



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

MINUTES of the proceedings held on **August 13, 2019**

PRESENT:

HON. SARAH JANE T. FERNANDEZ.....Associate Justice
HON. MICHAEL FREDERICK L. MUSNGI*.....Associate Justice
HON. KEVIN NARCE B. VIVERO.....Associate Justice

The following resolution was adopted:

SB-16-CRM-0271 –

PEOPLE vs. ALAN L. PURISIMA, ET AL.

This resolves the following:

1. *Motion for Reconsideration*¹ filed by accused Napoleon R. Estilles;
2. *Motion for Reconsideration (Re: Minute Resolution dated 13 June 2019)*² filed by accused Mario G. Juan, Enrique S. Valerio, Lorna Perena and Juliana C. Pasia (henceforth referred to as accused Juan, et al.);
3. *Partial Motion for Reconsideration on the Minute Resolution Dated 13 June 2019 (for Accused Gil C. Meneses)*³ filed by accused Gil C. Meneses;
4. Prosecution's *Consolidated Opposition (Re: Motion for Reconsideration of accused Estilles, Meneses and Juan, et al.)*⁴ and,
5. *Reply (to Consolidated Opposition dated 24 July 2019 (for Accused Gil C. Meneses)*⁵ [sic] filed by accused Meneses.

First, as pointed out by the prosecution, the respective Motions for Reconsideration of accused Juan, et al. and Meneses were filed beyond the period for filing a motion for reconsideration.

* In view of the inhibition of J. Miranda (Per A.O. No. 136-2016 dated May 16, 2016)

¹ Dated July 9, 2019; Record, Vol. 17, pp. 288-290

² Dated July 15, 2019; Record, Vol. 17, pp. 305-317

³ Dated July 18, 2019; Record, Vol. 17, pp. 320-330

⁴ Dated July 24, 2019 and filed on July 26, 2019

⁵ Dated and filed on August 5, 2019

Under the *Revised Guidelines for Continuous Trial of Criminal Cases (Revised Guidelines)*,⁶ a motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution.⁷ Hence, accused Juan, et al. only had until July 9, 2019, and accused Meneses, until July 10, 2019, within which to file their respective Motions for Reconsideration.

Accused Meneses' reliance on Rule 37 of the Rules of Court is misplaced because said Rule applies to motions for reconsideration of judgments or final orders in civil cases. Accused Juan, et al.'s reliance on Rule X, Sec. 1⁸ of the *2018 Revised Internal Rules of the Sandiganbayan* is similarly misplaced. Said provision also applies only to motions for reconsideration of a decision or final order. In *Marcelo v. De Guzman*,⁹ the Supreme Court explained the distinction between final and interlocutory orders, thus:

A final order is defined as one which disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined; on the other hand an order is interlocutory if it does not dispose of a case completely, but leaves something more to be done upon its merits. Tested against this criterion, the search warrant issued in Criminal Case No. 558 is indisputably of interlocutory character because it leaves something more to be done in the said criminal case, i.e., the determination of the guilt of the accused therein.

The denial of the respective motions for leave of court to file demurrer to evidence of the accused did not in any way dispose of the present case. On the contrary, after the denial of such motions for leave, the Court must proceed to the trial for the presentation of the evidence of the defense, and eventually, determine the guilt of the accused. The assailed Resolution¹⁰ is, therefore, interlocutory, **not** final, in character.

Next, as pointed out by the prosecution, the respective Motions for Reconsideration of accused Estilles and Meneses do not contain a notice of hearing. As a general rule, a motion without the required notice of hearing is a worthless piece of paper which the clerk of court has no right to receive, and which the court has no authority to act upon. However, this rule is not absolute. In *Cabrera v. Ng*,¹¹ it was held:

Nevertheless, the three-day notice requirement is not a hard and fast rule. When the adverse party had been afforded the opportunity to be heard, and has been indeed heard through the pleadings filed in opposition to the

⁶ A.M. No. 15-06-10-SC

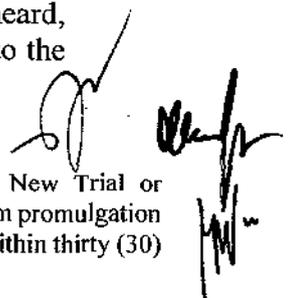
⁷ III. 2. (c)

⁸ **Sec. 1. Period to File Motion for New Trial or Reconsideration.** – A Motion for New Trial or Reconsideration of a decision or final order shall be filed within fifteen (15) calendar days from promulgation of the judgment or from notice of the final order or judgment. The motion shall be decided within thirty (30) calendar days from the date of submission for resolution. (underscoring supplied)

⁹ G.R. No. L-29077; June 29, 1982

¹⁰ Dated June 13, 2019; Record, Vol. 17, pp. 242-243

¹¹ G.R. No. 201601, March 12, 2014



motion, the purpose behind the three-day notice requirement is deemed realized. In such case, the requirements of procedural due process are substantially complied with. Thus, in *Preysler, Jr. v. Manila Southcoast Development Corporation*, the Court ruled that:

x x x

Likewise, in *Jehan Shipping Corporation v. National Food Authority*, the Court held that despite the lack of notice of hearing in a Motion for Reconsideration, there was substantial compliance with the requirements of due process where the adverse party actually had the opportunity to be heard and had filed pleadings in opposition to the motion. The Court held:

This Court had indeed held time and again, that under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is considered *pro forma* and does not affect the reglementary period for the appeal or the filing of the requisite pleading.

As an integral component of the procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution of the court. Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.

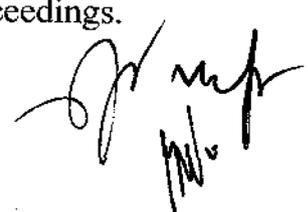
The test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based. x x x

Here, the prosecution was given the opportunity to oppose, and it indeed filed its opposition to, the respective Motions for Reconsideration of accused Estilles, Juan, et al., and Meneses. Thus, the purpose behind the three-day notice requirement is deemed realized, and the relaxation of the Rules is warranted.

Technicalities aside, this Court, nonetheless, resolves to **DENY** the respective Motions for Reconsideration of accused Estilles, Juan, et al., and Meneses. The arguments in their Motions for Reconsideration are merely substantial reiterations of those in their motions for leave of court to file demurrer to evidence. Such arguments had already been considered when this Court denied the accused' respective motions for leave of court to file demurrer to evidence.

Finally, as the Supreme Court held in *Bernardo v. Court of Appeals*,¹² the Court is given the power to grant leave to the accused to file a demurrer to determine whether the accused, in filing a demurrer, is merely stalling the proceedings. When this Court denied the respective motions for leave of court to file demurrer to evidence of the accused, it determined that granting them leave to file their respective demurrers will merely delay the proceedings.

¹² G.R. No. 119010, September 5, 1997



This Court reiterates its ruling in the assailed Resolution. As provided in Rule 119, Sec. 23 of the Rules of Court,¹³ the accused may adduce evidence in their defense, or in the alternative, they may file their respective demurrers to evidence **without** leave of court.

Accused Estilles, Juan, et al., and Meneses are given five (5) days from receipt of this Resolution to file their respective manifestations, by personal service or through courier, to inform this Court whether they are submitting their respective demurrers to evidence without leave of court. The hearing dates set on August 19, 20 and 27, 2019 for the presentation of the accused' evidence are maintained.

The Court **NOTES** the following:

1. *Manifestation/Compliance*¹⁴ and *Reply*¹⁵ filed by accused Meneses;
2. *Compliance*¹⁶ filed by accused Alan L. Purisima; and,
3. *Compliance*¹⁷ filed by accused Salud R. Bautista.

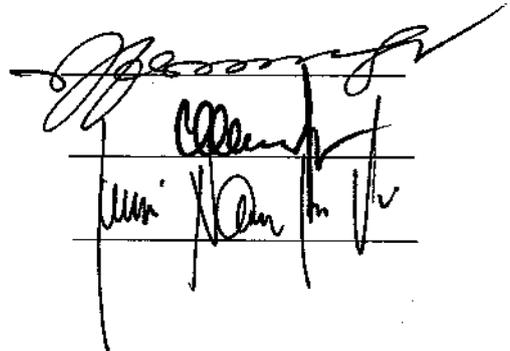
SO ORDERED.

APPROVED:

FERNANDEZ, SJ, J., *Chairperson*

MUSNGI, J.

VIVERO, J.



¹³ **Sec. 23. Demurrer to evidence.** – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. x x x

¹⁴ Dated July 9, 2019; Record, Vol. 17, pp. 283-285

¹⁵ **2018 Revised Internal Rules of the Sandiganbayan. Rule VII, Sec. 4. Period to comment and to resolve.** – x x x Reply and memorandum shall not be allowed.

¹⁶ Dated July 9, 2019; Record, Vol. 17, pp. 286-287

¹⁷ Dated July 9, 2019; Record, Vol. 17, pp. 302-303