



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:

DEC 03 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Alfredo G. Germar's *Motion for Reconsideration of the Resolution Dated 12 November 2018 Denying the Accused's Motion to Suspend Proceedings*.¹

The accused prays that this Court reconsider the Resolution dated November 12, 2018² and suspend the proceedings in the present cases. He avers:

1. His objective in seeking the suspension of the proceedings in the present cases is to achieve the purpose of the rule on *res judicata*, which includes the rule on conclusiveness of judgment.
2. If the proceedings in the present cases are not suspended pending the finality of the Supreme Court's Decision in *Germar v. Legaspi*,³ the factual and legal issues resolved therein will once again be litigated.

¹ Dated November 16, 2018; Record, Vol. 2, pp. 214-231

² Record, Vol. 2, pp. 208-211

³ G.R. No. 232532, October 1, 2018

RESOLUTION

People vs. Germar

Criminal Cases No. SB-17-CRM-1424 and 1425

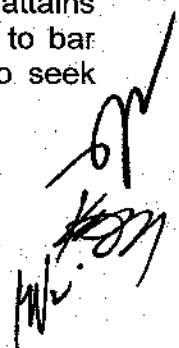
Page 2 of 6

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3. The circumstances in the present cases do not fall squarely within the rule on prejudicial question in Rule 111 because the Supreme Court's Decision involved an administrative case, and not a civil case. However, said rule may still apply by analogy because the Supreme Court's Decision in *Germar v. Legaspi* stands to affect the outcome of the present cases.
4. The time limit provided in Sec. 6 of Rule 111 does not apply because he is not directly invoking said provision. Furthermore, courts have the power "to control the disposition of causes on its dockets with economy of time and effort for itself, for counsel, and for litigants." The Court may exercise such power at any time, even after the prosecution has rested its case.
5. The promulgation of *Germar v. Legaspi* after the prosecution had already rested its case should justify a liberal interpretation of Sec. 6 of Rule 111, the application of which will promote the just, speedy and inexpensive disposition of the present cases.
6. In *Quiambao v. Osorio*,⁴ the Supreme Court held that a prejudicial question can exist in a pending administrative case in relation to a civil case. The ruling in said case was again cited in *Tamin v. Court of Appeals*.⁵
7. As he previously pointed out, the administrative case and the present criminal cases both arose from Office of the Ombudsman's Consolidated Resolution dated November 23, 2015.
8. The Supreme Court, in *Germar v. Legaspi*, reversed said Consolidated Resolution insofar as the administrative aspect was concerned.
9. The main issue resolved in *Germar v. Legaspi* is the very same issue to be resolved by this Court in the present cases.
10. Once the Decision in *Germar v. Legaspi* attains finality, he will be entitled to a judgment of acquittal without further trial based on the rule on conclusiveness of judgment in Sec. 47(c) of Rule 39 of the Rules of Court.
11. Assuming that the present cases cannot be terminated without further trial after the Decision in *Germar v. Legaspi* attains finality, he may still invoke the ruling in said Decision to bar certain questions from being asked of witnesses or to seek

⁴ G.R. L-48157, March 16, 1988

⁵ G.R. No. 97477, May 8, 1992



RESOLUTION

People vs. Germar

Criminal Cases No. SB-17-CRM-1424 and 1425

Page 3 of 6

X-----X

exclusion of certain evidence the prosecution may present on rebuttal.

12. In several cases,⁶ the Supreme Court ruled that a decision in an administrative case absolving the respondent of liability may be conclusive in the parallel criminal case arising from the same facts because the quantum of evidence required in criminal cases, *i.e.*, proof beyond reasonable doubt, cannot be met if that required in administrative cases was not met.

In its *Comment/Opposition (To The Accused's Motion For Reconsideration of the Resolution dated 12 November 2018 [sic])*,⁷ the prosecution counters:

1. A wrongful act of a public officer may give rise to civil, criminal, or administrative liability. Each can proceed independently of the others.
2. The evidence presented in the administrative case may not necessarily be the same as that to be presented in the criminal case. Furthermore, the prosecution is not precluded from adducing additional evidence in the criminal case.
3. There is no cogent reason to suspend the proceedings in the present cases.

THE COURT'S RULING

The Court resolves to deny the accused' Motion for Reconsideration.

The accused insists that the proceedings in the present cases may be suspended on the ground of the existence of a prejudicial question. Citing *Quiambao v. Osorio*, he argues that although not all elements of a prejudicial question are present, the rule may still be applied in the present cases by analogy. This Court is not persuaded.

First, there being no civil case involved, the accused' motion to suspend proceedings is a prohibited motion under the *Revised*

⁶ *Constantino v. Sandiganbayan*, G.R. Nos. 140656 and 154482, September 13, 2007; *People v. Sandiganbayan*, G.R. No. 164577, July 5, 2010; *Nicolas v. Sandiganbayan*, G.R. Nos. 175930-31 and 176010-11, February 11, 2008; *Co v. People*, G.R. No. 160265, July 13, 2009

⁷ Dated November 22, 2018 and filed on November 23, 2018

RESOLUTION

People vs. Germar

Criminal Cases No. SB-17-CRM-1424 and 1425

Page 4 of 6

X-----X

*Guidelines for Continuous Trial of Criminal Cases.*⁸ The pertinent provision reads:

III. Procedure

x x x

2. Motions

x x x

- (b) *Prohibited Motions.* – Prohibited motions shall be denied outright before the scheduled arraignment without need of comment and/or opposition.

The following motions are prohibited:

x x x

- vii. Petition to suspend the criminal action on the ground of prejudicial question, when no civil case has been filed, pursuant to Sec. 7, Rule 111.

Second, although this Court may apply the rule on prejudicial question by analogy, and suspend the proceedings on the basis of its “power to control the disposition of causes on its dockets with economy of time and effort for itself, for counsel, and for litigants,” it must be emphasized that such power to stay proceedings is discretionary.⁹ This Court, in the exercise of discretion, has determined that suspending the proceedings in the present cases will not promote the objective of the Rules, of “securing a just, speedy and inexpensive disposition of every action and proceeding.”¹⁰

The other arguments of the accused are substantially the same as, or a mere reiteration or rehash of, those in his *Motion to Suspend Proceedings*. These had already been considered, and found to be without merit by this Court in the Resolution dated November 12, 2018. Hence, there is no need to discuss the same anew.

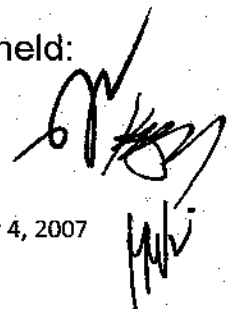
In *Mendoza-Ong v. Sandiganbayan*,¹¹ it was held:

⁸ A.M. No. 15-06-10-SC

⁹ Please see *Trinidad v. Office of the Ombudsman*, G.R. No. 166038, December 4, 2007

¹⁰ *Rules of Court*, Rule 1, Sec. 6

¹¹ G.R. Nos. 146368-69, October 18, 2004



RESOLUTION

People vs. Gernar

Criminal Cases No. SB-17-CRM-1424 and 1425

Page 5 of 6

X-----X

Concerning the first ground abovecited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

For convenience, the pertinent portion ¹² of the assailed Resolution is hereunder quoted:

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

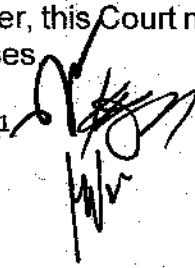
Although the dismissal of the criminal case cannot be pleaded to abate the administrative proceedings primarily on the ground that the quantum of proof required to sustain administrative charges is significantly lower than that necessary for criminal actions, the same does not hold true if it were the 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 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

¹² Resolution dated November 12, 2018, pp. 3-4; Record, Vol. 2, pp. 210-211



RESOLUTION

People vs. Gernar

Criminal Cases No. SB-17-CRM-1424 and 1425

Page 6 of 6

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Although the accused cited other cases, in addition to *People v. Sandiganbayan*, the rulings in said cases still cannot be used as basis for his outright acquittal during the course of the presentation of his evidence, without this Court passing upon the merits of the present cases.

In fine, this Court finds no justification for the reversal of the assailed Resolution.

WHEREFORE, the accused' *Motion for Reconsideration* is hereby DENIED.

SO ORDERED.


SARAH JANE T. FERNANDEZ

Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA

Associate Justice


KEVIN NARCE B. VIVERO

Associate Justice