



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0003 to 0004
For: Violation of Sec. 3(e)
of R.A. No. 3019

- versus -

Present:

FERNANDEZ, SJ, J. Chairperson
MIRANDA, J.,
VIVERO, J.

ARTHUR C. YAP, ET AL.

Accused.

Promulgated:

MAR 28 2019

X-----X

RESOLUTION

FERNANDEZ SJ, J.

For Resolution is the February 19, 2019 *Motion to Suspend Proceedings* (Motion) filed by accused William G. Padolina. Accused Padolina asks for the suspension of the proceedings as to him, including the pre-trial set on February 22, 2019, pending resolution by the Supreme Court of his *Petition for Certiorari*, or, in the alternative, pending resolution of all the incidents in the present case.

Accused Padolina argues that his *Petition for Certiorari* filed on January 25, 2019 before the Supreme Court, questioning the August 15, 2018 and December 6, 2018 Resolutions of this Court, warrants the suspension of the proceedings in this case. In brief, accused Padolina invokes: (1) the principle of judicial courtesy; and (2) the possible confusion and disruption of the proceedings on account of pending motions involving his co-accused.

During the scheduled pre-trial and hearing on the Motion on February 22, 2019, the prosecution opposed the Motion arguing that a) accused Padolina, in his *Petition for Certiorari*, did not pray for the issuance of a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction, and b) judicial courtesy could not apply to the circumstances of this case.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

Page 2 of 7

X-----X

However, the prosecution manifested that it was amenable to the suspension of the proceedings as to accused Padolina only until the other motions involving his co-accused have been resolved.¹

The present Motion is denied.

It should be noted at the onset that while accused Padolina had instituted a *Petition for Certiorari*, this Court has not received any Temporary Restraining Order (TRO) or Writ of Preliminary Injunction issued by the Supreme Court. In fact, the Petition did not pray for one nor the other. **Sec. 7, Rule 65 of the 1997 Revised Rules of Civil Procedure**, as amended, is clear in this regard, thus:

Sec. 7. Expediting proceedings; injunctive relief.

The court in which the petition is filed may issue orders expediting the proceedings, and it may 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 against the public respondent from further proceeding in 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.²

Clearly, without any TRO or writ of preliminary injunction ordering this Court to suspend from proceeding, the mere filing or pendency of the special civil actions for *certiorari*, *mandamus* and prohibition cannot interrupt the proceedings in this case.

This rule is even amplified by the second paragraph of the afore-quoted provision, which mandates the court to proceed with the principal case—within ten (10) days from the filing of the petition with a higher court—under pain of administrative liability.³ Indeed, this rule highlights the urgency of

¹ TSN dated February 22, 2019, pp. 5 and 7.

² Underscoring and emphasis supplied.

³ Pursuant to A.M. No. 07-7-12-SC, amending section 7, Rule 65 of the Rules of Court, effective December 27, 2007.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

Page 3 of 7

X-----X

proceeding with the case in the absence of a TRO or a writ of preliminary injunction from a higher court.⁴

Notwithstanding this clear rule, accused Padolina asks this Court to act otherwise and suspend the proceedings, invoking the principle of judicial courtesy.

The doctrine of judicial courtesy warrants the suspension of the proceedings before a lower court despite the absence of an injunction or an order from a higher court. The rule is meant to avoid preempting a higher court or rendering moot the matter raised before it.⁵

Accused correctly noted the instances when this rule shall apply: a) where there is a strong probability that the issues before the higher court would be rendered moot as a result of the proceedings before the lower court; or, b) when there is an intimate correlation between the two proceedings that the propriety of the lower court proceedings rest wholly on the resolution of the issue before the higher court.

Contrary to accused Padolina's position, however, these circumstances are not present in this case.

First, it should be stressed that the principle of judicial courtesy remains to be an exception than the rule. In **Go v. Abrogar**,⁶ the Supreme Court warned against the indiscriminate and haphazard application of said doctrine, thus:

Moreover, **the precept of judicial courtesy should not be applied indiscriminately and haphazardly if we are to maintain the relevance of Sec. 7, Rule 65, 1997 Rules of Civil Procedure** which states that *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 against the public respondent from further proceeding in the case.* So construed, in *Eternal Gardens Memorial Corp. v. Court of Appeals*, the rule of judicial courtesy would apply 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. Unfortunately for complainants, this circumstance is not present in the

⁴ See *De Leon v. Public Estates Authority*, G.R. No. 181970, August 3, 2010, 626 SCRA 547.

⁵ *Oca v. Custodio*, G.R. No. 199825, July 26, 2017, 832 SCRA 615.

⁶ A.M. No. RTJ-03-1759. February 27, 2003.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

Page 4 of 7

X-----X

decision of respondent Judge to issue on 19 April 2000 a second writ of execution.⁷

Further, emphasis should be made on the rationale behind the doctrine of judicial courtesy, that is, respect that lower courts owe to the higher tribunals, such that the lower courts should not preempt a higher court in its exercise of jurisdiction and authority.⁸

Thus, in applying the principle of judicial courtesy, courts should consider the exception-than-the-rule nature of this doctrine and the purpose behind it.

The case of **Joy Mart v. Court of Appeals**⁹ is instructive on this point, where at issue was the trial court's act of dissolving a writ of preliminary injunction while said matter was pending before the Court of Appeals.

In said case, therein petitioner Joy Mart filed a complaint against therein respondents with an application for a writ of preliminary injunction. When the trial court granted the request for injunction, therein respondents sought relief before the Court of Appeals by filing a Petition for *Certiorari* and Prohibition. The Court of Appeals gave due course to the petition without issuing a restraining order against the trial court. Later, the trial court, upon petition by respondents, issued an order dissolving the injunction it earlier issued. In response to the trial court's dissolution of the injunction, the Court of Appeals dismissed the *Petition for Certiorari and Prohibition* and held that matter to be moot and academic.

In calling out the Court of Appeals for dismissing the petition, the Supreme Court characterized the Court of Appeal's action as "regrettable indifference toward the lower court's interference with the exercise of the appellate court's jurisdiction." The Supreme Court, citing the principle of judicial courtesy, explained:

The trial judge played into the hands of Phoenix and the LRTA, and acted with grave abuse of discretion amounting to excess of jurisdiction in granting their motion to dissolve the writ of injunction. Judicial courtesy behooved the trial court to keep its hands off the writ of preliminary injunction and defer to the better judgment of the Court of Appeals the determination of whether the writ should be continued or discontinued.

⁷ Underscoring and emphasis supplied; italics in the original.

⁸ Republic v. Sandiganbayan, G.R. No. 166859, June 26, 2006, 492 SCRA 747.

⁹ G.R. No. 88705, 11 June 1992, 209 SCRA 738.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

Page 5 of 7

X-----X

The non-issuance of a temporary restraining order by the Court of Appeals upon receipt of the petition in CA-G.R. SP No. 12998 simply meant that the trial court could proceed to hear and decide the main complaint of Joy Mart for specific performance of contract and damages against the LRTA and Phoenix. It did not give the lower court a license to interfere with the appellate court's disposition of the writ of preliminary injunction.¹⁰

It should be noted that unlike the present case, *Joy Mart* involved a clear case of interference on the part of the trial court on a matter that was pending before the Court of Appeals. The trial court's order *dissolved* the controversy itself, which was the subject of the Petition before the Court of Appeals, thereby leaving the Court of Appeals with nothing to pass upon.

The present case is different. The continuation by this Court with the proceedings of the case will not preempt the Supreme Court in its resolution of the *Petition for Certiorari*.

Moreover, as can be seen in *Joy Mart* and in the earlier case of **Prudential Bank v. Castro**,¹¹ the disrespect, which renders moot the matter before a higher court, is committed by the trial court when it changes or corrects its previous order which had already been elevated to the higher court for review.¹² This is not obtaining in this case.

Second, the Supreme Court in **Republic v. Sandiganbayan**,¹³ explained the test of mootness in relation to the doctrine of judicial courtesy. Contrasting said case from the facts in the earlier case of **Eternal Gardens Memorial Park**,¹⁴ the Supreme Court said:

A reading of *Eternal Gardens Memorial Park* shows that the appellate courts' failure to observe judicial courtesy which was frowned upon by this Court lay in its recall of its (the appellate courts) Orders expunging from the records the Motion to Dismiss filed by the therein petitioner, which Orders were the orders being questioned before this Court via a petition for Certiorari and Mandamus. Such act of the appellate court tended to render moot and academic the said petition. No parity of circumstances obtains in the present case, however, where merely setting

¹⁰ *Id.*, underscoring supplied.

¹¹ Adm. Case No. 2756, June 5, 1986, 142 SCRA 223; in this case, the trial court initially ruled that complainant had lost its right of appeal but later gave due course thereto after the same had been elevated to the Supreme Court for review.

¹² *Id.*

¹³ *Ibid.*

¹⁴ G.R. No. L-50054. August 17, 1988, 164 SCRA 421.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

Page 6 of 7

X-----X

the case for trial would not have the effect of rendering the present petition moot.¹⁵

Clearly, there is no basis for accused Padolina's assertion that the correlation between the proceedings before this Court and the petition before the Supreme Court should warrant the application of the principle of judicial courtesy. The proceedings in this case will not render the subject of the *Petition for Certiorari* moot.

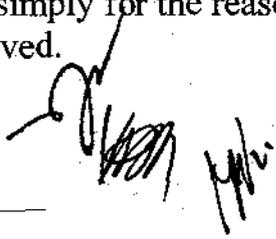
Third, suspending the proceedings on mere invocation of judicial courtesy, in instances where there should be a plain application of **Section 7, Rule 65 of the Rules of Court**, does not only amount to a violation of said rule but likewise allows circumventing the TRO and injunction requirements. To grant the present Motion is to unwarrantedly exempt the accused of his burden to prove the existence of *an urgent necessity in order to prevent serious damage*, which is indispensable for the issuance of a TRO or writ of preliminary injunction.

There is likewise no merit in accused Padolina's contention that to proceed with the pre-trial as to him, without waiting for the resolution of pending incidents involving his co-accused, will result in confusion and disorder.

The rules do not require joint pre-trial of all the accused under any and all circumstances. Instead, courts are mandated to set the pre-trial conference within thirty (30) days from the date of arraignment.¹⁶ In this case, accused Padolina was arraigned on January 28, 2019. In accordance with said rule, this Court set the date of pre-trial on February 22, 2019.

No anomalous situation resulted from his arraignment ahead of his co-accused. The other accused, once later arraigned, will likewise undergo pre-trial and be given the opportunity to avail themselves of the pre-trial features.

Further, it would be contrary to the spirit of expedited trial to delay the proceedings as to him simply for the reason that his co-accused have pending motions yet to be resolved.



¹⁵ *Id.*, underscoring supplied.

¹⁶ A.M. No.15-06-10-SC or Revised Guidelines for Continuous Trial, in relation to A.M. No. 03-1-09-SC and the 2018 Revised Internal Rules of the Sandiganbayan.

Resolution

People vs. Arthur Yap, et.al.
Criminal Cases No. SB-17-CRM-0003 to 0004

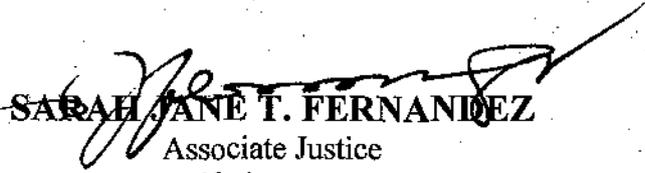
Page 7 of 7

X-----X

WHEREFORE, the instant Motion to Suspend Proceedings is hereby **DENIED** for lack of merit.

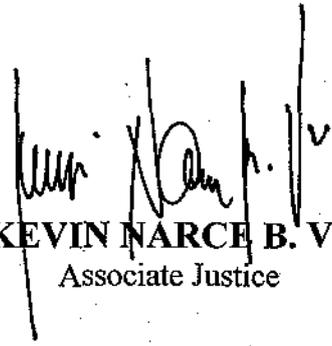
The Pre-Trial for accused Padolina is set on March 29, 2019.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice