



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE**  
**PHILIPPINES,**  
Plaintiff,

SB-17-CRM-0483  
For: Violation of Section 3 (e) of  
Republic Act (R.A.) No. 3019

-versus-

**PABLO M. PAN III,**  
**ROLANDO G. GREGORIO,**  
**EFIGENIO E. JULIAN, JR.,**  
**NOEL T. TARRAZONA,**  
**ALEXIS T. ORTEGA,**  
**GILBERT R. ALVAREZ,**  
**LEOMYR DC. TORIBIO,**  
**TITO B. ESPIRITUSANTO,**  
**REINERIO R. RAMOS,**  
**CESAR T. MELAD,**  
**WILHELMINO P. BAZAN,**  
**SANTIAGO G. ACUÑA,**  
**REINFREDO R. SEVILLA,**  
**JOVITA K. YEO,**

Accused,

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*  
MIRANDA, &  
VIVERO, JJ.

Promulgated:

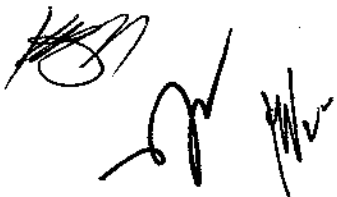
**JUL 09 2019** 

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**RESOLUTION**

**MIRANDA, J.:**

This resolves the: 1) Manifestation with Motion dated April 3, 2019 of accused Cesar T. Melad (Melad); 2) Motion for Marking of Exhibits dated April 11, 2019 of accused Melad; and 3) Comment/Opposition dated May 6, 2019 of the Prosecution.




In his Manifestation with Motion dated April 3, 2019 and Motion for Marking of Exhibits dated April 11, 2019, accused Melad states that:

- 1) he attached several documentary exhibits to his Judicial Affidavit dated March 22, 2019, which were pre-marked as Exhibits "1 Melad" to "19-A Melad";
- 2) Atty. Quirino G. Esguerra, Jr. (Esguerra), his previous lawyer, has already marked certain documents as Exhibits "1" to "12" during the pre-trial;
- 3) he is no longer utilizing the markings made on Exhibits "1", "2", "3", "4", "5", "7" and "9" to avoid overlapping of markings;
- 4) Exhibits "6", "8", "10", "11" and "12" were given different markings in his Judicial Affidavit dated March 22, 2019 as Exhibits "17 Melad", "13 Melad", "5 Melad", "4 Melad" and "3 Melad", respectively;
- 5) Exhibit "10 Melad" was marked by the Court on April 3, 2019 after the Prosecution admitted that it is a faithful reproduction of the original; and
- 6) Exhibit "15 Melad" was marked by the Court on April 8, 2019 after the Prosecution admitted that it is a faithful reproduction of the original.

Accused Melad seeks the cancellation of the previous markings made by Atty. Esguerra during the pre-trial, and the marking of the documentary exhibits attached in his Judicial Affidavit dated March 22, 2019.

The Prosecution, through the Office of the Special Prosecution (OSP), on the other hand, opposes the marking of the documentary exhibits attached to the Judicial Affidavit dated March 22, 2019 of accused Melad on following grounds:

- 1) the Prosecution was not given a chance to compare Exhibits "17 Melad", "13 Melad", "5 Melad", "4 Melad" and "3 Melad" with Exhibits "6", "8", "10", "11" and "12";
- 2) Exhibits "1 Melad", "2 Melad", "6 Melad", "7 Melad", "9 Melad", "10 Melad", "11 Melad", "12 Melad", "13 Melad", "14 Melad", "15 Melad", "16



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Melad”, “18 Melad”, “19 Melad”, and “19-A Melad” were not listed in the Pre-trial Order dated June 18, 2018;

- 3) The Pre-trial Order dated June 18, 2018 expressly provided that any other evidence not indicated or listed should be considered waived by the parties.

The Prosecution, however, does not object to the marking of Exhibits “17 Melad” and “8 Melad” considering that both were also marked as Exhibits I and Q for the Prosecution.

After a review of the records of the case, including the transcript of stenographic notes, and to afford full opportunity to present evidence for his defense, the Court **GRANTS** the Manifestation with Motion dated April 3, 2019 and Motion for Marking of Exhibits dated April 11, 2019 of accused Melad.

The pre-trial order binds the parties, limits the trial to matters not disposed of, and controls the course of the action during the trial, unless modified by the Court to prevent manifest justice.<sup>1</sup> The Pre-trial Order dated June 18, 2018 expressly provides that:

No evidence shall be allowed to be presented and offered during the trial in support of a party’s evidence-in-chief other than those that had been identified below and/or pre-marked during the pre-trial. Any other evidence not indicated or listed below shall be considered waived by the parties. However, the Court, in its discretion, may allow the introduction of additional evidence in the following cases: a) those to be used on cross-examination or re-cross-examination for impeachment purposes; b) those presented on re-direct examination to explain or supplement the answers of a witness during the cross-examination; c) those to be utilized for rebuttal or sur-rebuttal purposes; and **d) those not available during the pre-trial proceedings despite due diligence on the part of the party offering the same.**<sup>2</sup>

This case falls under one of the exceptions. Accused Melad claims that the additional documentary exhibits identified in his Judicial Affidavit dated March 22, 2019 were not available during the pre-trial despite due diligence

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<sup>1</sup> Section 4, Rule 118 of the Revised Rules on Criminal Procedure.

<sup>2</sup> Emphasis supplied.



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on his part.<sup>3</sup> He was initially assisted by Atty. Esguerra at the pre-trial. It was, however, Atty. Carmelo Trinidad (Trinidad) who assisted accused Melad in the preparation of his judicial affidavit and testimony in court.<sup>4</sup> As an exception to the general rule and in the exercise of its discretion, the Court has in fact allowed the presentation of the additional documentary exhibits attached and identified by accused Melad in his Judicial Affidavit dated March 22, 2019, *to wit*.<sup>5</sup>

Pros. Tudlong: Your Honor, before we proceed with the comparison Your Honors, as previously manifested Your Honors, the prosecution is objecting to this document being produced for the defense Your Honors. These were documents which were stated in the accused Melad's Manifestation with Motion Your Honors are not included in the Pre-Trial Order Your Honors. And the accused has not showed good cause Your Honors to be allowed to introduce these documents Your Honors.

Chairperson: Oh, what's your good cause counsel?

Atty. Trinidad: The good cause Your Honors is that the documents were not available to this representation during the pre-trial and that is the reason why they were not marked.

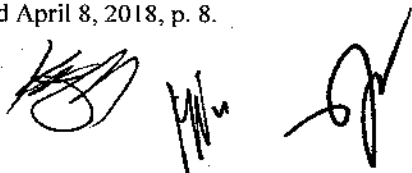
Pros. Tudlong: However, Your Honors, these documents as can be shown Your Honors is already in the possession of the accused Your Honors as he is already presenting these documents during today's testimony Your Honors, as such there is no reason for these documents not to be

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<sup>3</sup> Submission with Manifestation and Motion dated March 25, 2019, TSN dated April 3, 2019, p. 13; TSN dated April 8, 2019, p. 7.

<sup>4</sup> TSN dated April 3, 2019, p. 13.

<sup>5</sup> TSN dated April 8, 2018, p. 8.



included in the preliminary conference Your Honors.

Atty. Trinidad: Well, if Your Honor please, the significance of the documents came to light only in the course of the preparation of the judicial affidavit of the witness and it was only there and then relevant and material various of evidence came to the course and that is only the time that the witness searched his numerous old files to look for them Your Honors, that is the truth why they were not marked during the pre-trial Your Honor.

Chairperson: Counsel, he is your witness?

Atty. Trinidad: We will present the ZAMCELCO Officer, Finance Officer to identify her certification because from Exhibit "10 and 15 Melad", all of the rest are not in the possession of the witness, that's why he requested the ZAMCELCO Finance Officer to issue certified true copies but the ZAMCELCO Finance Officer issued a certification to the effect that the originals that they cannot issue certified true copies because of the lapse of time and I think the prosecution (interrupted)

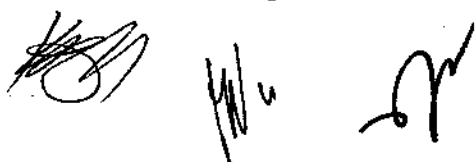
Chairperson: But the documents would refer to the same documents that will be testified on by this witness?

Atty. Trinidad: Yes, Your Honor.

Chairperson: No additional documents?

Atty. Trinidad: No additional documents.

**Chairperson: So, in the interest of substantial justice, the Court will allow the presentation of those**



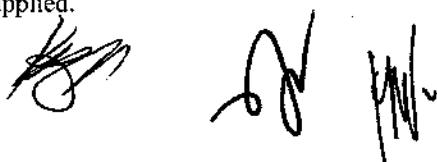
**documentary exhibits but no other, counsel.**

Atty. Trinidad: No other. Thank you very much,  
Your Honor.<sup>6</sup>

The Pre-trial Order dated June 18, 2018 has listed the following documentary exhibits marked by Atty. Esguerra as counsel of accused Melad:

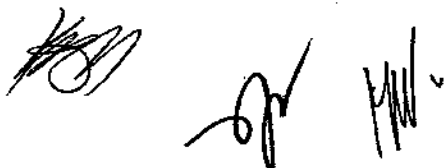
Exhibit No.	Name/ Description of the Document
"1"	Special Order No. GM-01-07 dated January 14, 2009
"2"	Special Order No. GM-070-06 dated July 11, 2007
"3"	Special Order No. GM-01-02 dated January 8, 2010
"4"	Special Order No. GM-04-02 dated April 13, 2010
"5"	Special Order No. GM-03-07 dated March 19, 2009
"6"	Resolution No. 095-07 dated April 3, 2007
"7"	Resolution No. 155-07 dated June 9, 2007
"8"	Special Order No. GM-11-03 dated November 3, 2006
"9"	summary of 3 lots that met the established criteria
"10"	publication of the Invitation to Bid dated March 23, 2005 at Zamboanga Times
"11"	publication of the Invitation to Bid dated March 23, 2005 at Zamboanga Peninsula Journal
"12"	publication of the Invitation to Bid dated March 23, 2005 at Zamboanga Star

<sup>6</sup> Emphasis supplied.



Accused Melad, however, seeks the marking of the following exhibits attached in his Judicial Affidavit dated March 22, 2019:

Exhibit No.	Name/ Description of the Document
"1 Melad"	Invitation To Pre-Qualify and To Bid for the sale of lot within the specified sketch plan for Zamboanga City Electric Cooperative, Inc. (ZAMCELCO)'s Load Center Substation published in 2002 at Zamboanga Today
"2 Melad"	Invitation To Pre-Qualify and To Bid for the sale of lot within the specified sketch plan for ZAMCELCO's Load Center Substation published in 2005
"3 Melad"	Invitation To Pre-Qualify and To Bid for the sale of lot within the specified sketch plan for ZAMCELCO's Load Center Substation published on March 23, 2005
"4 Melad"	Invitation To Pre-Qualify and To Bid for the sale of lot within the specified sketch plan for ZAMCELCO's Load Center Substation published on March 22, 2005
"5 Melad"	Invitation To Pre-Qualify and To Bid for the sale of lot within the specified sketch plan for ZAMCELCO's Load Center Substation published on March 23, 2005 at Zamboanga Star
"6 Melad"	letter dated May 30, 2005 of General Manager Reinerio R. Ramos (Ramos) to Rhenelou Torres
"7 Melad"	letter dated May 30, 2005 of General Manager Ramos to Ken Rodney J. Plagata
"8 Melad"	letter dated May 30, 2005 of General Manager Ramos to Edgardo M. Atilano
"9 Melad"	1 <sup>st</sup> Indorsement of General Manager Ramos to the Bids and Awards Committee (BAC) dated October 23, 2006
"10 Melad"	Memorandum dated October 27, 2006 of BAC Chairman Melad, and BAC members Wilhelmino P. Banzan (Banzan), Samuel S. Julio (Julio), Santiago G. Acuña (Acuña), and Rosario T. David (David) to General Manager Ramos on the inspection



	and evaluation of lots for Load Center Substation
"11 Melad"	Policy No. 10-4 dated July 11, 1998 on Bidding and Award
"12 Melad"	Board Resolution No. 30-03 dated January 22, 2003
"13 Melad"	Special Order No. GM-11-03 dated November 3, 2006
"14 Melad"	Memorandum dated February 12, 2007 of Engrs. Bernardo W. Luis, Reinfredo R. Sevilla, Francie S. Dela Peña, Michael C. Ramillano, Rey M. Jumangit, and Arnold T. Olegario, Manuel T. Quinday and Efren F. Famindalan to General Manager Ramos on the Load Center Committee Report
"15 Melad"	Memorandum dated March 30, 2007 of BAC Chairman Melad, and BAC members Banzan, Julio, Acuña, and David to General Manager Ramos on the Recommendation for the Acquisition of Lot for Load Center Substation
"16 Melad"	Memorandum dated April 10, 2007 of BAC Chairman Melad, and BAC members Banzan, Julio, Acuña, and David to General Manager Ramos on the Recommendation for the Acquisition of Lot for Load Center Substation
"17 Melad"	Resolution No. 095-07 dated April 3, 2007
"18 Melad"	letter dated June 26, 2007 of Deputy Administrator Pablo Pan III to Board President Luciano O. Arquiza
"19 Melad"	letter dated March 29, 2007 of Jovita K. Yeo to the BAC
"19-A Melad"	Certification dated March 15, 2007 by Elvin G. Smoyer, Sr

Accused Melad claims that the photocopies of Exhibits "6", "8", "10", "11" and "12" were identified in his Judicial Affidavit dated March 22, 2019 but were given different markings as Exhibits "17 Melad", "13 Melad", "5 Melad", "4 Melad" and "3 Melad", respectively. He alleges that the marked copies are in the possession of Atty. Esguerra.<sup>7</sup> The Prosecution was not given

<sup>7</sup> TSN dated April 8, 2019, p.10





a chance to compare the photocopies of Exhibits “17 Melad”, “13 Melad”, “5 Melad”, “4 Melad” and “3 Melad” with the previously marked copies of Exhibits “6”, “8”, “10”, “11” and “12”.

In this regard, the parties are directed to coordinate and appear before the Clerk of Court of the 6<sup>th</sup> Division on August 2, 2019 at 9 o’clock in the morning for the remarking of the said documentary exhibits of accused Melad. Atty. Esguerra is ordered to produce the marked copies of Exhibits “6”, “8”, “10”, “11” and “12” for comparison with the photocopies of Exhibits “17 Melad”, “13 Melad”, “5 Melad”, “4 Melad” and “3 Melad”. Thereafter, the Clerk of Court of the 6<sup>th</sup> Division shall transfer the appropriate markings on the said documentary exhibits after the Prosecution has compared them with the previously marked exhibits.

The markings made on the photocopies of Exhibits “10 Melad” and “15 Melad” shall remain considering the admission made by the Prosecution that they are faithful reproductions of the originals.<sup>8</sup>

The Clerk of Court of the 6<sup>th</sup> Division is directed to make the appropriate markings on the photocopies of Exhibits “1 Melad”, “2 Melad”, “6 Melad”, “7 Melad”, “9 Melad”, “10 Melad”, “11 Melad”, “12 Melad”, “13 Melad”, “14 Melad”, “15 Melad”, “16 Melad”, “18 Melad”, “19 Melad”, and “19-A Melad”.

The markings previously made by Atty. Esguerra on Exhibits “1”, “2”, “3”, “4”, “5”, “7”, and “9” for accused Melad are hereby cancelled.

Party-litigants should be afforded the amplest opportunity to have their cases justly determined, free from the constraints of technicalities. Rules of procedure are mere tools designed to facilitate the attainment of justice.<sup>9</sup> The Court is empowered to suspend their operation, or except a particular case from their operation, when the rigid application thereof tends to frustrate rather promote the ends of justice.<sup>10</sup>

Court litigations are primarily to search for the truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret such truth.<sup>11</sup> The dispensation of justice and vindication of legitimate grievances should not be barred by technicalities.<sup>12</sup>



<sup>8</sup> TSN dated April 3, 2019, p. 12; TSN dated April 8, 2019, p. 11.

<sup>9</sup> *Go v. Tan*, G.R. No. 130330, September 26, 2009.


<sup>10</sup> *Id.*

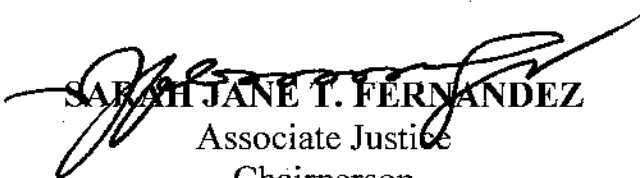
<sup>11</sup> *Id.*

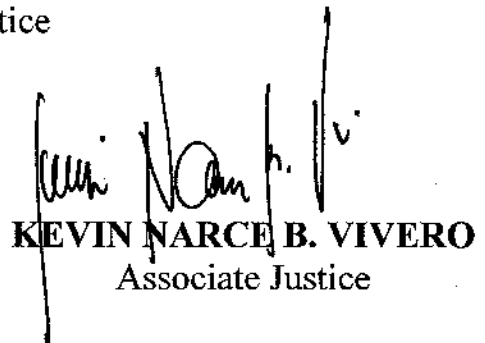
<sup>12</sup> *Id.*

**WHEREFORE**, the Manifestation with Motion dated April 3, 2019 and Motion for Marking of Exhibits dated April 11, 2019 both filed by accused Cesar T. Melad are **GRANTED**.

**SO ORDERED.**

  
**KARL B. MIRANDA**  
Associate Justice

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

  
**KEVIN NARCE B. VIVERO**  
Associate Justice