



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

RENE MONDEJAR,
Municipal Mayor
ARNALDO PARTISALA,
Vice Mayor
FRANCISCO TOLENTINO,
SB Secretary
ILDEFONSO ESPEJO,
MARGARITA GUMAPAS,
MANUEL PIOLO
ROBERTO B. VELASCO
SB Members
All of Maasin, Iloilo
HELEN EDITH LEE TAN
Private Individual
President/Proprietor of Int'l.
Builders Corporation (IBC)
Iloilo City

Accused.

Crim. Case No. 25674

FOR: Violation of Section 3(e) of R.A. 3019

Crim Case No. 25675

*FOR: Falsification of Public Document
(Art. 171 of the RPC)*

Present:

Mendoza-Arcega, J. Acting
*Chairperson**

Musngi, J.**

Cruz, J.***

Promulgated:

February 14, 2019 *jel*

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RESOLUTION

MENDOZA-ARCEGA, J.:

* Sitting as such pursuant to Administrative Order No. 086-2017 dated March 10, 2017.

** Sitting as Special Member per Administrative Order No. 088-2017 dated March 13, 2017.

*** Sitting as Special Member per Administrative Order No. 025-2017 dated February 1, 2017.

DECISION

People vs. Partisala

Crim. Case No. 25674-25675

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For resolution is the *Motion for Reconsideration*¹ filed by accused Arnaldo Partisala (Partisala), together with the prosecution's *Comment/Opposition*²

Accused Partisala moves that the decision promulgated on November 23, 2018 be reconsidered on the following grounds:

- (1) that this Court erred in finding that Partisala conspired with the other co-accused in falsifying the minutes of the regular session of the SB of Maasin, Iloilo, and
- (2) that this Court failed to consider that the unwarranted benefit and/or advantage to Helen Edith Tan in violation of R.A. 3019 was not established.

In support of his claim, Partisala reiterates that there was no falsification of the minutes as it was not sufficiently established that Exhibit "F" was the original minutes. Imelda Maderada's testimony during rebuttal alleging that Exhibit "B" as the "true" minutes, were not her own copy. The copy was allegedly given to her by one Ernie Malaga. This being said, she has no personal knowledge of the contents of the true minutes. Since Ernie Malaga was not presented let alone cross examined by accused Partisala, Exhibit "B" was never identified by the source, the one who owned the same and the one who actually knows how it came to his possession.

Partisala further claims that it is elementary in the rules of criminal procedure that a testimony cannot be used against an accused who was not able to cross examine the witness. Thus, Ernie Malaga's previous testimony cannot be used against accused Partisala in as much as the latter was not able to cross examine Malaga as witness for the prosecution.

As to the claim that the Court failed to prove unwarranted benefit and/or advantage to Helen Edith Tan. No irregularity as to the Memorandum of Agreement can be established since, the regularity of the Memorandum was only stipulated during the pre-trial of this case. By mere stipulation, no apparent irregularity in the MOA can be established.

No unwarranted benefits can be gained by co-accused Tan nor the IBC for that matter, as the MOA is not required or even needed for IBC to acquire the necessary permit let alone engage in quarrying activities.

In its comment, the prosecution pointed out that two of the members of the Sanguniang Bayan who were present during the June 21, 1996 session,

¹ Re: Decision promulgated on November 23, 2018, dated December 9, 2018; Record, Volume 10, pages 285-292.

² (to the Motion for Reconsideration filed by accused Arnaldo Partisala) dated January 16, 2019; Record, Volume 10, pages 297-299.

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Mrs. Elisa L. Trojillo and Dr. Vicente Albacete testified and related what actually transpired during the session. These persons have personal knowledge of what should be contained in the Minutes of the Session. The Court held that these two had no reason to perjure themselves. Likewise, failure of accused Partisala to oppose the formal offer of evidence filed by the prosecution is deemed a waiver on his part.

We resolve to deny the motion for reconsideration.

As to the assertion that it was not established that Exhibit "F" was the original minutes, We find no reason to re-evaluate the issue since the same has been settled in the *Decision*³ promulgated on November 23, 2018, thus:

"On the part of the defense, accused Partisala raised the fact that the documents presented are hearsay or inadmissible in evidence. In as much as witness Maderada maintains that Exhibit "B", the alleged "true" minutes was not her own copy and as alleged, her copy was only given by one Ernie Malaga. The accused claims that Exhibit "B" was never identified by the source, Mr. Malaga, the one who owned the same and the one who actually knows as to how it came to his possession. The Court is not convinced. Under the rules, a witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except those recognize by the rules.⁴ Based on this rule, any evidence oral or documentary is hearsay if its probative value is not based on the personal knowledge of the witness, but of some other person who is not on the witness stand.⁵ For failure of the accused to timely object to the admissibility of the documentary evidence, the Court is beyond reproach in admitting Exhibit "B" as part of the prosecution's evidence. Failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it. Established in the rule of evidence that objection to evidence must be made after the evidence is formally offered. In case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not at any other, that objection to the documentary evidence may be made. Upon scrutiny of the records, it appears that accused was given ample opportunity to file his Comment/Opposition to the offer of evidence, specifically to Exhibit "B", but he chose not to raise this objection.

³ Record, Vol. 10, pages 252 to 277.

⁴ Section 36, Rule 130, Rules of Court.

⁵ Bayani vs. People, G.R. No. 155619, August 14, 2007.

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The presentation of Emmanuel Seth Casco as defense witness does not refute any of the prosecution's evidence since he only maintained that Exhibit "8" is the authentic copy of the Minutes for being in the custody of his office. His certification of the record was only his ministerial duty to attest as to the presence of the document in his possession and custody, as the incumbent Sangguniang Bayan Secretary. However, he admitted that during the enactment of the questioned Resolutions, he was not in any case connected to nor a part of the Sangguniang Bayan. Therefore, he has no personal knowledge of the proceedings that was recorded in the questioned document."

Accordingly, this Court established the presence of the element of unwarranted benefit and/or advantage given to a private party in this manner:

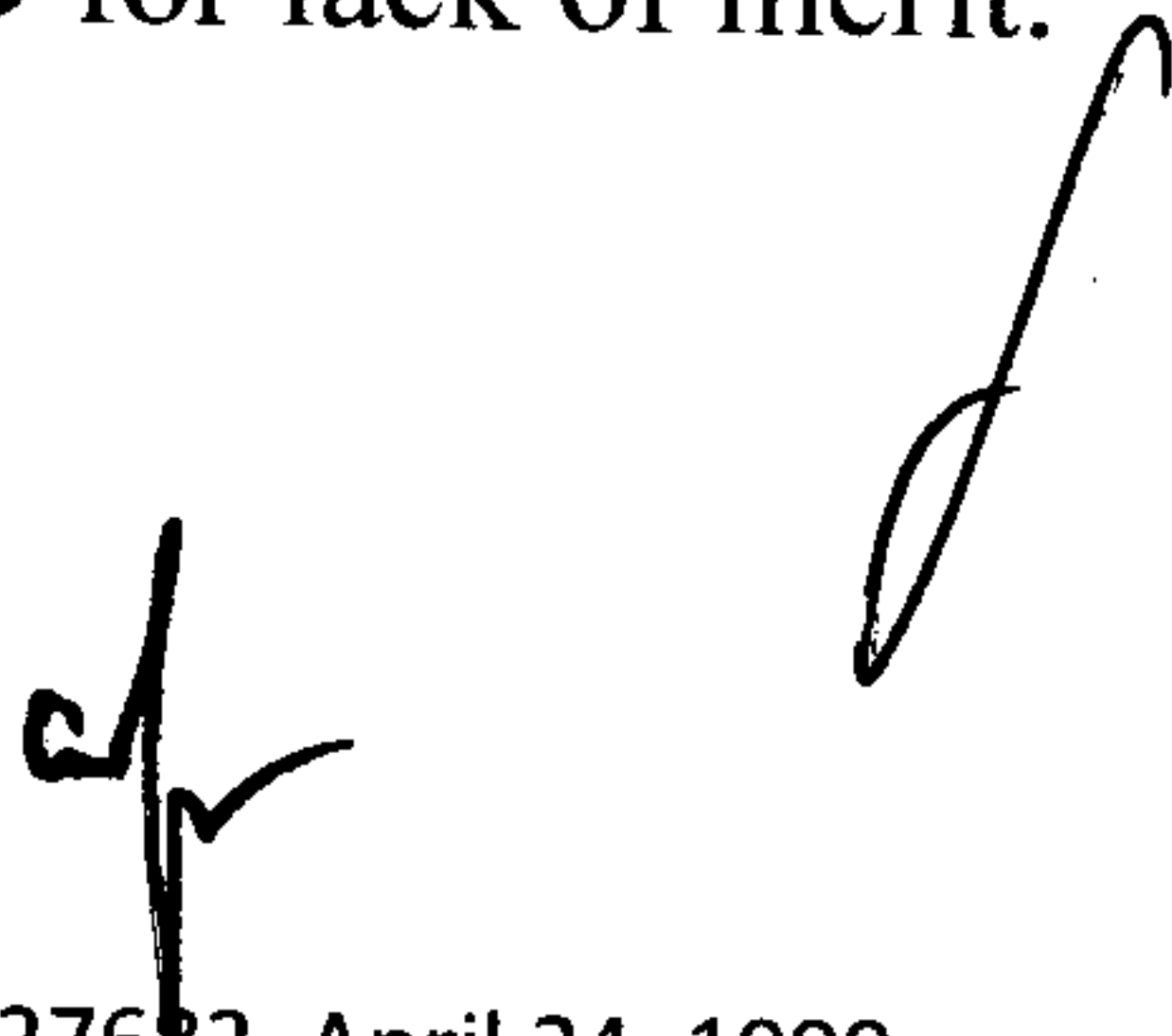
"To support the presence of the third element, the prosecution through witness Sucaldito was able to establish that it is only the provincial governor who has the power to issue quarrying permits. IBC was already granted a quarrying permit by the province of Iloilo. However, through the memorandum of agreement between the Municipality of Maasin and IBC, the latter was granted the rechanneling project. Through this project, the accused with other public officials, gave IBC the liberty to engage in quarrying activities even beyond the scope granted to it by the provincial government and in the guise of performing a service for the people by constructing a dike and rechanneling the river."

Thus, herein accused through the falsification of the Minutes of the June 21, 1996 Session of the Sangguniang Bayan to enact Resolution 30-A and 30-B and to provide legal basis in the execution of Memorandum of Agreement (MOA) with IBC. The said agreement was undertaken for the rechanneling of the river yet it authorized massive quarrying in the area.

It is also worth mentioning that the Supreme Court has settled that a Motion for Reconsideration must be denied despite the lengthy and repetitious submissions of a party to its pleadings, making his arguments as mere rehashed versions of his previous position filed before the Court⁶.

WHEREFORE, the *Motion for Reconsideration* filed by accused Arnaldo Partisala is hereby **DENIED** for lack of merit.

SO ORDERED.



⁶ Komatsu Industries (Phils.) Inc. vs. C.A., G.R. No. 127682, April 24, 1998.

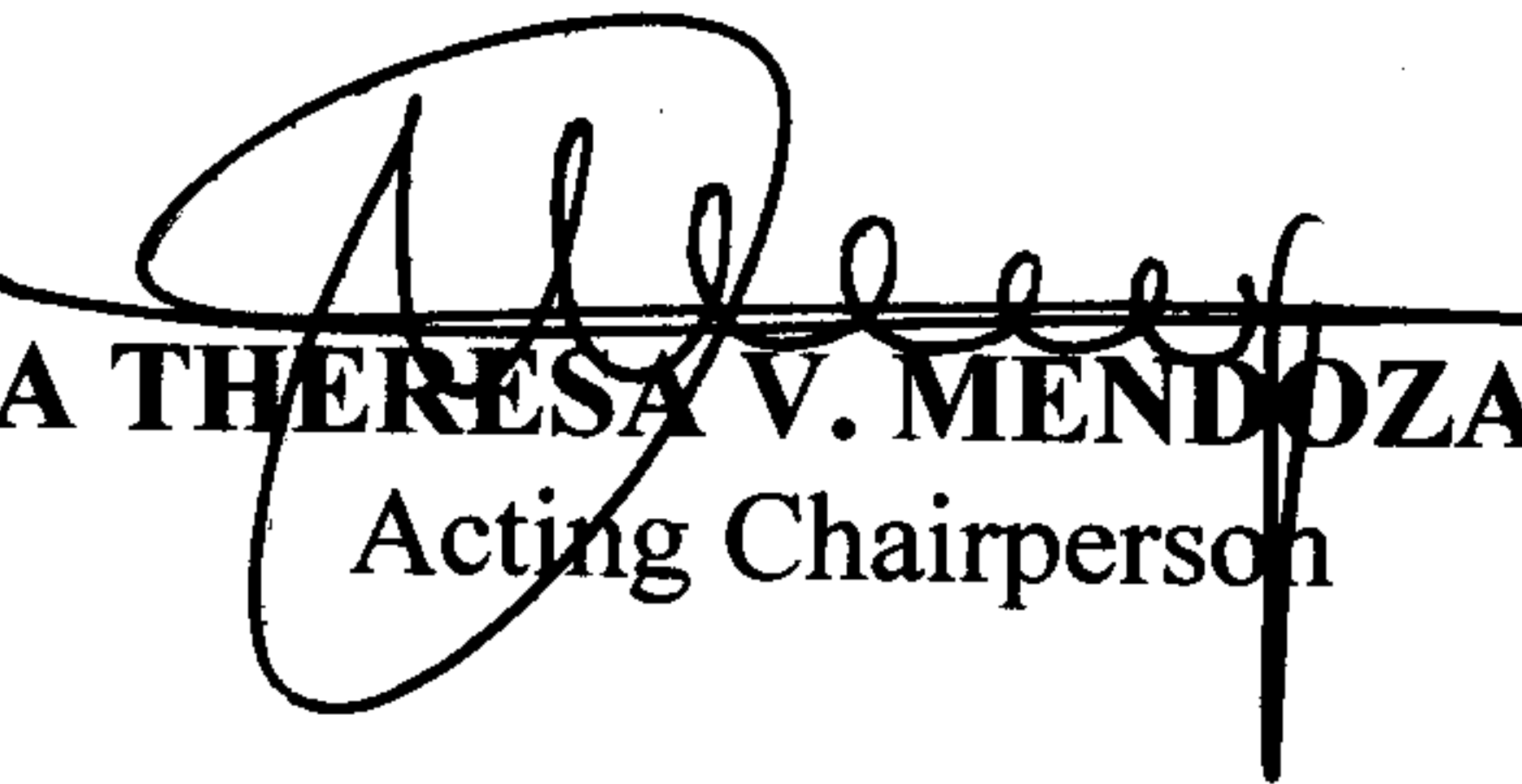


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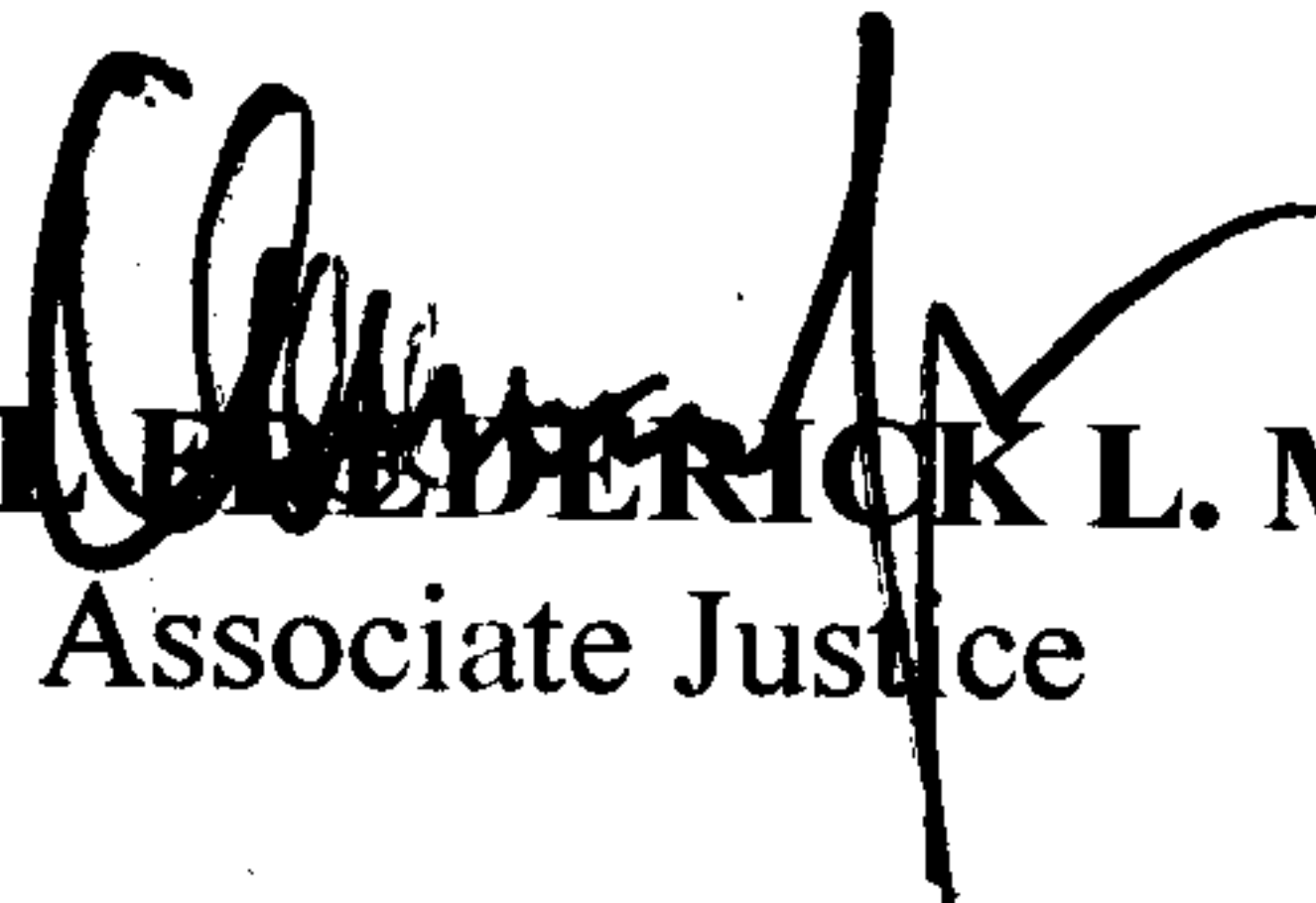
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MARIA THERESA V. MENDOZA-ARCEGA
Acting Chairperson

WE CONCUR:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


REYNALDO P. CRUZ
Associate Justice