



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-15-CRM-0135**
Plaintiff, For: Violation of Section 3(e)
of R.A. No. 3019

SB-15-CRM-0136
For: Falsification

Present

- versus -

ISAIAS B. UBANA II, ET AL.,
Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

AUG 27 2019

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RESOLUTION

FERNANDEZ, SJ, J.

In its *Motion for Leave of Court to Amend the Informations*,¹ the prosecution prays for leave of court to amend the Information in the present cases. It argues:

1. In SB-15-CRM-0135 and 0136, the Information indicates accused Nieva's name as "BERNADETTE EUDELA NIEVA." In SB-15-CRM-0135, the date of the alleged commission of the offense is "24 NOVEMBER 2007."
2. During the pre-trial conference, accused Nieva stipulated that she is the same person charged in the Informations.
3. Accused Ubana and Nieva presented and offered certain documents. The Inspection and Acceptance Report (IAR) and the Inventory Custodian Slip (ICS) both dated "24 November

¹ Dated July 30, 2019; Record, Vol. 7, pp. 46-56

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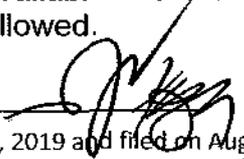
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2008." Furthermore, accused Nieva's appointment letter shows her name as "MA. BERNADETTE E. NIEVA" / "MA. BERNADETTE S. EUDELA."

4. The amendment of the Information in SB-15-CRM-0135 and 0136 by adding "MA." To reflect accused Nieva's full name is a mere formal amendment.
5. Similarly, amending the Information in SB-15-CRM-0135 by changing the last digit of the year of the alleged commission of the offense so that it would read as "2008" instead of "2007" is a mere formal amendment.
6. The Information in SB-15-CRM-0135 and the evidence all pertain to the same transaction where the accused allegedly committed the offense charged on November 24, 2008.
7. It is clear that the indication of "2007" in the Information in SB-15-CRM-0135 is a mere clerical error because the mistake is limited only to the last digit of the year of the alleged commission of the offense.
8. It is unlikely that the rights of the accused will be prejudiced by the amendments prayed for. The evidence pertains to the transaction which occurred on November 24, 2008. The accused even adopted several of the prosecution's exhibits which all refer to a transaction that occurred in November 2008.
9. The Informations may still be amended because the presentation of rebuttal evidence is still part of the trial stage.

In his *Comment/Objection to the Motion for Leave of Court to Amend the Informations (Dated July 30, 2019)*,² accused Leonardo V. Revuelta counters:

1. The prosecution moved for leave to amend the Informations only after the lapse of more than three (3) years from the arraignment of the accused.
2. Sec. 14, Rule 110 of the Rules of Court applies, not Sections 4 and 5, Rule 10.
3. The accused will be prejudiced by the amendment sought. No transaction occurred in 2007. Such defense will no longer be available if the amendment by changing the year to 2008 is allowed.


² Dated August 7, 2019 and filed on August 8, 2019


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- 4. The prosecution's formal offer repeatedly stated that the purpose of the evidence is to prove the material allegations in the Information, including the date (2007).

During the hearing on August 9, 2019, accused Isaias B. Ubana II and Bernadette E. Nieva manifested that they are adopting accused Revuelta's *Comment/Objection* to the prosecution's Motion.

THE COURT'S RULING

The prosecution's Motion is impressed with merit, and should be granted.

Sec. 14, Rule 110 of the Rules of Court provides for the amendment or substitution of an Information. To wit:

Sec. 14. Amendment or substitution. – A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

x x x

(underscoring supplied)

As for the amendment of the Informations to reflect the full name of accused Nieva, there is no doubt that the insertion of "MA." to reflect accused Nieva's full name is a mere formal amendment. The ruling in *People v. Padica*,³ is on point. To wit:

The subsequent amendment to insert in the information Leon Marajas, Jr.'s real name involved merely a matter of form as it did not, in any way, deprive appellant of a fair opportunity to present his case. Moreover, the amendment neither affected nor altered the nature of the offense charged since the basic theory of the prosecution was not changed nor did it introduce new and material facts. Such an amendment is explicitly allowed under the second paragraph of Section 7,⁴ in relation to Section 14, Rule 110 of the

³ G.R. No. 102645, April 7, 1993

⁴ **Sec. 7. Name of the accused.** – The complaint or information must state the name and surname of the accused or any appellation or nickname by which he has been or is known. If his name cannot be ascertained, he must be described under a fictitious name with a statement that his true name is unknown.

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Rules of Court, the pertinent portion of which provides that x x x. At any rate, whatever irregularity may have attended the inclusion of appellant's name as an accused in the amended information has been waived by his subsequent appearance and entry of plea at his arraignment under said amendatory information.

(underscoring supplied)

On the other hand, in *People v. Delfin*,⁵ the Supreme Court held that as a rule, the allegation of the wrong date in the Information would not be an error fatal to the prosecution. To wit:

In crimes where the date of commission is not a material element, like murder, it is not necessary to allege such date with absolute specificity or certainty in the information. The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated:

x x x

Sec. 11. Date of commission of the offense. – It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.

Since the date of commission of the offense is not required with exactitude, the allegation in an information of a date of commission different from the one eventually established during the trial would not, as a rule, be considered as an error fatal to the prosecution. In such cases, the erroneous allegation in the information is just deemed supplanted by the evidence presented during the trial or may even be corrected by a formal amendment of the information.

Indeed, in *Delfin*, the Supreme Court held that as an exception, a variance in the date of commission of the offense as alleged in the Information and as established in evidence becomes fatal when such discrepancy is so great that it induces the perception that the Information and the evidence are no longer pertaining to one and the same offense.

The Court finds that such exception does not apply in the case at bar. It appears that the indication of the date "24 November 2007"

If the true name of the accused is thereafter disclosed by him or appears in some other manner to the court, such true name shall be inserted in the complaint or information and record.

⁵ G.R. No. 201572, July 9, 2014

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is a mere clerical error, and that despite the discrepancy in the dates as alleged, and as shown by the evidence, there is no doubt that both pertain to the same offense. A cursory examination of the Information in SB-15-CRM-0135 would show that the documents being referred to are dated "24 November 2008." Leaving the date in the Information as it is would have the absurd effect of charging the accused with committing the offense in 2007 by performing acts in 2008.

It appearing that the amendment of the Informations by inserting "MA." in accused Nieva's name (SB-15-CRM-0135 and 0136) and changing the year of the alleged commission of the offense from "2007" to "2008" (SB-15-CRM-0135) will not alter the prosecution's basic theory, no prejudice to the rights of the accused will be caused by such amendments.

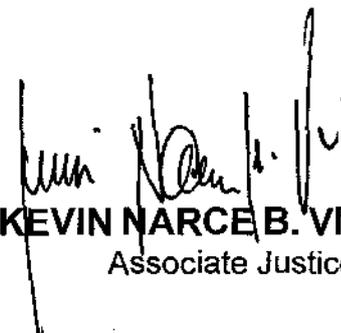
WHEREFORE, the prosecution's Motion is hereby GRANTED. Let the Information in SB-15-CRM-0135 and 0136 be amended by inserting "MA." in the name of accused Nieva. Her name in the Informations should now read "MA. BERNADETTE EUDELA NIEVA." Let the Information in SB-15-CRM-0135 be amended by correcting the year indicated, from "2007" to "2008." The date should now read "24 November 2008."

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice