



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

SB-16-CRM-0580 to 0581
For: Violation of Sec. 3(e) of
R.A. 3019 and Malversation
of Public Funds

ESTEBAN R. SIA, et al.,
Accused.

Present:

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

Promulgated:

JUN 26 2019 

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RESOLUTION

VIVERO, J.:

For resolution is accused Esperato Del Socorro's *Motion for Reconsideration*¹ dated 10 April 2019; together with the *Comment/Opposition*² filed by the prosecution on 29 April 2019.

Accused Del Socorro prays that this Court reconsider its Resolution dated 28 March 2019 and, consequently, quash the information against him. In support thereof, the accused argues that:

1. There is a grave error in allowing the present proceedings to continue without amending the information as there is a violation of no less than

¹ (To the Resolution dated 28 March 2019, Denying the Motion, Supplemental Motion to Quash, Motion to Withdraw Plea of Guilty and Motion for Bill of Particulars) dated 10 April 2019.

² (To Accused Esteban R. Sia's Motion for Reconsideration dated 10 April 2019) dated 29 April 2019.

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accused's constitutional right to be informed of the nature and cause of the accusation against him.

2. Section 1, Rule 117 of the Rules of Court admits of exceptions such as those provided under Section 9 in relation to Section 3 (a) of the same Rule 117, to wit:

Sec. 9. Failure to move to quash or to allege any ground therefore. – The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

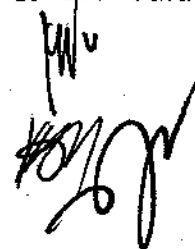
x x x

Sec. 3. Grounds. – The accused may move to quash the complaint or information on any of the following grounds:

- (a) That the facts charged do not constitute an offense.

In its *Comment/Opposition*³ dated 29 April 2019, the prosecution counters that:

1. The accused's Motion should be denied and considered a mere scrap of paper for failure to comply with the notice requirement under Rule 15, Sections 4 and 5 of the Rules of Court.
2. The grounds relied upon by accused Del Socorro in his motion are mere reiterations of the issues already pass upon by the Court in its Resolution dated March 28, 2019.
3. Accused Del Socorro miserably failed to justify why Section 9, Rule 116 of the Rules on Criminal Procedure will not be applicable to her. Further, Section 1, Rule 117 of the Rules of Court is clearly not applicable. The said rule deals with Motion to Quash on the grounds stated in paragraph (a), (b), (g) and (i) of the said



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section. It does not include a Motion to Quash based on alleged "vague" statements in the Information.

4. Accused Del Socorro failed to pin point what is the missing element that will warrant a proper finding of failure to charge an offense.

THE COURT'S RULING

The Court resolves to deny accused Del Socorro's Motion for Reconsideration.

The instant *Motion for Reconsideration* is a mere rehash of accused Del Socorro's arguments which have been squarely passed upon by the Court in the *Resolution* sought to be reconsidered.

In *Mendoza-Ong v. Sandiganayan*⁴, the Supreme Court held:

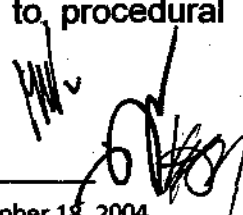
Concerning the first ground abovesited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

Moreover, the accused's *Motion* does not contain the required notice of hearing, and thus, failed to comply with the requirements of Rule 15, Sections 4 and 5 of the Rules of Court.

In *Laude v. Ginez-Jabalde*⁵, the Supreme Court held:

Rule 15, Section 4 of the Rules of Court clearly makes it a mandatory rule that the adverse party be given notice of hearing on the motion at least three days prior.

Failure to comply with this notice requirement renders the motion defective consistent with protecting the adverse party's right to procedural due process. In *Jehan Shipping Corporation*:



⁴ G.R. Nos. 146368-69, October 18, 2004.

⁵ G.R. No. 217456, November 24, 2015.

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As an integral component of procedural due process, ***the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution by the court.*** Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.

While the general rule is that a motion that fails to comply with the requirements of Rule 15 is a mere scrap of paper, an exception may be made and the motion may still be acted upon by the court, provided doing so will neither cause prejudice to the other party nor violate his or her due process rights. 113 The adverse party must be given time to study the motion in order to enable him or her to prepare properly and engage the arguments of the movant. x x x

The Court however notes that the records show that the prosecution was given an opportunity to file its *Comment/Opposition* to the accused's *Motion*, and it did in fact file its *Comment/Opposition* on 29 April 2019. Hence, the requirements of procedural due process is deemed to have been substantially complied with and the Court will instead simply rule on the merits of the *Motion*.

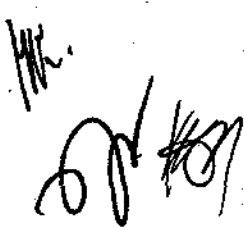
Although the Court will not dismiss the accused's pending *Motion* for failure to comply with the three-day notice rule, the same must nevertheless be dismissed for being devoid of merit.

As earlier noted, the instant *Motion* of accused Del Socorro is nothing more than a mere reiteration of what have been raised before and sufficiently traversed by the Court.

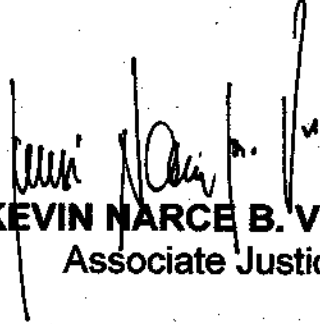
In sum, the Court finds no basis to reconsider its *Resolution* dated March 28, 2019.

WHEREFORE, the *Motion for Reconsideration* of accused Esperato Del Socorro is hereby denied for lack of merit.

SO ORDERED.

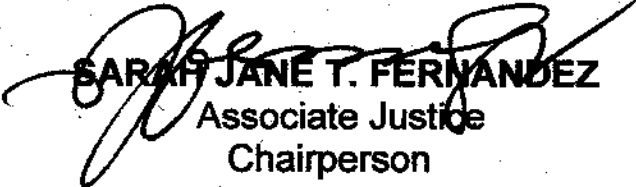
A handwritten signature in black ink, appearing to be "Mr. [unclear]", is written over the text "SO ORDERED." The signature is stylized and somewhat illegible.

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KEVIN MARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL E. MIRANDA
Associate Justice