



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on May 8, 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-1671

PEOPLE v. PETER PAUL JED C. FALCON, ET AL.

Before the Court are the following:

1. Accused Peter Paul Jed Falcon's "MOTION FOR RECONSIDERATION AND FOR A CLEAR-CUT RULING VIS-À-VIS THE PROSECUTION'S ENTIRE EVIDENCE [RE: 10 APRIL 2019 RESOLUTION ADOPTING THE 08 APRIL 2019 MINUTE RESOLUTION WHICH DENIED FALCON AND INDOYON'S SEPARATE MOTIONS FOR LEAVE TO FILE DEMURRER TO EVIDENCE]" dated April 13, 2019;
2. Prosecution's "COMMENT/OPPOSITION (Re: Accused Falcon's Motion for Reconsideration dated 08 April 2019)" dated April 22, 2019;
3. Accused Ebrencio Indoyon, Jr.'s "MOTION FOR RECONSIDERATION (To the Resolution dated 8 April 2019)" dated April 22, 2019; and
4. Prosecution's "COMMENT/OPPOSITION (Re: Accused Indoyon's Motion for Reconsideration of the Resolution dated 08 April 2019)" dated April 30, 2019.

GOMEZ-ESTOESTA, J.:

Accused Falcon and Indoyon both seek a reconsideration of this Court's *Resolution* dated April 8, 2019 denying their respective Motions for Leave to File Demurrer to Evidence.

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Accused Falcon's Motion for Reconsideration

In his *Motion for Reconsideration*,¹ accused Falcon seeks not only a review of the assailed Resolution, but also a “clear-cut ruling based on the entirety of the Prosecution’s evidence”. Accused Falcon suggests that in observing that neither he nor accused Indoyon challenged the sufficiency of Prosecution evidence to prove the commission of the offense, but merely their participation therein, it overlooked the significance of proving their actual participation in the offense. He seeks a ruling from this Court detailing how the Prosecution’s evidence sufficiently established his guilt, and proceeds to echo his arguments in his *Motion for Leave to File Demurrer to Evidence*, and the *Demurrer to Evidence* attached thereto.

In its *Comment/Opposition*,² the Prosecution questions the need for clarification, when this Court’s Resolution clearly expressed the sufficiency of its evidence against the accused.

Accused Falcon’s *Motion* fails to persuade.

The only “ruling” assailed by accused Falcon is this Court’s mere premise that “[n]either of the accused challenged the sufficiency of the prosecution evidence to establish the commission of violation of Sec. 3(e) of R.A. 3019, but only the sufficiency of evidence to establish their participation in the offense.” He claims that this bothered him, as he in fact challenged the sufficiency of the Prosecution’s evidence against him in his *Motion for Leave*.

And this Court, in the assailed *Resolution*, squarely resolved all the arguments in accused Falcon’s *Motion for Leave*. To reiterate:

The Information alleges that the funds used for the purchase of the subject equipment were sourced from accused Falcon’s Congressional Initiative Fund, and that accused Falcon received the subject equipment without turning them over to the municipality of Lingig, causing undue injury to the government. Under the Memorandum of Agreement (Exhibit “D”), accused Falcon requested the transfer of the Financial Assistance to the 2nd District of Surigao Del Sur, where he was the Representative, to the Municipality of Lingig, Surigao del Sur, to implement the Peace and Order Communications Project. During the hearing on September 6, 2018, when the testimony of Atty. Nelson Ng, who notarized accused Luzviminda Lopez’s Counter-Affidavit was dispensed with, accused Lopez stipulated that the Counter-Affidavit supposedly subject of Ng’s testimony (Exhibit “CC”) was the same one that she executed. In said Counter-Affidavit, accused Lopez alleged that she delivered the supplies to accused Falcon, which he received, as shown by his signature on the attached Receipt of Property (Exhibit “T”). This was also admitted by accused Lopez during pre-trial. Thus, her statement remains to be so notwithstanding that accused Falcon did not stipulate on her Counter-Affidavit.

The irregularities in the MOA, as pointed out by accused Falcon, do not relate to the sufficiency of the prosecution’s evidence, and are not in issue in resolving a Motion for Leave to File Demurrer. Precisely, accused Falcon will be given his turn to present evidence in his defense. While silent

¹ Records, Vol. 4, pp. 410-425

² Id., pp. 431-433

on Exhibit "T", accused Falcon raises objections to the admissibility of the delivery receipt (Exhibit "U") and the sales invoice (Exhibit "V"), which have already been admitted by this Court.

Notably, nowhere in accused Falcon's *Motion for Reconsideration* does he question this ruling. This Court sees no basis or reason to act on accused Falcon's misplaced request to "clarify" what it has already clearly explained in the assailed *Resolution*.

Accused Indoyon's Motion for Reconsideration

For his part, accused Indoyon³ continues to rely on the presumption of regularity in the performance of his functions, which the Prosecution allegedly failed to rebut. His signature alone on the disbursement voucher and the check did not signify his conspiracy in committing the offense charged. Besides, the "glaring defects" were not even present when he signed the disbursement voucher and the check.

The Prosecution countered⁴ that the presumption of regularity in the performance of duties does not apply to accused Indoyon, as it was able to establish that accused Indoyon, in signing the disbursement voucher and check, allowed the payment to Philflex despite non-delivery of equipment. The other grounds relied on by accused Indoyon are matters of defense, which he needs to present in Court.

Accused Indoyon's *Motion* likewise lacks merit.

Accused Indoyon cannot invoke the presumption of regularity in the performance of duty precisely because, as this Court has found, the Prosecution sufficiently established that there was an irregularity in the subject transaction. Indeed, disbursement to Philflex would not have been possible without the participation of accused Indoyon, who signed the disbursement voucher (Exhibit "P") and the check (Exhibit "N"). The presumption of regularity in the performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty.⁵ That accused Indoyon was unaware of these defects when he signed the disbursement voucher and the check is not for this Court to conclude based on his mere allegation in his *Motion for Reconsideration*. This remains to be proven by evidence yet to be presented.

WHEREFORE, in view of the foregoing, accused Falcon's *Motion for Reconsideration and for a Clear-cut Ruling Vis-à-vis the Prosecution's Entire Evidence*, and accused Indoyon's *Motion for Reconsideration* are **DENIED** for lack of merit.


³ Motion for Reconsideration dated April 22, 2019, *id.*, pp. 434-442-B

⁴ Comment/Opposition dated April 30, 2019, *id.*, pp. 448-450

⁵ *People v. Mendoza*, G.R. No. 192432, June 23, 2014

The parties are reminded of the setting for the presentation of defense evidence on June 5, 2019, at 8:30 in the morning.

SO ORDERED.


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

WE CONCUR:


ZALBY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice