

REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

**FOURTH DIVISION**

REPUBLIC OF THE PHILIPPINES, Civil Case No. 0007  
*Plaintiff,*

- versus -

FE ROA GIMENEZ,  
IGNACIO B. GIMENEZ,  
FERDINAND E. MARCOS,  
IMELDA R. MARCOS,  
VILMA BAUTISTA,  
joined by her husband  
GREGORIO BAUTISTA,  
OSCAR CARIÑO,

*Defendants.*

**FOR:** Reconveyance  
Reversion  
Accounting  
Restitution  
Damages

**Present:**

QUIROZ, J.  
CRUZ, J.,  
ARCEGA-MENDOZA, J.

**Promulgated on:**

APR 22 2019

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**RESOLUTION**

***QUIROZ, J.:***

This resolves the following: "Motion for Partial Reconsideration [Re: Resolution dated June 11, 2018]" dated July 12, 2018 filed on July 13, 2018 by the plaintiff Republic of the Philippines, through counsel; "Opposition/Comment [To Plaintiff's Motion for Partial Reconsideration]" dated July 25, 2018 filed on July 27, 2018 by defendant Ignacio B. Gimenez ("Ignacio"), through counsel; and "Manifestation" dated August 14, 2018 filed on August 15, 2018 by defendant Fe Roa Gimenez, through counsel.

In its Resolution promulgated on January 23, 2018, the Court held that:

\* Sitting as Special Member of the Fourth Division as per Administrative Order No. 329-2017 dated September 26, 2017.



In its Resolution promulgated on January 23, 2018, the Court held that:

X X X X X

In its Final Compliance, the plaintiff seeks to submit certified true copies of the following documents it earlier submitted as photocopies: Exhibits "A" to "F" with their sub-markings; "H" to "H-1;" "I" to "I-1;" "J" and "J-1;" and "R" to "S" with their sub-markings. Exhibits "K" to "O;" "T" to "T-8;" "AA" to "AA-53;" "BB" to "BB-17;" "CC" to "CC-3" are also certified true copies, but which, according to the defendants, were not certified by the custodians thereof. Still another set of documents which the plaintiff is submitting as part of its Final Compliance are those which have been certified by the PCGG Records Custodian: Exhibits "G," "I-2," "J-1," "Q" to "Q-18," "V-19" to "V-40," "W" to "W-4," "X," "X-1," "DD" to "DD-3-B," "EE" to "EE-1," "FF" to "FF-2," "KK-48" to "KK-50," "RR" to "RR-23," and "SS" to "SS-29-A." These documentary exhibits are, conceivably, the reason for which the plaintiff prays the re-opening of the proceedings, so it may have its documents identified in court by the concerned public officer.

X X X X X

However, while the certified true copies of the documents will not be admitted as they have not been testified to during trial, the photocopies thereof which were earlier identified and made part of the testimonies of the plaintiff's witnesses will be admitted by this Court so their probative value will be eventually evaluated, and this case may finally be resolved on the merits. X X X

X X X X X

**WHEREFORE**, in view of the foregoing, the Court resolves to:

1. **DENY** the plaintiff's prayer for re-opening of the proceedings;
2. **ADMIT** into evidence Exhibits "DD" to "DD-3," "EE" to "EE-1," "HH" to "HH-3," "II" to "II-1," "JJ," "NN" to "QQ-1," and "TT" to "TT-3," as the objections thereto pertain to the documents' probative value rather than their admissibility; and
3. **ADMIT** Exhibits "A" to "O," "P," "Q" to "Q-18," "R" to "S-10," "T" to "T-8," "U" to "V-40," "W" to "X-1," "Y" to "Y-13," "Z," "AA" to "CC," "FF" to "FF-2," "KK" to "KK-48," "RR" to "RR-23," and "SS" to "SS-29," with all their sub-markings, as part of the testimonies of the witnesses presented by the plaintiff.

**SO ORDERED.**<sup>1</sup>

In the assailed Minute Resolution dated June 11, 2018 denying the plaintiff's "Motion to Make Tender of Excluded Evidence," the Court held that:

<sup>1</sup> Records, Vol. VII, pp. 296-329.

It appearing from the resolution promulgated on January 23, 2018 that the Court had passed upon the admissibility of Exhibits "KK-49," "KK-50," "KK-51," "KK-51-a," "KK-52," and "KK-52-a," their omission in the decretal portion of the Resolution being clearly a result of mere inadvertence, plaintiff's motion for the Court to make a ruling thereon is not without basis.

The same cannot, however, be said with respect to (1) Exhibits "UU" to "UU-16," "VV," "WW," "XX," "YY," "ZZ," "AAA," "BBB," "CCC," "DDD," "EEE," "FFF," "GGG," "HHH" to "HHH-18," "III" to "III-14," "JJJ" to "JJJ-2," "KKK," "LLL," "WWW," "XXX," "YYY," "ZZZ," "AAAA," "BBBB," "CCCC" to "CCCC-23," and "DDDD" to "DDDD-26," **which exhibits plaintiff Republic prays to be marked and admitted;** and to (2) the respective testimonies of Olivia E. Josue; Marlon Josue B. Garong; Atty. Emmanuel Leonardo, Atty. Remarque L. Ravanzo, Atty. Daniel P. Gabuyo, and Ms. Ma. Lourdes O. Magno, whose testimonies are requested to be made part of the records on the basis of Section 40, Rule 133 on Tender of Excluded Evidence. As aptly pointed out by defendant Ignacio B. Gimenez in his Comment/Opposition, neither the documentary evidence nor the oral evidence had been ordered excluded by the Court. They could not have been excluded for they have not been timely offered. (emphasis supplied)<sup>2</sup>

The plaintiff avers in its Motion that the plaintiff's documentary exhibits were admitted by this Court in the Resolution dated January 13 (*sic*), 2018; however, in the same Resolution, the Court denied the motion to re-open proceedings so the exhibits attached to its Final Compliance dated June 21, 2017 would have been presented in Court and authenticated by the concerned public officers. They thus claim that the exhibits in question had been excluded, hence, they are availing of the remedy of tender of evidence under Section 40, Rule 133 (*sic*) of the Revised Rules on Evidence.

On the other hand, defendant Ignacio asserts that the proper remedy for plaintiff would have been to file a Motion for Reconsideration of the Motion to Re-open Proceedings instead of the present Motion. He maintains that the Court admitted the documentary exhibits offered by the plaintiff, hence, no evidence has been excluded for Section 40, Rule 132 of the Rules to apply.

The Court finds no reason to disturb its earlier findings. What the plaintiff prays for in its "Motion to Make Tender of Excluded Evidence" has been addressed by this Court when it denied its "Motion to Re-open the Proceedings."

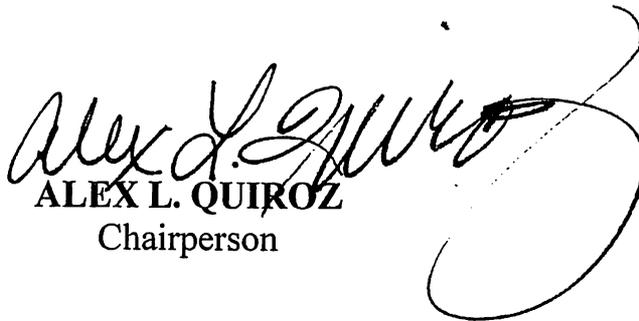
<sup>2</sup> Records, Volume VIII, pp. 185-186.

Contrary to the plaintiff's assertions that the documentary exhibits it seeks to tender as excluded evidence have already been admitted by this Court, the aforementioned portions of the latter's Resolutions belie that claim.

Moreover, Section 40, Rule 132 of the Revised Rules on Evidence clearly states that evidence that may be tendered are "documents or things offered in evidence" which were excluded by this Court. To reiterate, neither the documentary nor oral evidence had been ordered excluded by this Court as they were simply not timely offered.

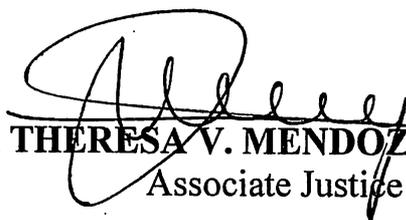
**WHEREFORE**, the "Motion for Partial Reconsideration [Re: Resolution dated June 11, 2018]" filed by the plaintiff Republic of the Philippines, through counsel, is **DENIED**.

**SO ORDERED.**

  
ALEX L. QUIROZ  
Chairperson

**WE CONCUR:**

  
REYNALDO P. CRUZ  
Associate Justice

  
MARIA THERESA V. MENDOZA-ARCEGA\*  
Associate Justice

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\* Sitting as Special Member of the Fourth Division as per Administrative Order No. 329-2017 dated September 26, 2017.