



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

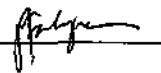
**PEOPLE OF THE PHILIPPINES, SB-18-CRM-0498**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

*Present*

- versus -

**PROCESO J. ALCALA, ET AL.** **FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**VIVERO, J.**  
Accused.

*Promulgated:*

July 17, 2019 

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**RESOLUTION**

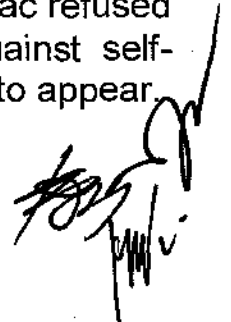
**FERNANDEZ, SJ, J.**

In the Subpoena Duces Tecum/Ad Testificandum dated June 7, 2019,<sup>1</sup> the following persons were commanded to appear before this Court on June 19, 2019 to testify in the instant case:

1. **Arnulfo F. Mañalac – Chairman/President**
2. **Marian Martina Christiel Miyel E. Mañalac – Corporate Secretary**
3. **Marian Louise Mayin E. Mañalac – Corporate Financial Officer**
4. **Eleanor E. Mañalac – Auditor**  
**All of: ISA AKONG MAGSASAKA FOUNDATION INC.**  
**Agrodeco Compound, Ibabay Degey, Lucena City**

During the hearing on June 19, 2019, accused Mañalac refused to testify on the ground of the violation of his right against self-incrimination. The rest of the above-named persons failed to appear.

<sup>1</sup> Record, Vol. 2, p. 482



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In his *Manifestation/Motion*,<sup>2</sup> accused Laureano Arnulfo F. Mañalac manifests that per the latest General Information Sheet (GIS) of Isa Akong Magsasaka Foundation, Inc. (IAMFI), the above-named persons are not related to said corporation. He further prays for the quashal of the Subpoena against him on the following grounds:

1. There is no basis for presenting the named persons as witnesses against him.
2. His right against self-incrimination will be violated.

In their *Manifestation/Motion With Apology*,<sup>3</sup> movants Marian Martina Christiel Miyel E. Mañalac, Marian Louise Mayin E. Mañalac and Eleanor E. Mañalac explained that they failed to appear during said hearing because of the medical condition of movant Marian Louise Mayin E. Mañalac.

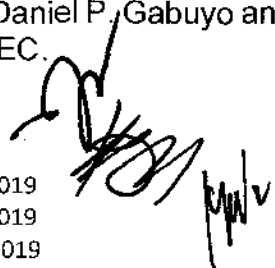
In its *Manifestation (In re: (1) Manifestation/Motion with Apology (2) Manifestation/Motion)*,<sup>4</sup> the prosecution manifested:

1. Although movant Marian Louise Mayin E. Mañalac's failure to appear may be justified, considering her medical condition, movant Marian Martina Christiel Miyel E. Mañalac and Eleanor E. Mañalac's failure to do so had no similar justification, considering that movant Marian Louise Mayin E. Mañalac's kidney transplant was done back in June 6, 2015.
2. The fact that said movants were able to attend the board meeting of IAMFI shortly after said kidney transplant, specifically, on July 18, 2015, negates their flimsy excuse that they failed to appear during the hearing on June 19, 2019 due to movant Marian Louise Mayin E. Mañalac's medical condition.
3. Accused Mañalac's statement, "per the latest General Information Sheet of Isa Akong Magsasaka Foundation, Inc. on file with SEC, the afore-named persons are not related to Isa Akong Magsasaka Foundation, Inc.," is a clear attempt to deliberately mislead the Court.
4. The persons subpoenaed were based on the compliance dated June 4, 2019 of Atty. Daniel P. Gabuyo and the copy of the latest GIS on file with the SEC.

<sup>2</sup> Dated June 20, 2019 and filed on July 1, 2019

<sup>3</sup> Dated June 20, 2019 and filed on July 1, 2019

<sup>4</sup> Dated July 11, 2019 and filed on July 12, 2019



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5. Accused Mañalac was being compelled by subpoena to produce the documents and testify in court, not as an accused, but as the Chairman/President of IAMFI.

THE COURT'S RULING

Rule 21, Sec. 4 of the Rules of Court provides for the grounds for quashing a subpoena. To wit:

**Sec. 4. Quashing a subpoena.** – The court may quash a subpoena *duces tecum* upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

The court may quash a subpoena *ad testificandum* on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by these Rules were not tendered when the subpoena was served.

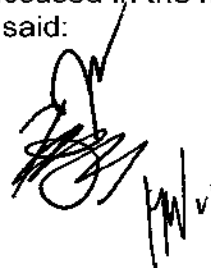
Accused Mañalac's claim that there is no basis for presenting the persons named in the Subpoena—including himself—as witnesses, is not among the grounds for quashing a subpoena. However, his contention that the Subpoena will violate his right against self-incrimination is well-taken.

In *Rosete v. Lim*,<sup>5</sup> citing *People v. Ayson*,<sup>6</sup> the Supreme Court differentiated the extent of the right against self-incrimination of an ordinary witness from that of an accused. It was held that an ordinary witness may claim such right only when the specific question, incriminatory in character, is actually put to the witness. An accused in a criminal case, on the other hand, may altogether refuse to take the stand as a witness, and cannot be compelled to do so even by subpoena. *viz.:*

As to an accused in a criminal case, it is settled that he can refuse outright to take the stand as a witness. In *People v. Ayson*, this Court clarified the rights of an accused in the matter of giving testimony or refusing to do so. We said:

<sup>5</sup> G.R. No. 136051, June 8, 2006

<sup>6</sup> G.R. No. 85215, July 7, 1989



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An accused "occupies a different tier of protection from an ordinary witness." Under the Rules of Court, in all criminal prosecutions the defendant is entitled among others—

- 1) to be exempt from being a witness against himself; and
- 2) to testify as witness in his own behalf; but if he offers himself as a witness he may be cross-examined as any other witness; however, his neglect or refusal to be a witness shall not in any manner prejudice or be used against him.

The right of the defendant in a criminal case "to be exempt from being a witness against himself" signifies that he cannot be compelled to testify or produce evidence in the criminal case in which he is the accused, or one of the accused. He cannot be compelled to do so even by subpoena or other process or order of the Court. He cannot be required to be a witness either for the prosecution, or for a co-accused, or even for himself. In other words – unlike an ordinary witness (or a party in a civil action) who may be compelled to testify by subpoena, having only the right to refuse to answer a particular incriminatory question at the time it is put to him – the defendant in a criminal action can refuse to testify altogether. He can refuse to take the witness stand, be sworn, answer any question.  
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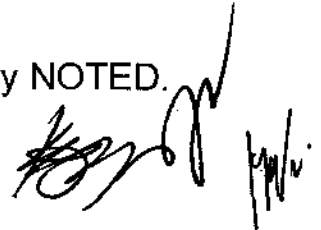
(underscoring supplied)

It is clear that accused Mañalac may not be compelled by subpoena to testify or produce evidence in the present case, notwithstanding the fact that he is the President of IAMFI.

Movants Marian Martina Christiel Miyel E. Mañalac, Marian Louise Mayin E. Mañalac and Eleanor E. Mañalac are reminded that persons who fail to obey a subpoena without adequate cause shall be held in contempt of court.<sup>7</sup>

**WHEREFORE**, the Court rules as follows:

1. The *Manifestation/Motion With Apology* filed by movants Marian Martina Christiel Miyel E. Mañalac, Marian Louise Mayin E. Mañalac and Eleanor E. Mañalac is hereby NOTED.
2. The prosecution's *Manifestation* is hereby NOTED.



<sup>7</sup> Rules of Court. Rule 21, Sec. 9. Contempt. – Failure by any person without adequate cause to obey a subpoena served upon him shall be deemed a contempt of the court from which the subpoena is issued. If the subpoena was not issued by a court, the disobedience thereto shall be punished in accordance with the applicable law or Rule.

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3. Accused Mañalac's Motion is hereby GRANTED. As prayed for, the Subpoena dated June 7, 2019 is QUASHED as to accused Laureano Arnulfo F. Mañalac only.

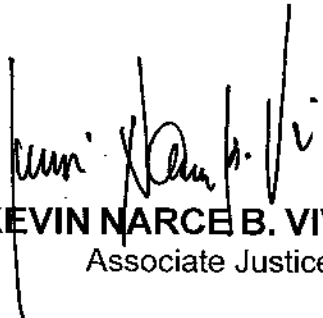
Furnish movants Marian Martina Christiel Miyel E. Mañalac, Marian Louise Mayin E. Mañalac and Eleanor E. Mañalac a copy of this Resolution.

SO ORDERED.

  
SARAH JANE T. FERNANDEZ  
Associate Justice  
Chairperson

**We Concur:**

  
KARL B. MIRANDA  
Associate Justice

  
KEVIN NARCE B. VIVERO  
Associate Justice