



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
QUEZON CITY

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**SEVENTH DIVISION**

*MINUTES of the proceedings held on November 21, 2018*

*Present:*

**MA. THERESA DOLORES C. GOMEZ-ESTOESTA** ----- Chairperson  
**ZALDY V. TRESPESES** ----- Associate Justice  
**KEVIN NARCE B. VIVERO\*** ----- Associate Justice

The following resolution was adopted:

**CRIMINAL CASE NO. SB-17-CRM-1809 to 1810**

**PEOPLE v. CONSTANTINO HUIT CORDIAL, JR., ET AL.**

Before the Court are the following:

1. The prosecution's "MOTION FOR PRODUCTION OF ORIGINAL DOCUMENTS (under Sec. 6, Rule 130 of the Rules of Court)" dated September 10, 2018 with "MANIFESTATION" dated October 16, 2018; and
2. Accused Danilo Belleza's "OPPOSITION TO SECOND MOTION FOR PRODUCTION OF ORIGINAL DOCUMENTS" dated October 27, 2018.

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**GOMEZ-ESTOESTA, J.:**

Following the denial of its Motion for Production of Original Documents on the strength of Sec. 1, Rule 27 of the Rules of Court,<sup>1</sup> the prosecution reiterates its request, in another *Motion for Production of Original Documents*,<sup>2</sup> this time citing Sec. 6, Rule 130, to produce the same documents, namely:

- a. Resolution No. 48, series of 2014 of the Sangguniang Bayan of Caramoan, Camarines Sur (Exhibit "C");

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\* Per A.O. No. 557-2018 dated November 20, 2018

<sup>1</sup> In an *Order* dated September 3, 2018, *Records*, Vol. 2, pp. 22-23

<sup>2</sup> *Id.*, pp. 27-32

- b. Resolution No. 48-A, series of 2014 of the Sangguniang Bayan of Caramoan, Camarines Sur (Exhibit "D"); and
- c. Minutes of the Regular Session of the 9<sup>th</sup> Sangguniang Bayan of Caramoan, Camarines, Sur held on March 24, 2014 (Exhibit "L").

Citing Sec. 6, Rule 130 of the Rules of Court, the prosecution claims that these documents are in the possession of accused Danilo Belleza, who was the Secretary of the Sanggunian at the time, and failed to turn them over after his dismissal from service. The prosecution also cites *Pacasum v. People*,<sup>3</sup> where it was held that notice to the adverse party to produce a document may be in the form of a motion for production of the original.

In his *Opposition*,<sup>4</sup> accused Belleza asserts his right to be exempt from being a witness against himself under Sec. 1(e) of Rule 115 of the Rules of Court, which covers not just exemption from testimonial compulsion but also from production of documents. Moreover, the prosecution has not even established that he had sole and exclusive custody and control of said documents. The other accused did not file their respective comments despite having been given time to do so.

Sec. 6, Rule 130 of the Rules of Court provides:

*Section 6. When original document is in adverse party's custody or control.* — If the document is in the custody or under the control of adverse party, he must have reasonable notice to produce it. If after such notice and after satisfactory proof of its existence, he fails to produce the document, secondary evidence may be presented as in the case of its loss.

The provision relied upon by the prosecution pertains to the manner of presentation of secondary evidence; it is not a ground for the production by an accused of a document for the use of the prosecution in a case filed against him. *Pacasum v. People* upheld the admissibility of secondary evidence after proof that the offeror has done all in his power to secure the best evidence by giving notice to said part to produce the document which may be in the form of a motion for the production of the original.

However, as already held by this Court in its Order dated September 3, 2018, in criminal proceedings, only the accused is given the privilege to file a motion for the production of documents under Section 10, Rule 116 of the Rules of Criminal Procedure, especially since the document may be incriminating against him.

Accused Belleza correctly invokes his right to be exempt from being a witness against himself. The right of the defendant in a criminal case "to be exempt from being a witness against himself" signifies that **he cannot be**

<sup>3</sup> G.R. No. 180314, April 16, 2009

<sup>4</sup> *Records*, Vol. 2, pp. 77-78

compelled to testify or produce evidence in the criminal case in which he is the accused, or one of the accused. He cannot be compelled to do so even by subpoena or other process or order of the Court.<sup>5</sup>

The admissibility of the subject documents will be dealt with in the resolution of the prosecution's Formal Offer of Evidence.

WHEREFORE, in view of the foregoing, the prosecution's *Motion for Production of Original Documents* is **DENIED** for lack of merit.

The parties are reminded of the continuation of the presentation of prosecution evidence on December 3, 2018, at 8:30 in the morning.

SO ORDERED.

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

WE CONCUR:

  
**ZALDY V. TRESPESES**  
*Associate Justice*

  
**KEVIN NARCE B. VIVERO**  
*Associate Justice*

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<sup>5</sup> *Rosete, et al. v. Lim, et al.*, G.R. No. 136051, June 8, 2006, citing *People v. Ayson*, G.R. No. 85215, July 7, 1989