



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0240**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

**SB-18-CRM-0241**  
For: Plunder

**SB-18-CRM-0242**  
For: Direct Bribery under  
Art. 210 of the RPC

**SB-18-CRM-0243**  
For: Violation of P.D. No. 46

*Present*

- versus -

AL C. ARGOSINO, ET AL.  
Accused.

**FERNANDEZ, SJ, J.**,  
Chairperson  
**MIRANDA, J.** and  
**TRESPESES,\* J.**

*Promulgated:*

**APR 15 2019**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Urgent Manifestation and Motion to Suspend Trial*<sup>1</sup> filed by accused Michael B. Robles.

Accused Robles argues that the Supreme Court, in the past, had held that it is proper for a court of origin to suspend the proceedings notwithstanding the absence of a preliminary injunction or temporary restraining order (TRO) issued by a higher court, on the ground of

\* In view of the inhibition of J. Vivero (Per Administrative Order No. 295-2018 dated May 25, 2018)

<sup>1</sup> Dated March 11, 2019; Record, Vol. 12, pp. 445-479

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judicial courtesy. Therefore, this Court should suspend the proceedings pending resolution of the matter he elevated to the Supreme Court.

In its *Comment/Opposition (Re: Accused Robles' Urgent Manifestation and Motion to Suspend Trial dated 11 March 2019)*,<sup>2</sup> the prosecution counters that the application of the principle of judicial courtesy, where the higher court has not issued a writ of preliminary injunction or a TRO, is an exception, rather than the rule. Section 7 of Rule 65 of the Rules of Court clearly provides that the principal case should proceed within ten (10) days from the filing of a petition for certiorari with the higher court, absent a TRO or a preliminary injunction.

THE COURT'S RULING

The Court resolves to deny the Motion of accused Robles.

Rule 65, Sec. 7 of the Rules of Court expressly provides that the principal case shall proceed within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, absent a TRO or a preliminary injunction, or upon its expiration. In fact, under the same provision, the failure of the public respondent to proceed with the principal case may be a ground for an administrative charge. viz.:

**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, 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.

(underscoring supplied)

<sup>2</sup> Dated March 28, 2019; Record, Vol. 14, pp. 193-196

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Accused Robles filed his *Petition for Certiorari -with- Application for Temporary Restraining Order ("TRO") and/or Preliminary Injunction Order* with the Supreme Court on March 8, 2019.<sup>3</sup> The ten-day period had already lapsed and this Court has not received any TRO or preliminary injunction issued by the Supreme Court. Hence, there is no ground for the suspension of the proceedings in the present cases.

Indeed, the Supreme Court has held that, as an exception, the principal case may be suspended even in the absence of a TRO or preliminary injunction issued by the higher court, applying the rule on judicial courtesy. In *Republic v. Sandiganbayan*,<sup>4</sup> the Supreme Court held that the rule on judicial courtesy applies where "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 or court of origin." In that case, therein petitioner assailed, by a Petition for Certiorari, the Sandiganbayan's denial of therein petitioner's Motion for Partial Summary Judgment. The Supreme Court held that merely setting the case for trial would not have the effect of rendering the pending Petition for Certiorari moot.

Later, in *Sara Lee Philippines, Inc. v. Macatlang*,<sup>5</sup> the Supreme Court, reiterating said ruling, had the occasion to discuss the exception contemplated in the High Court's previous rulings on the application of the rule on judicial courtesy. To wit:

We do not agree. In the recent case of *Trajano v. Uniwide Sales Warehouse Club*, this Court gave a brief discourse on judicial courtesy, which concept was first introduced in *Eternal Gardens Memorial Park Corp. v. Court of Appeals*, to wit:

x x x [t]he principle of judicial courtesy to justify the suspension of the proceedings before the lower court even without an injunctive writ or order from the higher court. In that case, we pronounced that "[d]ue respect for the Supreme Court and practical and ethical considerations should have prompted the appellate court to wait for the final determination of the petition [for certiorari] before taking cognizance of the case and trying to render moot exactly what was before this [C]ourt." We subsequently reiterated the concept of judicial courtesy in *Joy Mart Consolidated Corp. v. Court of Appeals*.

We, however, have qualified and limited the application of judicial courtesy in *Go v. Abrogar* and *Republic v. Sandiganbayan*. In these cases, we expressly delimited the application of judicial

<sup>3</sup> Annex 1 of *Motion to Suspend Trial*, p. 1; Record, Vol. 12, p. 451

<sup>4</sup> G.R. No. 166859, June 26, 2006

<sup>5</sup> G.R. Nos. 180147-150, 180319 and 180685, January 14, 2015

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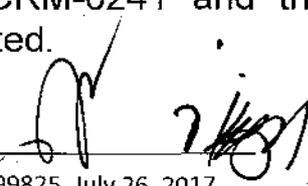
courtesy to maintain the efficacy of Section 7, Rule 65 of the Rules of Court, and held that the principle of judicial courtesy applies only "if there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court." Through these cases, we clarified that the principle of judicial courtesy remains to be the exception rather than the rule.

The Corporations' argument is specious. Judicial courtesy indeed applies if there is a strong probability that the issues before the higher court would be rendered moot as a result of the continuation of the proceedings in the lower court. This is the exception contemplated in the aforesaid ruling and it obtains in this case. The 19 December 2006 ruling of the NLRC would moot the appeal filed before the higher courts because the issue involves the appeal bond which is an indispensable requirement to the perfection of the appeal before the NLRC. Unless the issue is resolved, the NLRC should be precluded from ruling on the merits on the case. This is the essence of judicial courtesy.

(underscoring supplied)

Consistent with the aforesaid rulings, the Supreme Court, again, held in *Oca v. Custodio*,<sup>6</sup> that the rule on judicial courtesy applies only if the continuation of the proceedings in the lower court will render moot the issue raised in the higher court.

The exception contemplated in the Supreme Court's rulings does not obtain in the present cases, and hence, there is no justification for the suspension of the joint trial. The failure to file a motion to quash on the ground of double jeopardy prior to arraignment is not deemed a waiver of an objection on such ground.<sup>7</sup> Because the issue may be raised at any time, the continuation of the proceedings in this Court will not render the issue before the Supreme Court moot. Furthermore, SB-18-CRM-0240, 0242 and 0243 will be jointly tried with SB-18-CRM-0241. The Supreme Court's resolution of the issue before it will not affect SB-18-CRM-0241. Assuming that the Supreme Court later finds that any or all of the offenses charged in SB-18-CRM-0240, 0242 and 0243 are absorbed in Plunder,<sup>8</sup> and accordingly quashes the pertinent Information(s), or dismisses the pertinent case(s), the proceedings in SB-18-CRM-0241 and the remaining case(s), if any, will remain unaffected.

  
<sup>6</sup> G.R. No. 199825, July 26, 2017

<sup>7</sup> Rules of Court, Rule 117, Sec. 9

<sup>8</sup> SB-18-CRM-0241

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**WHEREFORE**, the Motion to Suspend Trial of accused Robles is hereby DENIED for lack of merit.

SO ORDERED.

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

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**ZALDY V. TRESPESES**  
Associate Justice