Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- *versus* -

DIOSDADO G. PALLASIGUE,
Accused.

SB-16-CRM-0332
For: Violation of Section 3(e) of R.A. No. 3019, as amended

x - x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- *versus* -

DIOSDADO G. PALLASIGUE,
Accused.

SB-16-CRM-0333
For: Violation of Section 3(f) of R.A. No. 3019, as amended

Present:

LAGOS, *J.*, *Chairperson*,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, *JJ.*

Promulgated:

19 July 2019

x - x

RESOLUTION

CORPUS-MAÑALAC, *J.*:

Before this Court is the *Motion for New Trial and/or Motion for Reconsideration*[1] dated April 24, 2019 filed by the accused, Diosdado G. Pallasigue, through counsel, on April 29, 2019, seeking a new trial in these cases and a reconsideration of the Court's Decision dated April 12, 2019 finding him guilty beyond reasonable doubt of violation of Section 3(e) and (f) of Republic Act (R.A.) No. 3019,[2] as amended.

The accused raises the following grounds, quoted *verbatim*:

[1] Records, Vol. 3, pp. 44-58.
[2] *Anti-Graft and Corrupt Practices Act.*

ASSIGNMENT OF ERRORS FOR THE MOTION FOR RECONSIDERATION WHICH WILL NOT REQUIRE EVIDENCE PRESENTATION

1. The Honorable Court erred in convicting the accused by delving into the validity or invalidity of the reassignment and dropping from the rolls contrary to its categorical declaration in the opening paragraph of the Decision under *"The Court's Ruling"*.

2. The Honorable Court erred in convicting the accused by not limiting itself to the twin Information [*sic*] of the case but encroached the realms on matters decided by the CSC [Civil Service Commission) or the CA [Court of Appeals] in the administrative case.

3. The Honorable Court erred in convicting the accused by not appreciating the legal justification of accused on why the allegations in the twin Information [*sic*] were not implemented by the accused.

GROUNDS WHY A NEW TRIAL SHOULD BE MADE

1. The allegations in the Information were not implemented by the accused due to the non-finality of the administrative case. The matter was brought to the Supreme Court.

2. Despite that the case is executory pending appeal, A [*sic*] writ of Execution was not Issued [*sic*] by the Civil Service Commission despite the filing of a Motion for Joint Execution filed by Segura.

3. A subsequent event happened where both Segura and Accused filed on 12 April 2019 a Joint Motions (a) To Compute Monetary Entitlements (b) To issue Writ of Execution dated 10 April 2019.[3]

On May 30, 2019, the prosecution filed its *Comment/Opposition*[4] dated May 29, 2019, arguing that the *Motion for New Trial and/or Motion for Reconsideration* must be denied, for it contained a defective notice of hearing that set the same for hearing on May 17, 2019 or beyond the 10-day period from the filing of the motion on April 29, 2019, as provided for under Section 5, Rule 15 of the Rules of Court; that, consequently, the *Motion for New Trial and/or Motion for Reconsideration* is a mere scrap of paper that did not toll the running of the 15-day reglementary period to file a motion for reconsideration or new trial, rendering the assailed Decision final and executory on April 27, 2019;[5] that the issues raised by the accused are a mere rehash of his previous arguments that have already been discussed and resolved in the assailed Decision; that the Court correctly found the presence of all the elements of the offenses charged; and that the motion for new trial has no basis in fact and in law.

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[3] Records, Vol. 3, pp. 45-46 (Motion for New Trial and/or Motion for Reconsideration, pp. 2-3).
[4] *Id.* at 86-96.
[5] The accused was notified of the assailed Decision on April 12, 2019. The last day of the 15-day reglementary period fell on a Saturday, thus the accused had until April 29, 2019 (Monday), the next business day, within which to file a motion for reconsideration or new trial.

The Court finds no cogent reason to reverse or vacate the assailed Decision.

On procedural matters, Section 5, Rule 15 of the Rules of Court provides:

> Section 5. *Notice of hearing.* – **The notice of hearing** shall be addressed to all parties concerned, and **shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion**. (Emphasis and underscoring supplied)

The accused, through counsel, filed his *Motion for New Trial and/or Motion for Reconsideration* on April 29, 2019, but set the same for hearing on May 17, 2019 or eight (8) days beyond the 10-day period, that is, until May 9, 2019:

> **NOTICE OF HEARING**
>
> **THE DIVISION CLERK OF COURT**
> Fifth Division
> Quezon City
>
> **OFFICE OF THE OMBUDSMAN**
> Agham Road, Diliman, Quezon City
>
> Greetings!
>
> Please be notified that the undersigned will submit the foregoing motion for the consideration and approval of this Honorable Court after the same be heard on **17 May 2019 Friday at 8:30 am.**
>
> (Signed)
> **JONATHAN F. PANTOJAN**[6]
> [Collaborating Counsel for the Accused]
>
> (Emphasis and underscoring in the original)

Jurisprudence teaches that compliance with the 10-day period under Section 5 of Rule 15 is mandatory, and failure to do so is fatal. In *Bacelonia v. Court of Appeals*,[7] the Supreme Court held that the provision uses the mandatory term "must" in fixing the period within which the motion shall be scheduled for hearing, and that a motion that fails to religiously comply with said provision is *pro forma* and does not merit the attention and consideration of the court:

> It should be noted that **the motion for reconsideration** of the trial court's resolution on January 10, 2000 **was filed by the petitioners on January 31, 2000**. **The date and time of hearing thereof was set by the petitioners on February 15, 2000 at 8:30 o'clock in the morning.** In this connection, Rule 15, Section 5 of the Revised Rules of Court on motions provides:

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[6] Records, Vol. 3, p. 57 (Motion for New Trial and/or Motion for Reconsideration, p. 14).
[7] G.R. No. 143440, 11 February 2003.

x x x x

It is clear then that the scheduled hearing of the said motion for reconsideration was beyond the period specified by the Revised Rules of Court which was not later than ten (10) days after the filing of the motion, or no later than February 10, 2000. Significantly, the above provision of **Rule 15, Section 5 uses the mandatory term "must"** in fixing the period within which the motion shall be scheduled for hearing. **A motion that fails to religiously comply with the mandatory provision of Rule 15, Section 5 is *pro forma* and presents no question which merits the attention and consideration of the court.** (Emphasis and underscoring supplied)

In *Garcia v. Sandiganbayan*,[8] the Supreme Court reiterated the mandatory character of Section 5 of Rule 15, citing *Bacelonia*, and pronounced that a motion with a defective notice of hearing is a mere scrap of paper which does not toll the running of the reglementary period:

> Garcia alleges that the *Motion to Dismiss* was timely filed and thus tolled the running of the period to file an answer and invokes the principle of due process in arguing that the motion had substantially complied with the Rules and sufficiently notified the adverse party of the date and time of the hearing on the motion despite the defect in the notice of hearing. **We disagree**. To make short shrift of this argument, **we refer to the case of *Bacelonia v. Court of Appeals*, also cited by the *Sandiganbayan*, which holds that Sec. 5, Rule 15 of the Rules uses the mandatory term "must" in fixing the period within which the motion shall be scheduled for hearing, so that a motion that fails to comply with this mandatory provision is *pro forma* and does not merit the attention and consideration of the court**. In the case at bar, Garcia does not even refute the fact that **the *Motion to Dismiss* was scheduled for hearing on 3 December 2004, or three (3) days beyond the ten (10)-day period in Sec. 5, Rule 15. Thus, the motion is a mere scrap of paper which does not toll the running of the prescriptive period to file an answer and is not entitled to judicial cognizance.** (Emphasis and underscoring supplied)

The recent case of *Zosa v. Consilium, Inc.*[9] (2018) affirmed this doctrine, citing *Bacelonia* and *Garcia*, thus:

> x x x. The substance of a notice of hearing is laid out in Section 5, Rule 15 of the Rules of Court, as amended. x x x.
>
> x x x x
>
> Herein, it is clear that the notice of hearing in Consilium's motion for reconsideration failed to comply with the requisites set forth in the aforequoted rule. In fact, Consilium's counsel, Atty. Gaviola, admitted to purposely defying the **10-day requirement** as he would not be available to attend any hearing within the 10-day period from the filing of said motion.

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[8] G.R. No. 167103, 31 August 2006.
[9] G.R. No. 196765, 19 September 2018.

The Court has been categorical in treating a litigious motion without a valid notice of hearing as a mere scrap of paper. And "[t]he subsequent action of the court on a defective motion does not cure the flaw, for a motion with a fatally defective notice is a useless scrap of paper, and the court has no authority to act thereon."

In this case, therefore, the Court of Appeals erred in liberally applying the tenets of Section 5 of Rule 15 in the absence of a compelling or satisfactory reason, x x x. (Emphasis and underscoring supplied)

On this score alone, the *Motion for New Trial and/or Motion for Reconsideration* may be denied. Nonetheless, procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter.[10]

For the reason that the life and liberty of the accused is at stake here, as he was sentenced to suffer the penalty of imprisonment from six (6) years and one (1) month as minimum to eight years (8) as maximum in each of these two cases, and that the *Motion for New Trial and/or Motion for Reconsideration* was timely filed, it is but just that he be given the opportunity to defend himself and pursue his appeal, instead of his conviction attaining finality on the basis of mere technicality. A relaxation of the procedural rules, considering the particular circumstances herein, is justified.[11]

The *Motion for New Trial and/or Motion for Reconsideration* is still denied, however, for lack of merit.

The accused claims that in convicting him, the Court delved into the validity or invalidity of the reassignment and eventual dropping from the rolls of Engr. Elias S. Segura, Jr., Municipal Planning and Development Coordinator (MPDC) of the Municipality of Isulan, Sultan Kudarat.

The argument is specious. Based on the totality of the testimonial and documentary evidence presented by the prosecution, as exhaustively discussed in the assailed Decision, it proved beyond reasonable doubt that the accused committed acts in the performance of his official functions (*i.e.*, reassigning and eventually dropping Segura from the rolls) with evident bad faith and manifest partiality, causing undue injury to Segura in the form of his Representation and Travel Allowance (RATA), at first, then later all his salaries, allowances and benefits that had been withheld from him.

This is the gravamen of the recital of facts in the Information for violation of Section 3(e) of Republic Act (R.A.) No. 3019 in SB-16-CRM-0332.

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[10] *Basco v. Court of Appeals*, G.R. No. 125290, 9 August 2000.
[11] *Vide supra.*

It bears to stress some of the relevant parts of the assailed Decision on this matter:

> The circumstances surrounding the questioned reassignment and dropping of Segura from the rolls evince accused's conscious doing of a wrong to the latter that satisfies the second element. Basically, the reassignment of Segura stripped him immediately of his supervisory authority and powers as MPDC or head of a department or office (MPDO), and relegated him to a mere subordinate under the Office of the Municipal Mayor, until shortly thereafter, Segura was suddenly dropped from the rolls. Whereas, another employee whose salary grade was nine grades lower than that of Segura was designated in an acting capacity as MPDC.
>
> x x x x
>
> [R]elieving Segura as head of MPDC is not justified if only to assign him the task of conducting a feasibility study on the creation of MEEDO. As head of the Municipal Planning and Development Office (MPDO), the powers and duties of the MPDC are enumerated under Section 476(b) of R.A. No. 7160, to wit:
>
> x x x x
>
> Clearly, it is within the core functions of the MPDC to conduct such a feasibility study. Therefore, there was no need to remove Segura from MPDO and relieve him of his functions as MPDC for him to perform this task as part of TWG. This especially so as the accused himself admits that Segura was designated as TWG Chairman for his "experience, knowledge and expertise" being the MPDC. x x x.
>
> x x x x
>
> On the other hand. The preconceived plan of the accused to unduly relieve Segura as MPDC could be traced to his act of prematurely issuing EO No. 16 creating a TWG issued on August 23, 2007 to which Segura was reassigned as Chairman "for the [p]reparation of a new feasibility study for the institution of the municipal economic enterprise." Notably, at this time, the then existing MEEDO had not been abolished yet. The *Sangguniang Bayan* passed Resolution No. 2007-071 nullifying previous resolutions relative to the existing MEEDO only on August 31, 2007 which was approved by the accused only on September 3, 2007. Prior to all this, it was the accused himself who requested the municipal vice mayor, via Memorandum dated July 11, 2007, for "the urgent passing of a resolution enacting an ordinance nullifying Resolution and Ordinance providing for the creation of MEEDO and other pertinent issuance pertaining thereto, x x x" only to thereafter create a TWG to prepare a new feasibility study for MEEDO.
>
> This convinces that the accused not only acted with evident bad faith right from the start in reassigning Segura, but he also took advantage of his office. x x x.
>
> x x x x

From being a head of a department or office such as the MPDO, the accused relegated Segura to a mere subordinate under the Office of the Municipal Mayor without sufficient basis. The MPDC, such as Segura, is not only a head of a department or office in the municipal government, it is likewise a mandatory position. This is clear under Sections 443(a) and (d) and 476(a) of R.A. No. 7160. That the accused relieved Segura of his functions as MPDC and replaced him with an employee holding a position corresponding to a mere Salary Grade 15 proves that the accused likewise acted with manifest partiality.

Further, instead of heeding the request of Segura to be reinstated one (1) year after his illegal reassignment through his Memorandum dated September 10, 2008 citing CSC Memorandum No. 2 s. 2005, the accused suddenly dropped him from the rolls, effective immediately, by the issuance E.O. No. 23 dated September 22, 2008, supposedly for failing to report for work for more than thirty (30) days or having gone AWOL since July 31, 2008. The accused concluded right away that Segura had gone AWOL for more than 30 days supposedly on the basis of the Certifications, both dated September 19, 2008 of Ortouste and Leonor, respectively stating that Segura has no pending or approved leave and did not log in from July 31, 2008 to September 19, 2008. However, Segura appears to have rendered services and was paid therefor during said period pursuant to the payroll. The sudden haste by which the accused dropped Segura from the rolls, right after Segura asked to be reinstated, was irregular, evidently manifesting accused's bad faith. x x x.

x x x x

On the third element, the accused posits that no undue injury was committed against Segura because the latter had long been reinstated to his former position. However, it is not contested that Segura was reinstated as MPDC only on April 20, 2015 upon the issuance by the accused of A.O. No. 07 s. 2015 which he confirmed in his Judicial Affidavit. x x x.

x x x x

Thus, all the salaries, allowances and benefits deprived of Segura from around seven (7) years after having been dropped from the rolls by the accused, as well as his RATA starting March 28, 2008 in view of his reassignment, when during the 7-year period he should have been receiving the same, constitutes undue injury to him. In other words, *sans* the accused's orders reassigning Segura and dropping him from the rolls, Segura would certainly not have suffered financially within a 7-year span had he received all the monthly salaries, allowances and benefits due him at the time as MPDC. In fact, Segura attempted thrice to seek reinstatement from the accused via these documents, *viz.*: (*1*) Memorandum dated September 10, 2008; (*2*) letter dated June 19, 2012; and (*3*) letter dated April 15, 2014. And thrice his pleas fell on deaf ears. That Segura was reinstated as MPDC and included in the payroll in 2015 is of no moment, for he has already suffered undue injury long before he was finally reinstated to his former position and included in the payroll.[12]

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[12] Decision dated April 12, 2019, pp. 12-19.

As can be seen above, the Court ruled on whether the accused committed a violation of the offense under Section 3(e) of R.A. No. 3019, as it did in the affirmative based on the evidence on record *vis-à-vis* the elements of the offense charged in the Information. As stated in the assailed Decision:

> *Cabrera v. Sandiganbayan* enumerates the essential elements of this crime, *viz.*:
>
> 1. The accused must be a public officer discharging administrative, judicial or official functions;
>
> 2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
>
> 3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

There are two different modes of committing the offense. As explained in a string of jurisprudence:

> R.A. 3019, Section 3, paragraph (e), as amended, provides as one of its elements that the public officer should have acted by causing any undue injury to any party, including the Government, or by giving any private party unwarranted benefits, advantage or preference in the discharge of his functions. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Section 3 paragraph (e), or as aptly held in *Santiago*, as two (2) different modes of committing the offense. This does not however indicate that each mode constitutes a distinct offense, but rather, that an accused may be charged under either mode or under both.

In SB-16-CRM-0332, the accused stands charged with a violation of Section 3(e) of R.A. No. 3019 under the first mode of "causing undue injury" to a private party, Segura, committed with evident bad faith and manifest partiality.[13]

The same likewise holds true in SB-16-CRM-0333. Based on the totality of the testimonial and documentary evidence presented by the prosecution, as lengthily explained in the assailed Decision, it proved beyond reasonable doubt that the accused refused to act without sufficient justification, after due demand or requests had been made, to reinstate Segura to his position as MPDC, and that a reasonable time had elapsed from such demand or requests without the accused having acted on the matter pending before him, for the purpose of discriminating against Segura.

This is the gravamen of the recital of facts in the Information for violation of Section 3(f) of R.A. No. 3019 in SB-16-CRM-0333.

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[13] *Id.* at 11.

Thus, the accused's claim that the Court "encroached the realms on matters decided by the CSC or the CA" is certainly bereft of merit, for the Court did not deviate from its duty as a trial court, as it emphasized from the start in the assailed Decision:

The Court's Ruling

> At the outset, it bears to stress that the issue on the validity or invalidity of the reassignment and eventual dropping of Segura from the employee rolls is not the matter before this Court. The said issue concerning both personnel actions had already been passed upon by the CSCRO No. XII, the CSC and the CA. Rather, the present cases before this Court are criminal in nature and necessarily involve the determination of whether the accused is guilty of the offenses charged.[14]

On the supposed lack of writ of execution to reinstate Segura, as the purported "legal justification" of the accused for not reinstating the former to his position as MPDC, the accused invokes the ruling in *People v. Sandiganbayan*[15] where the Supreme Court held that the "[p]rivate respondent could not have committed the crime alleged in the Information – failure to reinstate private complainants to their positions and to pay back wages due them – as there was *no writ* or *order* from the CSC to reinstate private complainants and to pay them back wages."

The reliance of the accused on *People v. Sandiganbayan* is misplaced. In said case, the CSC Central Office reversed the order of the CSCRO IV which earlier directed the reinstatement of the separated employees. On appeal, the CA reversed the order of the CSC Central and reinstated the order of the CSCRO IV.

In the case of Segura, however, all the rulings of the CSCRO No. XII, the CSC and the CA were favorable to him, and all adverse to the accused. Moreover, as explained in the assailed Decision:

> x x x. **The CSC Resolution No. 14-00455 dated March 24, 2014, which is akin to such a writ** [of execution], directed him [the accused] to "**immediately effect the implementation**" of its Resolution No. 09-0501 dated March 31, 2009, Resolution No. 10-00470 dated December 7, 2010, Decision No. 11-0466 and Resolution No. 12-00703 dated May 4, 2012. **In Resolution No. 14-00455, the CSC also stated in clear and categorical terms**, invoking Section 120 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), **that having been aware of the continued non-implementation of its previous orders, there was no need for the issuance of a writ of execution**, viz:
>
> ***Section 120. Effect of Pendency of Petition for Review/Certiorari with the Court.*** – *The filing and pendency of a petition for review*

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[14] *Id.* at 10.
[15] G.R. No. 156394, 21 January 2005.

> *with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the decision of the Commission unless the Court issues a restraining order or an injunction.*

It is explicit from the foregoing rules that **a Decision/Resolution of the Commission is immediately executory unless** a motion for reconsideration is filed within fifteen (15) days from receipt of such Resolution, or **the Court of Appeals** or the Supreme Court **issues a restraining order or an injunction order on its implementation**. **This is why there is actually no need for the issuance of Writs of Execution**, and **neither is there a provision in the RRACCS that makes it mandatory for the Commission to issue said writs**.

> x x x. [N]o restraining or injunction order was issued against the implementation thereof, hence, the execution thereof is proper.
>
> x x x x

Instead of complying therewith, the accused obstinately questioned the pronouncements of the CSC, among others, in his Manifestation with Motion for Clarification dated April 21, 2014, insisting on the need for such a writ:

> 24. x x x. What, therefore, makes the instant cases of Engr. Elias S. Segura, Jr. extraordinary that the Commission declared its decision self-executory and thus, can be implemented without an execution order?
>
> x x x x

As already stated, Segura's reinstatement was not even in compliance with the rulings of the CSCRO No. XII, the CSC and the CA, but rather in view of the RTC Order dated April 13, 2015 directing Segura's reinstatement during the pendency of the special civil action for *mandamus* that he filed, causing the accused to issue A.O. No. 07, s. 2015. In fact, the testimony of Segura on re-direct examination sheds light on the reason why the RTC Order was complied with instead by the accused:

> DIR. DAYCO:
>
> Q: Now, do you know of any reason why, you said that the Resolutions and Orders of the Civil Service Commission are the same with the Order of the RTC, do you know of any reason why the Order of the RTC was followed by the accused?
>
> A: The Order of the RTC – because the RTC Judge is very strong and during that time when he signed – when he issued the ano, he gave the briefing to the staff that he instructed that when you deliver this letter, tell the Mayor that I will – don't compare my decision to the other decision, but tell the Mayor that I will enforce this decision, and I will call a police to enforce this decision. Ang parting word niya ay ***"HUWAG NIYA ITULAD SA IBA YONG DECISION NG KORTE KO"***.[16]

(Additional emphasis and underscoring supplied)

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[16] Decision dated April 12, 2019, pp. 22-24.

In other words, the accused was clearly only invoking the supposed lack of writ of execution as a mere subterfuge to justify his manifest intention not to reinstate Segura to the latter's position as MPDC.

Section 2 of Rule 121 provides the grounds for a new trial in criminal cases:

> Section 2. *Grounds for a new trial.* –The court shall grant a new trial on any of the following grounds:
>
> (a) That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;
>
> (b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment.

In seeking a new trial, the accused avers that "[t]he allegations in the Information were not implemented by the accused due to the non-finality of the administrative case" and that "[t]he matter was brought to the Supreme Court."

There is nothing in the records of these cases indicating that the accused appealed the adverse rulings of the CA to the Supreme Court. Nor does the accused present any proof thereof in his *Motion for New Trial and/or Motion for Reconsideration*. In any event, this Court, being a trial court, is concerned only about the overt criminal acts committed by the accused in SB-16-CRM-0332 and SB-16-CRM-0333, as explained above.

The accused then avers that the CSC did not issue a writ of execution despite the filing of a *Motion for Joint Execution*[17] dated August 23, 2012 by Segura. This issue was sufficiently explained in the assailed Decision, as quoted above. Further, Segura filed said motion in 2012 while the CSC issued its Resolution No. 14-00455 in 2014, which is akin to a writ of execution anyway, directing the accused to "immediately effect the implementation" of its previous orders, after having been aware of their continued non-implementation, apart from stating that there was no need for the issuance of such a writ in the first place.

As his last ground for seeking a new trial, the accused makes an issue out of the *Joint Motions* dated April 10, 2019 filed on April 12, 2019 by Segura's counsel, Atty. Kyndell A. Hilario, and the Municipal Government of Isulan, via Emelly G. Herezo-Delos Santos, the Municipal Legal Counsel, before the CSCRO No. XII for the computation of monetary entitlements and the issuance of a writ of execution. He attached a copy of the *Joint*

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[17] Records, Vol. 1, pp. 213-218.

Motions to his *Motion for New Trial and/or Motion for Reconsideration*, and describes the filing thereof as "a subsequent event happened where both Segura and [a]ccused filed on 12 April 2019 a Joint Motions."[18]

A cursory reading of the *Joint Motions* clearly shows that it pertains to the monetary entitlements of Segura and the request from the CSCRO No. XII for the issuance of a writ "[a]fter the computation is made."[19] Interestingly, the *Joint Motions* alleged that "[t]he two cases [before the CSCRO No. XII] were disposed [of] with finality by the Supreme Court and the Decisions were already final and ripe for execution."[20]

In an Affidavit[21] dated May 6, 2019 attached to the prosecution's *Comment/Opposition*, Atty. Hilario stated that the *Joint Motions* was prepared by the accused's counsel, Atty. Pantojan, and that "[they] were made to sign the same as agreed upon"[22] and "[t]he purpose of which is only for the computation of claims in the Civil Service Commission and nothing else."[23] The context behind the filing of the *Joint Motions* was explained by Atty. Hilario in his affidavit, to wit:

> 2. That Engr. Segura, through our representation, filed the cases for Mandamus with Damages sometime in 2014 against Diosdado Pallasigue which was docketed as Special Civil Action Number 15 and the case of Indirect Contempt last July 15, 2015 which was docketed as Special Civil Action Number 18 both in Regional Trial Court Branch 19 in Isulan, Sultan Kudarat;
>
> 3. That on both cases, from our complaint, motions, judicial affidavits of Elias Segura and any other relevant pleadings or documents, it is our contention that a Writ of Execution is no longer necessary as the Civil Service decisions are immediately executory;
>
> 4. That on April 2, 2019, a hearing was scheduled for the Mandamus and Indirect Contempt cases in RTC Branch 19 in Isulan, Sultan Kudarat wherein the court agreed on the proposal of both parties that a computation for the claims of Engr. Segura will be referred to the Civil Service Commission for appropriate action in order for the clear determination of Segura's claims;
>
> 5. The purpose of which was for the said computation to be submitted to the Regional Trial Court for appropriate action and upon agreement of the parties, the said [*sic*] will be approved by the court as a compromise agreement. That after a compromise agreement will be made, an execution will be issued by the Regional Trial Court so that the Sangguniang Bayan of Isulan will have a basis on its appropriation or claims to be given to Engr. Segura[.][24]

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[18] Records, Vol. 3, p. 46 (Motion for New Trial and/or Motion for Reconsideration, p. 3).
[19] *Id.* at 60 (Joint Motions, p. 2).
[20] *Id.* at 59 (*Id.* at 1).
[21] *Id.* at 97-99.
[22] *Id.* at 98 (Affidavit, p. 2).
[23] *Id.*
[24] *Id.* at 97 (*Id.* at 1).

Thus, the purpose of the *Joint Motions* has no material relevance to the instant criminal cases. Neither does it qualify as newly discovered evidence as a ground for new trial, the requisites of which are provided in *Tejano, Jr. v. Sandiganbayan*:[25]

> x x x. For the Court to grant a new trial on the ground of newly discovered evidence under Section 2, Rule 121 of the Rules of Court, it must be shown that: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if admitted, will probably change the judgment.

In sum, the Court finds no sufficient reason to reconsider or set aside the assailed Decision.

WHEREFORE, the *Motion for New Trial and/or Motion for Reconsideration* dated April 24, 2019 of accused Diosdado G. Pallasigue is **DENIED** for lack of merit.

SO ORDERED.

MARYANN E. CORPUS- MAÑALAC
Associate Justice

WE CONCUR:

RAFAEL R. LAGOS
Associate Justice
Chairperson

MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

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[25] G.R. No. 161778, 7 April 2009, citing *Dinglasan, Jr. v. Court of Appeals, et al.*, G.R. No. 145420, 19 September 2006.