

**SANDIGANBAYAN
QUEZON CITY**

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0003
For: Violation of Section 3(e),
R.A. No. 3019

- versus -

SB-18-CRM-0004
For: Violation of Section 3(g),
R.A. No. 3019

Present:

ARTHUR YAP, ET AL.
Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J.,
TRESPESES,* J.

Promulgated:

DEC 06 2018 *[Signature]*

X-----X

RESOLUTION

FERNANDEZ, SJ, J.:

This resolves accused William G. Padolina's *Motion for Reconsideration*¹ of the August 15, 2018 Resolution and the *Opposition*² thereto filed by the prosecution.

In its August 15, 2018 *Resolution*, this Court denied accused Padolina's *Motion to Quash* and ruled that accused Padolina's act of voting to approve the Car Plan for Philippine Rice Research Institute (PhilRice) employees does not fall under the ambit of his functional immunity as Deputy Director General of the International Rice Research Institute (IRRI).

* J. Zaldy V. Trespeses participated in the Resolution dated August 15, 2018

¹ Dated October 4, 2018; Filed on October 5, 2018.

² (Re: *Motion for Reconsideration of Accused William G. Padolina*) dated October 9, 2018; Filed on October 10, 2018.

RESOLUTION

People vs. Yap, et al.
SB-18-CRM-0003 to 0004

x-----x

Accused Padolina contends that his functional immunity takes his case outside the jurisdiction of this Court.³ He claims that the criminal cases against him should be dismissed outright as he is afforded functional immunity for the acts he committed as an officer of IRRI pursuant to Presidential Decree No. 1620.⁴ He insists that he was exercising his functions as an official of the IRRI when he sat as a member of the PhilRice Board. He argues:

1. He did not perform the acts complained of. But even assuming that he did, said acts were in line with the objectives and powers of IRRI. His actions as a member of the PhilRice Board could only be performed in his capacity as Deputy Director General of the IRRI. He served as a member of the PhilRice Board in his official capacity as Deputy Director General of IRRI.⁵ He became a member of the PhilRice Board, and discharged his functions as such, by reason of, and in his capacity as, a Deputy Director General of IRRI.⁶
2. Executive Order No. 1061 cannot serve as basis to conclude that IRRI can only be a member of the Advisory Council and not a nominee on the PhilRice Board. E.O. No. 1061⁷ does not prohibit an IRRI nominee in the PhilRice Board. The Board members may be appointed from any sector. There is clear evidence that PhilRice always had an IRRI nominee in its Board. That E.O. No. 1061 did not expressly provide for an IRRI representative to the PhilRice Board does not mean that the IRRI representative's membership in PhilRice' Board is outside said IRRI official's functions. The charters of IRRI and PhilRice are intimately linked to and complement each other. E.O. No. 1061's provision for a representative of IRRI as a member of the Advisory Council to PhilRice shows that the PhilRice Charter has always envisioned close collaboration between the two.⁸
3. IRRI, upon request of the Office of the Presidential Management Staff of then President Gloria Macapagal-Arroyo, sent a list of its nominees that included him.

³ Motion for Reconsideration dated October 4, 2018, p. 25.

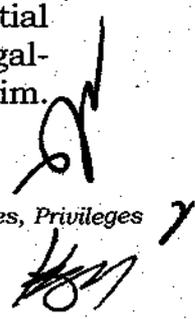
⁴ *Granting to the International Rice Research Institute (IRRI) the Status, Prerogatives, Privileges and Immunities of an International Organization*

⁵ Motion for Reconsideration dated October 4, 2018, p. 1.

⁶ Motion for Reconsideration dated October 4, 2018, p. 3.

⁷ Entitled *Establishing the Philippine Rice Research Institute*

⁸ Motion for Reconsideration dated October 4, 2018, pp. 18-19.



RESOLUTION

People vs. Yap, et al.

SB-18-CRM-0003 to 0004

3

x-----x

This Court recognized that IRRI confirmed that he sat as a trustee of PhilRice under the behest of IRRI, and as part of his functions as Deputy Director General of IRRI. IRRI acknowledged that accused Padolina was its nominee to the PhilRice Board.⁹

4. It is inaccurate for this Court to rely on the *Headquarters Agreement* to determine whether his acts are within his functions as an official of IRRI. The Headquarters Agreement is not the source of the purpose and objectives of the IRRI. The objectives and purpose of IRRI are found in P.D. No. 1620. The *Memorandum of Understanding* between the Government of the Philippines, Ford Foundation and Rockefeller Foundation also granted IRRI incidental powers in furtherance of the objectives in P.D. No. 1620.¹⁰
5. The determination of whether an act falls within the ambit of official capacity is a matter of factual, and not legal determination. The determination requires a consideration of all attendant factual circumstances.¹¹ This is not peculiar to cases involving the invocation of diplomatic or functional immunity. It has often been applied in cases involving the commission of crimes by public officers, where there is a need to determine whether the act/s were done in their official capacity.¹²
6. It is not true that the enumeration of responsibilities in his letter of appointment does not support the contents of the Secretary's Certificate. The enumeration of his functions show that he was charged with the duty of liaising and establishing relations and partnerships with the host country. There was no better way for him to fulfill this duty than by sitting as a member of the PhilRice Board. It was through his membership in the PhilRice Board that IRRI was able to enjoy extensive cooperation and collaboration with PhilRice. His membership in the PhilRice Board, as IRRI's nominee, was in line with his foregoing functions, and was in furtherance of IRRI's purposes and objectives.¹³

⁹ Motion for Reconsideration dated October 4, 2018, pp. 11, 18-19.

¹⁰ Motion for Reconsideration dated October 4, 2018, pp. 14-16.

¹¹ Citing the concurring opinion of J. Reynato Puno in *Liang vs. People*, 355 SCRA 125 [2001]; *Argigo vs. Swift*, 735 SCRA 102 [2014]; Motion for Reconsideration dated October 4, 2018, p. 12.

¹² Citing *Virata vs. Sandiganbayan*, 272 SCRA 661 [1997]; *Lacson vs. Executive Secretary*, 301 SCRA 298, [1999]; Motion for Reconsideration dated October 4, 2018, p. 13.

¹³ Letter dated January 31, 2018, Annex 10 of the Motion for Reconsideration dated October 4, 2018; Motion for Reconsideration dated October 4, 2018, pp. 16-17.

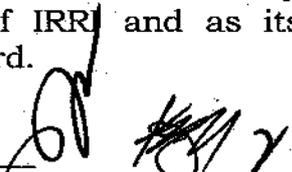
RESOLUTION

People vs. Yap, et al.
SB-18-CRM-0003 to 0004

4

x-----x

7. The Court overlooked the significance of the Secretary's Certificate confirming that he is IRRI's nominee to the PhilRice Board.
8. The Secretary's Certificate falls within the first, among C. Wilfred Jenks' several proposals to determine whether an act of an international official falls within his private or official acts, *i.e.*, "for a municipal court before which a question of the official or private character of a particular act arose to accept as conclusive in the matter any claim by the international organization that the act was official in character, such a claim being regarded as equivalent to a governmental claim that a particular act is an act of State. Such a claim would be in effect a claim by the organization that the proceedings against the official were a violation of the jurisdictional immunity of the organization itself which is unqualified and therefore not subject to delimitation in the discretion of the municipal court."¹⁴
9. If he were acting in his private capacity as a member of the PhilRice Board, he should have received compensation. But he did not receive any benefit, *per diem*, stipend, or salary from PhilRice. The compensation for his services at PhilRice was already covered by his salary in IRRI. His work in PhilRice was an adjunct of, and part of his responsibilities, as IRRI Deputy Director General. Under the 2002 IRRI Code of Discipline, he was prohibited from receiving additional remuneration for external service rendered on official IRRI time, without IRRI's clearance.
10. He was on official duty for IRRI when he sat in the PhilRice Board. His attendance in its Board meetings were all on IRRI official time. The meetings were all held during weekdays and office hours.
11. His acts as a member of the PhilRice Board, including his participation in the discussion on the provision for transportation for PhilRice employees, and his supposed involvement in the approval and implementation of the car plan were performed in his official capacity as a representative of IRRI to the PhilRice Board. He is immune from prosecution for these acts. He could have only performed said acts as an official of IRRI and as its representative to the PhilRice Board.


¹⁴ Citing the concurring opinion of J. Puno in *Liang vs. People, Supra.*; Motion for Reconsideration dated October 4, 2018, pp. 17-18; underscoring supplied.

RESOLUTION

People vs. Yap, et al.
SB-18-CRM-0003 to 0004

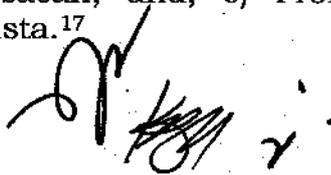
5

x-----x

12. He did not vote to approve the Car Plan implemented by PhilRice. He did not benefit therefrom; he was unaware of its beneficiaries, or the benefits received, and, how the plan was actually implemented. He only took part in the discussions regarding the possible implementation of rental of motor vehicles, the terms of which still had to be drawn up, and were still subject to PhilRice approval.
13. Even if he voted to approve the assailed Car Plan, said act was part of his functions as a nominee of IRRI to the PhilRice Board, and his actions were in line with the purpose and objectives of IRRI.¹⁵
14. The discussion on the possible provision of transportation to PhilRice scientists, researchers and staff was made for said employees and staff to fulfill the research being undertaken by PhilRice, and to prevent brilliant scientists from leaving PhilRice to secure employment elsewhere.
15. There was no occasion for him to approve and implement any Car Plan for PhilRice except in his capacity as the representative of IRRI to the PhilRice Board. It is not possible for him to commit said acts in his personal capacity as such are irrelevant to his personal life and connected only to his being a trustee of PhilRice.
16. The very nature of the offenses charged against him requires the acts to be done in the exercise of his official functions, and not in his personal capacity.¹⁶

Accused Padolina attached the following documents to his Motion for Reconsideration:

1. Letter dated February 6, 2002 of IRRI Director General Ronald P. Cantrell addressed to The Head of the Presidential Management Staff, nominating the following for the position of Member of the Board of Trustees of PhilRice: a) Dr. Gelia T. Castillo; b) Dr. Fernando A. Bernardo; c) Dr. William G. Padolina; d) Dr. Arsenio M. Balisacan; and, e) Prof. Ma. Rose Cynthia Banzon Bautista.¹⁷



¹⁵ Motion for Reconsideration dated October 4, 2018, pp. 19-20.

¹⁶ Motion for Reconsideration dated October 4, 2018, pp. 21-23.

¹⁷ Annex 5, Motion for Reconsideration dated October 4, 2018.

RESOLUTION

People vs. Yap, et al.
SB-18-CRM-0003 to 0004

6

x-----x

2. Letter dated January 31, 2018 of IRRI Director General Cantrell, the pertinent portion of which reads:

One of the most important responsibilities of the position of DDG (Deputy Director General) for Partnerships was establishing, maintaining, and enhancing relationships with the Philippine national scientific institutions. One of the most important institutions was the PhilRice. When I received a request for nominations for new members of the Board of Trustees, the first person on my list was Dr. Willy Padolina since this was one of the most important areas of his official responsibilities as DDG of Partnerships for IRRI. He was the person in IRRI that was responsible for ensuring that the Philippines had the most benefit for all of the partnerships with IRRI. Dr. Padolina served as Trustee on the PhilRice Board concurrent with his position as DDG for Partnerships at IRRI.

During my tenure with IRRI, we had excellent collaboration with PhilRice that resulted in many technologies that benefitted Philippine farmers. Dr. Padolina was most responsible for this high level of cooperation and collaboration between IRRI and PhilRice.¹⁸

3. Appointment Letter dated May 28, 2002 signed by President Gloria Macapagal-Arroyo, appointing William Padolina, "Member, Board of Trustees, Philippine Rice Research Institute (PRRI), Office of the President (OP), for a term of two (2) years, *vice* Mary John Mananzan."¹⁹

In its *Opposition*, the prosecution argued:

1. Accused' *Motion for Reconsideration* merely raised the same arguments or matters which have already been raised in his *Motion to Quash* and were sufficiently considered by this Court in its assailed *Resolution*.

A *Motion for Reconsideration*, in order to be given proper judicial cognizance, must contain not merely a reiteration of arguments already submitted to and considered by the Court.²⁰

2. Accused cannot invoke the immunity granted by the Philippine Government to the officials of IRRI since he acted in his capacity as member of the Board of Trustees of PhilRice and not as an official of IRRI. He cannot likewise invoke immunity since the criminal

¹⁸ Annex 10, Motion for Reconsideration dated October 4, 2018; underscoring supplied.

¹⁹ Annex 11, Motion for Reconsideration dated October 4, 2018.

²⁰ Citing *Shangri-la International Hotel Management vs. Developers Group of Companies*, 486 SCRA 405 [2006]; *Opposition* dated October 9, 2018, pp. 1 & 9.

RESOLUTION

People vs. Yap, et al.
SB-18-CRM-0003 to 0004

x-----x

acts he performed which gave rise to the present charges are beyond the scope of his official functions.

3. Accused' arguments that he did not benefit from the PhilRice Car Plan; that he was not aware of the beneficiaries of the plan, the benefits they received, and how the plan was actually implemented; and, that the Car Plan was made in order for the researchers and staff of the PhilRice to fulfill their research and to prevent them from leaving PhilRice to secure employment elsewhere, are all evidentiary matters that could only be threshed out in a full blown trial.
4. The present motion was filed out of time, hence, it should be denied outright.²¹

RULING

Accused William G. Padolina's *Motion for Reconsideration* was filed out of time. Under Section III, 2(c) of the *Revised Guidelines for Continuous Trial of Criminal Cases*, a party may file a motion for reconsideration of the resolution of a meritorious motion within a non-extendible period of five (5) days from receipt of said resolution, viz:

The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.

Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright.

Since accused Padolina received the August 15, 2018 *Resolution* on September 20, 2018,²² he only had until September 25, 2018 to file his *Motion for Reconsideration*.

²¹ Opposition dated October 9, 2018, pp. 10-11.

²² Motion for Reconsideration dated October 4, 2018, p. 1.

x-----x

Having filed the instant *Motion* on October 5, 2018, or beyond the period allowed by the *Rules*, accused' *Motion for Reconsideration* shall be considered unmeritorious and shall be denied outright.

Nonetheless, even on the merits, the *Motion for Reconsideration* is denied on the ground that it failed to raise any argument that would warrant the reversal of the *Resolution* dated August 15, 2018.

The matters raised in the *Motion for Reconsideration* are mere rehash and reiterations of the arguments in accused Padolina's *Motion to Quash*. This Court has already passed upon said matters in its August 15, 2018 *Resolution*.

As the Supreme Court ruled in *Mendoza-Ong vs. Sandiganbayan*:²³

... as concerning the first ground abovesited, 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.

As to the second ground, we find it raises arguments that have already been passed upon. Reconsideration on that ground may also be denied summarily.

This Court has ruled that since accused Padolina is invoking functional immunity, and not diplomatic immunity, the acts complained of, to be immune from prosecution, must be necessary for the functions of the organization and the fulfillment of its purposes. The Court held that accused Padolina's participation in the approval of the *Car Plan* is not related to the performance of his official functions as Deputy Director General of IRRI and they were not in furtherance of the objectives of IRRI, as stated in PD No. 1620, and the

²³ 440 SCRA 423, 425 (2004)

x-----x

Memorandum of Understanding.²⁴ The objectives and purpose of IRRI, as enumerated in a) P.D. No. 1620; and, b) the *Memorandum of Understanding*, were enumerated and considered in the August 15, 2018 *Resolution*.

Among the documents submitted by accused Padolina in his *Motion to Quash*, the only document from IRRI that had a semblance of invocation of immunity by IRRI on behalf of accused Padolina, is the Certification issued by IRRI Board Secretary Bruce Tolentino. This Court ruled that the statement of IRRI Board Secretary Tolentino that, "(A)s part of his duties and responsibilities as Deputy Director General and under the immunities and privileges accorded to Officers and Staff of the Institute under the Headquarters Agreement executed between the Institute and the Government of the Republic of the Philippines, Padolina was also appointed as a member of the Board of Trustees of the Philippine Rice Research Institute (PhilRice) from May 2001 to 2011 and his attendance to the board meetings was on his official capacity," is not supported by the Headquarters Agreement nor by the enumeration of responsibilities listed in accused Padolina's letters of appointment as IRRI Deputy Director General.²⁵

None of the additional documents attached to the *Motion for Reconsideration* had any claim for functional immunity for accused Padolina's act of approving PhilRice' Car Plan. The said documents merely confirmed his claim that he was nominated by IRRI as PhilRice Board member, he was appointed as a member of the PhilRice Board by then President Arroyo and he was authorized to attend the board meetings on official time. In fact, the nomination letter, showing a list of five (5) names, negates accused Padolina's claim that the performance of his functions as member of the PhilRice Board is an adjunct of and part of his responsibilities as Deputy Director General. Even the supposed usual practice of appointing an IRRI official as member of the PhilRice Board would not make such appointment "ex officio", or by virtue of the position held at IRRI .

²⁴ Resolution dated August 15, 2018, pp. 9-13. Citations omitted; underscoring in the original retained.

²⁵ Resolution dated August 15, 2018, p. 9.

x-----x

The Court, thus, maintains its findings that accused Padolina was appointed to the PhilRice Board in his "personal capacity", and not by virtue of his position as IRRI Deputy Director General. On the other hand, it bears emphasis that there is no issue, at this point, that a PhilRice Board member's participation in board meetings and his vote on matters discussed during said meetings are considered an exercise of the official functions of said Board member.

Accused Padolina's reliance on *C. Wilfred Jenks'* proposal, as above quoted from his Motion for Reconsideration,²⁶ is misplaced. As pointed out in the August 15, 2018 *Resolution*, there is no document from the IRRI or the Department of Foreign Affairs declaring that they consider accused Padolina's approval of the *Car Plan* as his official act as Deputy Director General of IRRI.²⁷

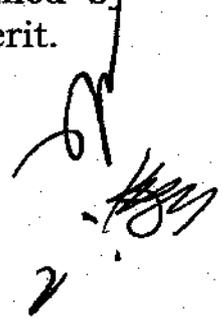
Finally, the other issues raised by accused Padolina, *i.e.*, he did not approve nor did he benefit from the *Car Plan*; he was not aware of who the beneficiaries were, nor the benefits received through the *Plan*, or how the *Plan* was implemented, are matters of defense and beyond the issue raised in the *Motion to Quash*, *i.e.*, the functional immunity invoked by accused Padolina. The same matters and the claim that the discussion on the grant of transportation to PhilRice scientists, researchers, and staff was done to fulfill the research function of PhilRice, are evidentiary matters which are best threshed out during the trial.

In fine, the Court finds no cogent reason to reverse or modify the *Resolution* dated August 15, 2018.

WHEREFORE, the *Motion for Reconsideration* filed by accused William G. Padolina is **DENIED** for lack of merit.

²⁶ *Infra*, p. 4.

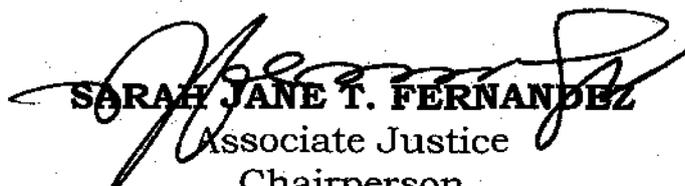
²⁷ *Resolution* dated August 15, 2018, p. 14.

Handwritten signature and initials in the bottom right corner of the page.

x-----x

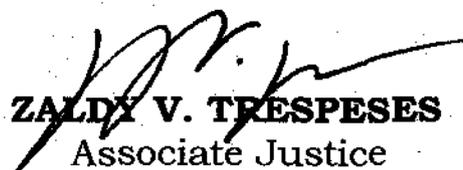
SO ORDERED.

Quezon City, Metro Manila.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


ZALDY V. TRESPESSES
Associate Justice