



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on March 4, 2019

Present:

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

The following resolution was adopted:

CRIMINAL CASE NO. SB-17-CRM-1657 TO 1644

PEOPLE v. RUSTICO T. DE BELEN, ET AL.

Before the Court are the following:

1. Accused Rustico T. De Belen's "MOTION TO DISMISS ON STRICTLY CONSTITUTIONAL GROUNDS" dated February 11, 2019; and
2. The Prosecution's "COMMENT/OPPOSITION" dated February 12, 2019.

GOMEZ-ESTOESTA, J.:

In the course of trial, accused De Belen seeks the dismissal of these cases on "strictly constitutional grounds,"¹ citing an "intervening development," *i.e.*, the stipulation made on February 6, 2019 that Provincial Ordinance No. C-005 was not filed with the UP Law Center for publication. Accused De Belen claims that such ordinance suffers a constitutional infirmity and he cannot be made liable for it without violating his right to due process and to be informed of a punitive law. Accused De Belen also relies on the Resolution of the Third Division of this Court dated November 19,

¹ Motion to Dismiss on Strictly Constitutional Grounds dated February 11, 2019, *Records*, Vol. 3, pp. 199-209

1997 in *People v. Minano*,² which declared a provincial ordinance unconstitutional for non-filing with the UP Law Center.

In its *Comment/Opposition*,³ the Prosecution points out that accused De Belen has invoked this ground before, and this Court has already ruled on it. Such stipulation was not an intervening development; it was merely made in the course of identifying and authenticating documents. Moreover, the validity of Provincial Ordinance No. C-005 cannot be collaterally attacked in these proceedings.

Indeed, this Court has already denied accused De Belen's Motion to Quash which raised, among other issues, the non-filing of Provincial Ordinance No. C-005 with the UP Law Center.⁴

In the same way, accused De Belen's arguments still fail to persuade.

What was the subject of stipulation during the hearing on February 6, 2019 was the non-submission of Provincial Ordinance No. C-005 to the UP Law Center for publication,⁵ **but not that it was never published.** The basis cited by accused De Belen is Book VII, Chapter 2 of the Revised Administrative Code, which provides:

Section 3. Filing. (1) Every **agency** shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from that date shall not thereafter be the bases of any sanction against any party of persons. x x x

The Revised Administrative Code defines "agency" as one which includes any department, bureau, office, commission, authority or officer of the **National Government** authorized by law or executive order to make rules, issue licenses, grant rights or privileges, and adjudicate cases; **research institutions** with respect to licensing functions; **government corporations** with respect to functions regulating private right, privileges, occupation or business; and **officials in the exercise of disciplinary power** as provided by law.⁶

The effectivity of **Local Government Ordinances** is provided by the Local Government Code, as follows:

Section 59. Effectivity of Ordinances or Resolutions. -

(a) Unless otherwise stated in the ordinance or the resolution approving the local development plan and public investment program, the same shall take effect after ten (10) days from the date a copy thereof is posted in a bulletin board at the entrance of the provincial capitol or city, municipal, or barangay hall, as the case may be, and in at least two (2) other conspicuous places in the local government unit concerned.

² Crim. Case No. 23400

³ *Id.*, pp. 213-218

⁴ Resolution dated December 18, 2017, Records, Vol. 1, pp. 449-457

⁵ Order dated February 6, 2019, Records, Vol. 3, p. 197-198

⁶ Book VII, Chapter 1, Section 2

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(b) The secretary to the sanggunian concerned shall cause the **posting** of an ordinance or resolution in the bulletin board at the entrance of the provincial capitol and the city, municipal, or barangay hall in at least two (2) conspicuous places in the local government unit concerned not later than five (5) days after approval thereof.

The text of the ordinance or resolution shall be disseminated and posted in Filipino or English and in the language understood by the majority of the people in the local government unit concerned, and the secretary to the sanggunian shall record such fact in a book kept for the purpose, stating the dates of approval and posting.

(c) The gist of all ordinances with penal sanctions shall be **published** in a newspaper of general circulation within the province where the local legislative body concerned belongs. In the absence of any newspaper of general circulation within the province, posting of such ordinances shall be made in all municipalities and cities of the province where the sanggunian of origin is situated.

(d) In the case of highly urbanized and independent component cities, the main features of the ordinance or resolution duly enacted or adopted shall, in addition to being posted, be published once in a local newspaper of general circulation within the city: Provided, That in the absence thereof the ordinance or resolution shall be published in any newspaper of general circulation.

Clearly, the Revised Administrative Code's requirement of filing with the UP Law Center does not contemplate ordinances issued by the local government, and the Local Government Code does not require the filing of ordinances with the UP Law Center. Plainly said, the non-filing of Provincial Ordinance No. C-005 is immaterial to its validity.

Accused De Belen's reliance on this Court's Resolution in *People v. Minano*⁷ is misplaced. In said case, this Court declared unconstitutional and illegal a provincial ordinance with a penal clause because it was never published in a newspaper of general circulation, and, *furthermore*, was not filed with the UP Law Center. As discussed, the stipulation made during the hearing on February 6, 2019 did not include the non-publication of Provincial Ordinance No. C-006. Even if we consider the added finding of the First Division of this Court regarding the non-filing of the questioned ordinance in *People v. Minano*, it does not bind this Court as **only** decisions of the Supreme Court constitute precedents binding on this Court, forming part of the Philippine legal system.⁸

WHEREFORE, in view of the foregoing, accused De Belen's *Motion to Dismiss on Strictly Constitutional Ground* is **DENIED** for lack of merit.

⁷ Second Division, Crim. Case No. 23400, November 19, 1997

⁸ *Nippon Express (Philippines) Corporation v. CIR*, G.R. No. 196907, March 13, 2013

The parties are reminded of the continuation of the presentation of prosecution evidence on March 13, 2019 at 8:30 in the morning.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice