



Republic of the Philippines

SANDIGANBAYAN

Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0327 to 0332

versus -

*For: Violation of Section 3 (e) of R.A.
No. 3019, As Amended*

JOHN HENRY RENNER OSMEÑA,
Accused.

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Present:

CABOTAJE-TANG, A. M., PJ,
Chairperson
FERNANDEZ, B. R., J. and
FERNANDEZ, S.J. T.*, J

Promulgated on:

FEBRUARY 27, 2019

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RESOLUTION

FERNANDEZ, B., J.

Before this Court is a Motion dated December 4, 2018, filed by accused-movant John Henry Renner Osmeña, through counsel, praying for the deferment of the proceedings in these cases for a reasonable period of at least six (6) months or until such time that his Application for a temporary restraining order (TRO) filed before the Supreme Court is resolved.

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The accused-movant anchors his prayer on his filing a Petition for *Certiorari* with prayer for the issuance of a TRO before the Supreme Court on December 4, 2018, principally questioning the two (2) Resolutions respectively promulgated by this Court on August 7 and October 5, 2018, denying the Omnibus Motion (to Quash the Criminal Informations, to Quash the Warrant of Arrest and/or to Dismiss the case) and the Motion for Reconsideration, both filed by the accused-movant.

In addition, the accused-movant claims that there are compelling reasons that behoove this Court to exercise utmost prudence and restraint in the instant cases. He also maintains that the principle of judicial courtesy is applicable, citing jurisprudence to support the same.

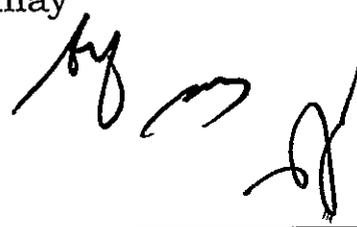
The prosecution, in its Opposition dated December 11, 2018, prays for the denial of the subject Motion. It also alleges that the subject Motion is a prohibited pleading under the Revised Guidelines for Continuous Trial of Criminal Cases and insists that the arraignment must proceed if no TRO is issued within ten (10) days from the filing of the Petition for *Certiorari*.

We now rule.

Initially, it should be recalled that the mere pendency of a special civil action for *certiorari* commenced in relation to a case pending before a lower court does not automatically interrupt the proceedings in the lower court. A petition for *certiorari* does not divest the lower courts of jurisdiction validly acquired over the case pending before them. A petition for *certiorari*, unlike an appeal, is an original action; it is not a continuation of the proceedings in the lower court. It is designed to correct only errors of jurisdiction, including grave abuse of discretion amounting to lack or excess of jurisdiction (Trajano vs. Uniwide Sales Warehouse Club, G. R. No. 190253, June 11, 2014).

Hence, Section 7 of Rule 65 (*certiorari*, prohibition and *mandamus*) of the Rules of Court becomes applicable, to wit -

SEC. 7. Expediting proceedings; injunctive relief. - - The court in which the petition is filed may issue orders expediting the proceedings, and it may



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also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case, unless a temporary restraining order or a writ of preliminary injunction has been issued, enjoining the public respondent from further proceeding with the case.

The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge (as amended by A. M. No. 07-7-12-SC, December 12, 2007). (Underscoring supplied).

It is clear, therefore, that, without a temporary restraining order or a writ of preliminary injunction, this Court is mandatorily directed to proceed in due course after the lapse of ten (10) days from the filing of a petition for certiorari, under threat of an administrative charge.

Further elaboration or explanation of the plain words of the cited Rule would necessarily belabor the obvious.

Additionally and as correctly cited by the prosecution, the subject Motion is a prohibited pleading as provided for in the Revised Guidelines of Continuous Trial for Criminal Cases (A.M. No. 15-06-10-SC), particularly No. III (2), (b), (vi), in relation to Section 11, Rule 116 of the Rules of Court. Also, the exceptions enumerated in Section 11, Rule 116 are not present to warrant a suspension of the proceedings in these cases.

On the ground of judicial courtesy raised by the accused-movant to justify his Motion, this Court finds that this same principle cannot be applicable to these cases.

It should be emphasized that the precept of judicial courtesy should not be applied indiscriminately and haphazardly if we are to maintain the relevance of Sec. 7, Rule 65 of the Rules of Court (Go, *et al.* vs. Judge Abrogar, A.M.



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No. RTJ-03-1759, February 27, 2003). The observance of judicial courtesy has consistently been frowned upon. Hence, its non-application is treated as the rule.

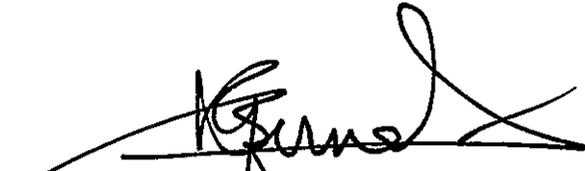
However, We note of a clear exception.

Judicial courtesy applies only if there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court (Trajano vs. Uniwide Sales Warehouse Club, *supra.*; Sara Lee Philippines, Inc. vs. Macatlang, *et al.*, G. R. No. 180147, January 14, 2015).

We do not find the presence of this condition in the instant cases.

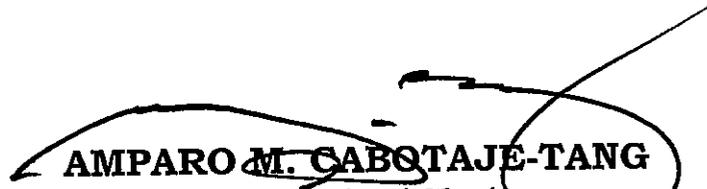
WHEREFORE, premises considered, the Motion to defer arraignment and further proceedings dated December 4, 2018 of accused-movant John Henry Renner Osmeña is hereby **DENIED** for lack of merit.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABSTAJE-TANG
Presiding Justice/ Chairperson



SARAH JANE T. FERNANDEZ*
Associate Justice

*Sitting as Special Member as per Administrative Order No. 262-2018 dated April 30, 2018.