULING

The Court resolves to deny the Motion of the accused.

³ G.R. No. 164577, July 5, 2010

⁴ Dated October 30, 2018 and filed on November 5, 2018.



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The proceedings in the present cases cannot be suspended on the ground of a prejudicial question under Rule 111, Sec. 6 of the Rules of Court, which reads:

Sec. 6. Suspension by reason of prejudicial question. – A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.

(underscoring supplied)

Even without considering the elements of a prejudicial question,⁵ it is apparent that the accused may no longer seek the suspension of the proceedings on such ground because his motion should have been filed before the prosecution rests. Here, the prosecution had already rested its case. In fact, it is already the accused' turn to present his evidence.

The accused' reliance on *People v. Sandiganbayan*⁶ is likewise misplaced. Indeed, in that case, the Supreme Court held:

Although the dismissal of the criminal case cannot be pleaded to abate the administrative proceedings primarily on the ground that the quantum of proof required to sustain administrative charges is significantly lower than that necessary for criminal actions, the same does not hold true if it were the other way around, that is, the dismissal of the administrative case is being invoked to abate the criminal case. The reason is that the evidence presented in the administrative case may not necessarily be the same evidence to be presented in the criminal case. The prosecution is certainly not precluded from adducing additional evidence to discharge the burden of proof required in the criminal cases. However, if the criminal case will be prosecuted based on the same facts and evidence as that in the administrative case, and the court trying the latter already squarely ruled on the absence of facts and/or circumstances sufficient to negate the basis of the criminal indictment, then to still burden the accused to present controverting

⁵ *Rules of Court, Rule 111, Sec. 7. Elements of a prejudicial question.* – The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.

⁶ *Supra.* Note 3

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evidence despite the failure of the prosecution to present sufficient and competent evidence, will be a futile and useless exercise.

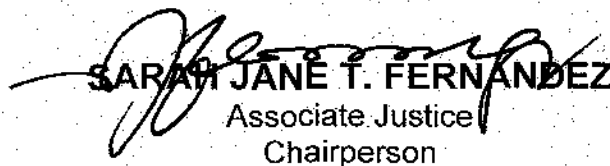
However, the facts in *People v. Sandiganbayan* are not on all fours with those in the present cases. In that case, the Sandiganbayan initially denied the accused' demurrers to evidence. Thereafter, it granted therein accused' motion for reconsideration and dismissed the cases. In dismissing the cases, the Sandiganbayan took into account the decision of the Court of Appeals in an administrative case.

It bears stressing that in *People v. Sandiganbayan*, the dismissal of the cases by the Sandiganbayan was upon a demurrer to evidence filed by the accused. The Sandiganbayan looked into the prosecution's evidence, and found the same to be insufficient when it dismissed the cases. *People v. Sandiganbayan* is not an authority for the dismissal of a case during the course of the presentation of the evidence for the defense, without the Court passing upon the merits of the case.

The Supreme Court, in *Gernar v. Legaspi*, did not direct this Court to dismiss the present cases outright. However, this Court may consider said Decision in resolving the present cases.

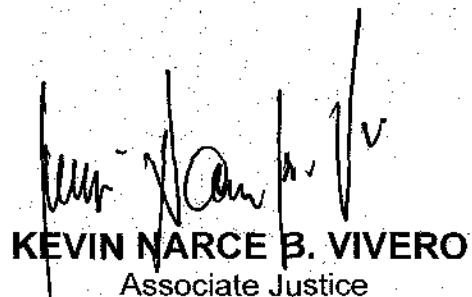
WHEREFORE, the accused' *Motion to Suspend Proceedings* is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice