



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on June 17, 2019.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA -----Chairperson
Justice ZALDY V. TRESPESES -----Member
Justice GEORGINA D. HIDALGO -----Member

The following resolution was adopted:

SB-17-CRM-0119 – People v. Edgar T. Villanueva

This resolves the following:

1. Accused Edgar T. Villanueva's "Motion for (Partial) Reconsideration" dated June 3, 2019; and
2. Verbal opposition of the Prosecution interposed during the hearing on June 7, 2019.

GOMEZ-ESTOESTA, J.:

In its *Resolution* dated May 27, 2019, this Court admitted all of the exhibits offered¹ by accused Edgar T. Villanueva **except for Exhibit "12,"** which was a certified true copy of Tax Declaration No. E-007-01961, for not having been properly identified and/or authenticated.

Accused Edgar T. Villanueva ("the accused") seeks a partial reconsideration of the Court's ruling on the exclusion of Exhibit "12." While the accused admitted that witness Denisa O. Faustino has not identified Exhibit "12," he himself identified the same in his Judicial Affidavit. Tax Declaration No. E-007-01961 is a public document which was certified to by Ms. Denisa O. Faustino in her capacity as Chief of the Assessment Records Management Division on the basis of the original document on file. Public or notarial documents, or those instruments duly acknowledged or proved and

¹ Since Exhibits "8," "9," "10," "15," and "16," were not formally offered by the accused, the Court did not consider the same pursuant to Section 34, Rule 132 of the *Revised Rules on Evidence*.

13

certified by law, may be presented in evidence without further proof, the certificate of acknowledgment being *prima facie* evidence of the execution of the instrument or document involved. The accused thus prayed that Exhibit "12" be admitted as part of the documentary evidence for the defense.

In open court, the prosecution opposed the accused's *Motion* on ground that Exhibit "12" was not authenticated by the custodian thereof.

OUR RULING

The procedure in the process of authentication may have been flawed but We resolve to reconsider.

Section 19 of Rule 132 of the *Revised Rules on Evidence* distinguishes between public and private documents, viz:

SECTION 19. Classes of documents. — For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) **The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;**

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private. (Emphasis supplied)

Relative thereto, Section 23 of Rule 132, *supra*, provides:

SECTION 23. Public documents as evidence. — Documents consisting of **entries in public records made in the performance of a duty by a public officer** are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter. (Emphasis supplied)

The distinction between a public and private document is *significant* as taught by the Supreme Court in the case of *Republic v. Gimenez*,² to wit:

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The nature of documents as either public or private determines how the documents may be presented as evidence in court. A public document, by virtue of its official or sovereign character, or because it has been acknowledged before a notary public (except a notarial will) or a competent public official with the formalities required by law, or because it is a public record of a

² G.R. No. 174673, January 11, 2016

private writing authorized by law, is **self-authenticating and requires no further authentication in order to be presented as evidence in court.** In contrast, a private document is any other writing, deed, or instrument executed by a private person without the intervention of a notary or other person legally authorized by which some disposition or agreement is proved or set forth. Lacking the official or sovereign character of a public document, or the solemnities prescribed by law, a private document requires authentication in the manner allowed by law or the Rules of Court before its acceptance as evidence in court. (Emphasis supplied)

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Exhibit “12” or Tax Declaration No. E-00701961 in *itself* is an entry in public records made by the Quezon City Assessor in the course of the performance of his or her duties, in which case the presentation of this document *itself* would be classified as a *self-authenticating public document*. Exhibit “12”, however, was merely presented as a *certified true photocopy* by Denisa O. Faustino (“**Faustino**”) as “LAOO V, Chief, ARMD.”

Following such, Section 24, Rule 132 of the *Revised Rules on Evidence*, provides the method of authenticating certified photocopies of official records, as follows:

SECTION 24. Proof of official record. — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a **copy attested by the officer having the legal custody of the record**, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. (Emphasis supplied)

Since Exhibit “12” is merely a certified true photocopy of Tax Declaration No. E-00701961, it was essential that the same should have been authenticated by the **custodian** thereof. Witness Faustina was never qualified as the custodian of the same. It cannot be said, therefore, that she properly authenticated Exhibit “12,” which fact was even candidly admitted by the accused himself.³

Even assuming *arguendo* that the Court would have admitted Exhibit “12” on the basis of the identification made by the accused in his Judicial Affidavit, the admission of the document would have merely been as part of the testimony of the accused, the effect of which would have been that, “[a] document or writing which is admitted not as an independent evidence but

³ The accused’s “Partial Motion for Reconsideration” dated June 3, 2019, p. 1

72

merely as part of the testimony of a witness does not constitute proof of the facts related therein.”⁴

The *Rules* would thus warrant the exclusion of Exhibit “12” for not having been properly authenticated, as the case of *Chua v. Court of Appeals*⁵ elucidated.

However, even though there was a lapse by the accused in failing to strictly comply with the *Rules* in the proper identification and/or authentication of Exhibit “12,” circumstances exist which merit a **second look** at the exclusion.

Section 472 of the *Local Government Code of 1991* provides:⁶

SECTION 472. Qualifications, Powers and Duties. — (a) No person shall be appointed assessor unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in civil or mechanical engineering, commerce, or any other related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in real property assessment work or in any related field for at least five (5) years in the case of the city or provincial assessor, and three (3) years in the case of the municipal assessor.

The appointment of an assessor shall be mandatory for provincial, city and municipal governments.

(b) The assessor shall take charge of the assessor's office, perform the duties provided under Book II of this Code, and shall:

(1) Ensure that all laws and policies governing the appraisal and assessment of real properties for taxation purposes are properly executed;

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(9) Issue, upon request of any interested party, **certified copies of assessment records of real property and all other records relative to its assessment**, upon payment of a service charge or fee to the treasurer; (Emphasis supplied)

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By virtue of the afore-cited law, city and municipal assessors are expressly empowered to **issue certified copies of assessment records**. Records show that Faustino was an official of the Quezon City Assessor's Office, being the Chief of the Assessment Records Management Division which Division was responsible for the safekeeping of assessment records.⁷

⁴ *Delfin v. Billones*, G.R. No. 146550, March 17, 2006

⁵ G.R. No. 88383, February 19, 1992

⁶ An Act Providing For A Local Government Code Of 1991 [LOCAL GOVERNMENT CODE OF 1991], Republic Act No. 7160, § 472 (1992)

⁷ Faustino's Judicial Affidavit dated February 21, 2019, p. 1, 3

12

While it is reiterated that Faustino herself did not identify her signature on Exhibit "12," nor did she specifically aver that her office has custody of said document, it is nonetheless evident that her official functions included the legal authority to **certify photocopies of official records** (e.g. tax declarations) issued by the Quezon City Assessor's Office, and the corresponding duty to keep safe the original copies thereof.

Based on these circumstances, and as Faustino was presented as a witness for the defense, it may be reasonably inferred that no infirmity exists which would affect the admissibility of Exhibit "12."


The admission of Exhibit "12" is thus warranted, on the basis of Section 472 of the Local Government Code, as custody over a tax declaration is mandated by law to be under the assessor's office.

WHEREFORE, in view of the foregoing, the *Motion for (Partial) Reconsideration* filed by accused Edgar T. Villanueva is **GRANTED**.

Exhibit "12" is **ADMITTED** as part of the evidence of the defense.

The presentation of rebuttal evidence shall **PROCEED**, as scheduled, on **July 1, 2019 at 8:30 in the morning** at the Fourth Division Courtroom.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice