



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:*

**APR 26 2019**

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**RESOLUTION**

***FERNANDEZ SJ, J.***

For resolution is accused Padolina's *Motion for Reconsideration* dated April 3, 2019 (Motion) of this Court's Resolution dated March 28, 2019, which denied his *Motion to Suspend Proceedings*. Accused Padolina, in the instant Motion, maintains that: a) the principle of judicial courtesy applies and warrants the suspension of the proceedings in this case; and, b) the continuation of proceedings as to him will disrupt the expeditious conduct of the present case.

The prosecution, in its *Opposition* dated April 5, 2019, argues that the Motion fails to raise any new or substantial ground to justify a reconsideration of this Court's Resolution. In addition, the prosecution points out that accused Padolina's argument to defer the pre-trial as to him, in order to wait for the other accused, is already moot and academic on account of the resetting of the pre-trial on April 24, 2019.

Accused Padolina's *Motion for Reconsideration* is denied.

At the onset, accused Padolina offers no compelling reason to warrant a reversal by this Court of its earlier Resolution. Rather, the Motion is simply a rehash of the arguments raised in his *Motion to Suspend Proceedings* dated February 19, 2019, which this Court has already passed upon.

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Accused insists that a suspension of the proceedings in this case is warranted on the principle of judicial courtesy, asserting that the issues in the *Petition for Certiorari* before the Supreme Court<sup>1</sup> are intimately connected with the instant case; and that the continuation of the instant proceedings “threatens to render the issues before the Supreme Court moot.”<sup>2</sup>

This Court disagrees. As we have earlier ruled, since there is no Temporary Restraining Order (TRO) or Writ of Preliminary Injunction issued by the Supreme Court in relation to the *Petition for Certiorari* filed before it, there is no basis to suspend the proceedings in the present case. For this Court to grant accused Padolina’s prayer would not only be a violation of **Sec. 7, Rule 65 of the 1997 Revised Rules of Civil Procedure**,<sup>3</sup> and thereby subject this Court to administrative sanction under said rule, but would likewise unduly delay the disposition of this case.

Further, as this Court earlier emphasized, to suspend the proceedings solely on the basis of a pending *Petition for Certiorari* before the Supreme Court would allow accused Padolina to circumvent the procedural requirements for the issuance of a TRO or an injunctive relief.<sup>4</sup>

The principle of judicial courtesy, which accused Padolina adamantly invokes, remains to be the exception than the rule.<sup>5</sup> Contrary to accused

<sup>1</sup> Filed January 25, 2019.

<sup>2</sup> Motion for Reconsideration dated April 3, 2019, pp. 3-4.

<sup>3</sup> Section 7, Rule 65 of the Rules of Court reads:

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

<sup>4</sup> The requisites for the issuance of a writ of preliminary injunction are summarized in *Marquez v. Sanchez*, 544 Phil. 507 (2007), as follows:

- (1) the applicant must have a clear and unmistakable right, that is a right *in esse*;
- (2) there is a material and substantial invasion of such right;
- (3) there is an urgent need for the writ to prevent irreparable injury to the applicant; and
- (4) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.

<sup>5</sup> *Go v. Abrogar*, A.M. No. RTJ-03-1759. February 27, 2003.

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Padolina’s insistence, the circumstances obtaining in this case do not warrant an application of said doctrine.

The application of the doctrine of judicial courtesy rests on the lower court’s duty to defer acting on a matter lest it unduly *interfere* in the higher court’s resolution on the same matter or *disrespect* said higher court by preempting the resolution thereof.

As jurisprudence illustrates, there is such interference or disrespect when the trial court causes the dissolution of the matter or issue that has been elevated to the higher court for resolution,<sup>6</sup> or when the trial court changes or corrects its previous order after the same has already been raised to the higher court for review.<sup>7</sup> In these cases, the matter pending before the higher court is rendered moot, there being nothing for the higher court to resolve by reason of the trial court’s preemptive action.

Here, the continuation by this Court with the proceedings of this case will not preempt the Supreme Court in resolving the *Petition for Certiorari* and determining whether or not accused Padolina can validly invoke immunity from suit. Setting accused Padolina’s case for pre-trial, and later for trial, will not have the effect of rendering said *Petition* moot.<sup>8</sup>

There is also no merit in accused Padolina’s argument that a continuation of the proceedings as to him will disrupt the “orderly and expeditious conduct” of the proceedings in the present case. As pointed out above, to accede to accused Padolina’s request to suspend the proceedings would only result in unnecessary delay, which is contrary to the spirit of expedited trial under the Revised Guidelines for Continuous Trial of Criminal Cases.<sup>9</sup>

Finally, as we declared in the March 28, 2019 Resolution, the rules do not require joint pre-trial of the accused under any and all circumstances. This Court is bound to proceed with the pre-trial conference as to accused Padolina in accordance with the time frame prescribed by the rules.<sup>10</sup> The pendency and anticipated result of the actions taken by the other accused do not warrant a

<sup>6</sup> Joy Mart v. Court of Appeals, G.R. No. 88705, 11 June 1992, 209 SCRA 738.

<sup>7</sup> Prudential Bank vs. Judge Jose P. Castro, et al., 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.

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

<sup>9</sup> A.M. No.15-06-10-SC or Revised Guidelines for Continuous Trial, in relation to A.M. No. 03-1-09-SC. Among the objectives of the Guidelines is “[t]o protect and advance the constitutional right of persons to speedy disposition of their criminal cases.”

<sup>10</sup> Within thirty (30) days from the date of arraignment pursuant to the Revised Guidelines for Continuous Trial and the Revised Internal Rules of the Sandiganbayan.

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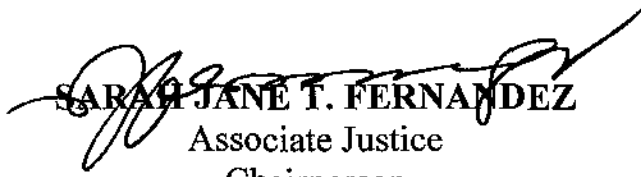
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suspension of the proceedings in the present case. Accused Padolina's speculations on the remedies that the other accused would take should not dictate the course of the proceedings as to him.

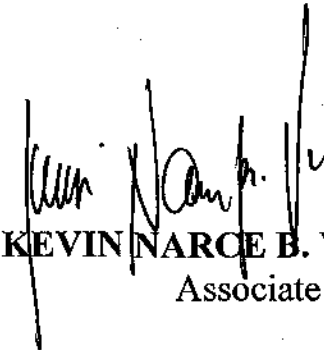
**WHEREFORE**, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice