



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*  
Quezon City

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*Seventh Division*

***MINUTES of the proceedings held on July 02, 2019.***

***Present:***

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

The following resolutions were adopted:

***Crim Case No. SB-18-A/R-0001 – People vs. Dionisito Valles y Raagas***

This resolves the following:

1. Accused-appellant Dionisito Valles y Raagas' "Motion for Reconsideration" dated March 16, 2019;<sup>1</sup> and
2. Appellee's "Comment" dated June 10, 2019.<sup>2</sup>

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Submitted for resolution are:

(1) Motion for Reconsideration of accused-appellant Dionisito Valles y Raagas (accused-appellant Valles) dated March 16, 2019 (*Motion*) seeking for the reconsideration of the Decision of this Court dated February 26, 2019, finding him guilty beyond reasonable doubt of Violation of Section 3(e) of Republic Act No. 3019 (RA 3019); and the appellee's Comment thereto dated June 10, 2019.

**Arguments offered in support of the  
Motion for Reconsideration dated March 16, 2019**

In his **Motion for Reconsideration**, accused-appellant Valles contests this Court's Decision affirming the ruling of the Regional Trial Court (RTC), Branch 37, City of Manila, that he is guilty beyond reasonable doubt of Violation of Section 3(e) or RA 3019, or the *Anti-Graft and Corrupt Practices Act*, as amended, when he omitted to conduct the mandatory inspection of Danvill Forwarder's 40-foot container van declared under Import Entry No. C110023-P02B, which was classified and marked as "RED," which means its physical inspection is required. His omission paved

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<sup>1</sup> Record, Vol. 1, p. 156.

<sup>2</sup> Record, Vol. 1, p. 183.

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customs duties and taxes, as well as items the importation of which are prohibited under Letter of Instruction No. 1080 and Republic Act No. 8596.

According to him, aside from his failure to conduct the requisite spot checking of the cargo, the prosecution evidence failed to establish that his inaction was motivated by characteristics which may be classified as gross inexcusable negligence or manifest partiality sufficient to constitute a violation of Section 3(e).<sup>3</sup>

He invokes the findings of the Court of Appeals (CA) in its December 15, 2014 Decision and June 30, 2015 Order in C.A.-G.R. SP No. 125761 where the CA, in the administrative case against him arising from the same set of facts, ruled that "there is no evidence to support the elements of 'corruption,' 'clear intent to violate the law' or 'flagrant disregard of established rule' which qualifies such act as Grave Misconduct."<sup>4</sup> Valles maintains that the CA's ruling negates any manifest partiality or gross inexcusable negligence that could have attended his inaction.

Furthermore, accused-appellant maintains that the Court should consider the declaration in the affidavit of Mr. Nomer Salas (Salas) as independently relevant statements applying the Supreme Court's ruling in *Espinelli v. People*, G.R. No. 179535, June 9, 2014. There, according to him, the High Court admitted the sworn statement of a certain Romeo Reyes in evidence despite the fact that Mr. Reyes was not presented as a witness and that a certain NBI Agent Segunial only testified as to the execution thereof.<sup>5</sup> Valles likewise emphasizes that the reason for their inability to present Mr. Salas to testify is because of his untimely demise.<sup>6</sup> Lastly, accused-appellant insists that his inaction was motivated by his fear for his life and safety when armed men forced him not to inspect the cargo.<sup>7</sup>

With these, Valles prays for the Court to reconsider its Decision and ultimately acquit him of the charge against him.

In a Resolution dated May 2, 2019, the Court directed the prosecution to file its Comment to the Motion within fifteen (15) days from receipt of the said Resolution, which period was later extended.

In compliance with this Court's order, the prosecution filed its **Comment**, where it raised the following points to counter the accused's arguments, thus:

First, it maintains that Valles' allegations that he was threatened by armed men not to open the container van were uncorroborated and

<sup>3</sup> Record, Vol. 1, pp. 156-157.

<sup>4</sup> Record, Vol. 1, p. 158.

<sup>5</sup> Record, Vol. 1, pp. 163-164.

<sup>6</sup> Record, Vol. 1, p. 165.

<sup>7</sup> Record, Vol. 1, pp. 165-166.

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unsubstantiated, as found by the RTC and later affirmed by this Court.<sup>8</sup>

Second, appellee posits that the affidavit of Mr. Nomer Salas constitutes hearsay evidence, is unreliable, untrustworthy, and thus, is devoid of any probative value.<sup>9</sup> The appellee calls this Court's attention to Section 10 of the Judicial Affidavit Rule which states that:

**Section 10. Effect of non-compliance with the Judicial Affidavit Rule. -**

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(b) The court shall not consider the affidavit of any witness who fails to appear at the scheduled hearing of the case as required.

Invoking the Supreme Court's pronouncements in *Patula v. Paredes*, G.R. No. 164457, April 11, 2012, the appellee argues that the rule excluding hearsay as evidence is based on serious concerns about the trustworthiness and reliability of hearsay evidence due to its not being given under oath or solemn affirmation and due to its not being subjected to cross-examination by the opposing counsel to test the perception, memory, veracity, and articulateness of the out-of-court declarant or actor upon whose reliability the worth of the out-of-court statement depends.<sup>10</sup>

Lastly, as regards accused-appellant's contention that the findings of the CA in the administrative case against him prove that he is innocent of the criminal charge subject of this case, the appellee asserts that administrative cases are independent from criminal actions involving the same act or omission.<sup>11</sup> According to the appellee, the CA ruling adverted to still found Valles guilty of simple misconduct. Too, the decision of the CA in an administrative case is not binding on the accused-appellant's criminal liability before the RTC and this Court, consistent with the pronouncements of the Supreme Court in *Paredes v. CA, et al.*, G.R. No. 169534, July 30, 2007.<sup>12</sup>

Thus, appellee maintains that there is no need to disturb the findings of this Court in the assailed Decision.

**The Court's Ruling**

After considering the respective arguments of the parties in their Motions, the Court resolves to DENY the Motion for Reconsideration.

In support of his motion, Valles raises two main (2) points, which can

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<sup>8</sup> Record, Vol. 1, p. 185.

<sup>9</sup> Record, Vol. 1, p. 189.

<sup>10</sup> Record, Vol. 1, p. 191.

<sup>11</sup> Record, Vol. 1, p. 192.

<sup>12</sup> Record, Vol. 1, p. 192.

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be summarized as follows:

1. The prosecution evidence failed to prove that his failure to conduct the requisite spot checking of the cargo was motivated by characteristics which may be classified as gross inexcusable negligence or manifest partiality sufficient to constitute a violation of Section 3(e). He maintains that this is supported by the findings of the CA in the administrative case against him arising from the same set of facts, where the appellate court ruled that "there is no evidence to support the elements of 'corruption,' 'clear intent to violate the law' or 'flagrant disregard of established rule' which qualifies such act as Grave Misconduct";<sup>13</sup> and

2. The declaration in the affidavit of Mr. Nomer Salas should be considered as independently relevant statements, following the Supreme Court's ruling in *Espinelli v. People*, G.R. No. 179535, June 9, 2014.

We shall tackle the arguments *in seriatim*.

***Findings of the Court of Appeals in  
the Administrative Case not binding in the instant case***

Accused-appellant Valles seeks to convince this Court that the prosecution's evidence failed to support a finding of guilt against him for the offense charged in view of the CA's ruling in the administrative case against him involving the same incident. It is well to note that Valles had already raised this point and the Court has already taken this into consideration in the assailed Decision. After a second look at the argument, this Court is still not persuaded.

Well-entrenched is the rule that the disposition in the administrative case will not govern the resolution of the criminal case, and vice versa. As aptly explained by the Supreme Court in *People v. Sandiganbayan*:<sup>14</sup>

xxx. Administrative liability is one thing; criminal liability for the same act is another. The distinct and independent nature of one proceeding from the other can be attributed to the following: first, the difference in the quantum of evidence required and correlatively, the procedure observed and sanctions imposed; and second, the principle that a single act may offend against two or more distinct and related provisions of law, or that the same act may give rise to criminal as well as administrative liability.  
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To take exception from this rule, Valles invokes the case of *Constantino v. Sandiganabayan and People*,<sup>15</sup> where the Supreme Court ruled that:

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<sup>13</sup> Record, Vol. 1, p. 158.

<sup>14</sup> G.R. No. 164577, July 5, 2010.

<sup>15</sup> G.R. No. 140656, September 13, 2007.

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Unfortunately for Valles, the case cited cannot be applied in his favor since the situation therein substantially differs from his case. There, both the administrative case and the criminal case were submitted, albeit separately, before the Supreme Court for resolution. The Supreme Court had the opportunity to assess the pieces of evidence for both cases and in doing so, the High Court found that "the dismissal by the [Supreme] Court of the administrative case against Constantino based on the same subject matter and after examining the same crucial evidence operates to dismiss the criminal case because of the precise finding that the act from which liability is anchored does not exist."<sup>16</sup> In here, however, this Court had no participation whatsoever in the disposition of the administrative case against him. It would be imprudent, nay, improper, for this Court to simply rely on Valles' claim that substantially the same pieces of evidence were used in both cases.

Additionally, it is apt to mention that there, the Supreme Court made a factual finding that the act supposedly committed by the accused from which liability attaches, does not in fact exist. However, in the case at hand, as pointed out by the appellee, the CA in fact did not absolve Valles, but instead found him to be liable for a lesser administrative offense only.

This being the case, this Court finds no reason to dismiss the criminal charge against Valles on the basis of the findings of the Court of Appeals in the administrative case against him, even though both cases arose from the same incident.

***The Affidavit of Mr. Salas cannot be considered as independently relevant statement***

It is well to emphasize that this point raised by Valles in the instant motion is a mere rehash of his defense which has been more than sufficiently ruled upon by this Court in the assailed Decision. Thus:

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In his Brief, accused-appellant also harps on the Affidavit dated May 11, 2007 of a certain broker, Nomer Salas, for the purpose of establishing that Salas attested to the threats and intimidation accused-appellant experienced from three men which guns on their waists, who told him, "*Pag hindi mo pinirmahan ang release papers ng importation namin on used spare parts may mangyayari sa iyo.*" It must, however, be noted that Salas was not presented as defense witness to identify his Affidavit. Basic is the rule that while affidavits may be considered public documents if they are acknowledged before a notary public, these Affidavits are still classified as hearsay evidence. The reason for this is that they are not generally prepared by the affiant, but by another one who uses his or her own

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<sup>16</sup> G.R. No. 140656, September 13, 2007.

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language in writing the affiant's statements, parts of which may thus be either omitted or misunderstood by the one writing them. Moreover, the adverse party is deprived of the opportunity to cross-examine the affiants. For this reason, affidavits are generally rejected for being hearsay, unless the affiants themselves are placed on the witness stand to testify thereon. Here, as Salas was not presented by the defense as its witness during trial, such Affidavit is, therefore, nothing but hearsay and will not be appreciated by this Court.

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Nevertheless, even if we take a second glance at his argument, this Court is still not persuaded, for the reason that the instant situation is not on all fours with that of *Espineli v. People*.<sup>18</sup>

In *Espineli*, the High Court ruled that the testimony of National Bureau of Investigation (NBI) Agent Segunial, as to the statement of a certain Reyes, can be given due weight and consideration and is not considered as hearsay evidence but, instead, is in the nature of an independently relevant statement, for the following reasons:

1. The testimony of the NBI Agent on Reyes' statement given to him in the course of the investigation was not presented to prove the truth of such statement but only for the purpose of establishing the fact that such sworn statement containing such narration of facts was indeed given;
2. Segunial candidly admitted that he is incompetent to testify on the truthfulness of said sworn statement; and
3. What the prosecution sought to be admitted was the fact that Reyes made such narration of facts in his sworn statement and not necessarily to prove the truth thereof.<sup>19</sup>

Furthermore, it is well to note that in *Espineli*, NBI Agent Segunial was presented as a witness during trial to testify on the investigation that he conducted.<sup>20</sup> Too, his testimony was considered as part of the circumstantial evidence with which the guilt of the *Espineli*, was established.<sup>21</sup>

In the present case, however, accused-appellant seeks the admission in evidence of the affidavit of Salas as an independently relevant statement without even presenting any other witness to attest to its execution. This situation is entirely different from that in *Espineli* since here, there is no

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<sup>17</sup> Record, Vol. 1, pp. 143-144.

<sup>18</sup> G.R. No. 179535, June 9, 2014

<sup>19</sup> *Espineli v. People*, GR. No. 179535, June 9, 2014.

<sup>20</sup> *Espineli v. People*, GR. No. 179535, June 9, 2014.

<sup>21</sup> *Espineli v. People*, GR. No. 179535, June 9, 2014.

one to attest to the alleged execution of the affidavit which, if considered, would possibly exculpate him from the charge against him. If we would allow this and consider such under the doctrine of independently relevant statements, this would open the floodgates to abuse and would allow an accused to present exculpatory evidence while avoiding cross-examination thereon with the simple expedient of submitting in evidence an affidavit and concocting a reason for the non-presentation of the affiant to the witness stand. This situation is indeed far from those obtaining in *Espineli* thereby preventing Valles from benefiting from the Supreme Court's pronouncements therein.


All told, this Court finds no reason to depart from its findings in the assailed Decision.

**WHEREFORE**, in view of the foregoing, accused Dionisito Valles y Raagas' Motion for Reconsideration dated March 16, 2019, is **DENIED** for lack of merit.

**SO ORDERED.**

  
**GEORGINA D. HIDALGO**  
Associate Justice

WE CONCUR:

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

  
**ZALBY V. TRESPESSES**  
Associate Justice