



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on January 7, 2019.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPESSES ----- Associate Justice
GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

CRIMINAL CASE NO. SB-15-CRM-0146

PEOPLE v. AVELINO JUDILLA GUNGOB, SR.

Before the Court are the following:

1. Accused Avelino Gungob's "REQUEST FOR RE-MARKING AND FORMAL OFFER OF EVIDENCE [For Accused Avelino J. Gungob]" dated October 24, 2018; and
2. The Prosecution's "COMMENT/OPPOSITION [TO: REQUEST FOR REMARKING AND FORMAL OFFER OF EVIDENCE DATED 24 OCTOBER 2018]" dated July 29, 2018.

GOMEZ-ESTOESTA, J.:

This resolves accused Gungob's *Formal Offer of Evidence*¹ dated October 24, 2018, as well as the Prosecution's *Comment/Opposition*² thereto. Accused Gungob's *Request for Re-marking* has already been resolved by this Court in its *Resolution*³ dated December 3, 2018.

Upon consideration of the documents offered, this Court resolves to:

ADMIT Exhibits "9", and "10", being common with the prosecution's Exhibits "D" and "B", respectively;

¹ *Records*, Vol. 2, pp. 411-450

² *Id.*, pp. 451-460

³ *Id.*, pp. 465-466

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ADMIT Exhibit "6", notwithstanding that the document offered by accused Gungob does not bear the official marking of this Court, and over the prosecution's objections to its admission, such document being the same as the prosecution's Exhibit "C";

This Court notes that aside from accused Gungob's Exhibit "6", Exhibits "3", "4", and "5" likewise do not bear the Court's official markings, as properly pointed out by the prosecution.

In *Chua v. CA, et al.*,⁴ it was explained:


Our rule on evidence provides the procedure on how to present documentary evidence before the court, as follows: firstly, the document should be authenticated and proved in the manner provided in the rules of court; **secondly, the document should be identified and marked for identification**; and thirdly, it should be formally offered in evidence to the court and shown to the opposing party so that the latter may have an opportunity to object thereon. (emphasis supplied)

Not having been officially marked, the documents offered as Exhibits "3", "4", and "5" are EXCLUDED;

Likewise, as properly remarked by the prosecution, the documents offered by accused Gungob are mere photocopies. While Exhibits "1", "2", "7" and "8" were officially marked by this Court, they are, indeed, mere photocopies. The Best Evidence Rule requires that the original document be produced whenever its contents are the subject of inquiry, except in certain limited cases laid down in Section 3 of Rule 130.⁵ A perusal of the contents of the photocopies of these documents shows their significance in the resolution of this case. A photocopy, being a mere secondary evidence, is not admissible unless it is shown that the original is unavailable.⁶ This was not shown by accused Gungob. Thus, Exhibits "1", "2", "7" and "8" are EXCLUDED.

Pursuant to the *Resolution* of this Court dated October 25, 2018, the prosecution is DIRECTED to manifest within five (5) days from receipt of this *Resolution* if it intends to proceed with the presentation of rebuttal evidence, which is tentatively set on January 28, 2019 at 8:30 in the morning.

SO ORDERED.


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

⁴ G.R. No. 88383, February 19, 1992

⁵ *Sps. Tapayan v. Martinez*, G.R. No. 207786, January 30, 2017

⁶ *Country Bankers Insurance Corporation v. Lagman*, G.R. No. 165487, July 13, 2011, Section 5, Rule 130

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WE CONCUR:



ZALDY V. TRESPESES
Associate Justice



GEORGINA D. HIDALGO
Associate Justice

