



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

JOSELITO A. OJEDA, ET AL.,
Accused.

CRIM. CASE NO. SB-19-
CRM-0047

For: Violation of Section 3(e)
of R. A. No. 3019

Present:

QUIROZ, J., Chairperson
CRUZ, J.
JACINTO, J.

Promulgated on:

AUG 14 2019

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RESOLUTION

CRUZ, J.

For resolution is the *Ad Cautelam* Motion for Reconsideration (of the Resolution dated 19 June 2019)¹ dated 8 July 2019 filed by accused-movants Joselito A. Ojeda, Delio H. De Leon, Marissa P. Cortez, Noel M. Eroa and Marina L. Palillo ("Ojeda, et al.") and the prosecution's Comment/Opposition (Re: Accused's *Ad Cautelam* Motion for Reconsideration dated 8 July 2019)² dated 16 July 2019.

¹ Records, pp. 238-242.

² *Id.*, pp. 246-252.

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In their motion, Ojeda, et al. argue that the jurisdiction of a court to try a criminal case is determined at the time the action is instituted and not at the time the offense is committed. They contend that when the Information was filed with the Court on 29 March 2019, R.A. No. 10660 that took effect on 5 May 2015, that confers jurisdiction upon the Regional Trial Court (RTC), already applies to their case.

They further argue that even if the time of the commission of the offense is considered to determine the jurisdiction of the court, still the RTC has jurisdiction over the present case as provided in R.A. No. 10660. They point out that the Information alleges that they committed a violation of Section 3(e) of R.A. No. 3019 not just "in March 2013" but also "sometime prior or subsequent thereto," thus the alleged time of commission of offense covers even up to and after the effectivity of R.A. No. 10660 on 5 May 2015.

They maintain that no less than the Office of the Ombudsman considers the RTC as the proper forum to try this case, as shown by its 6 February 2018 Resolution. They claim that, to date, such Resolution has yet to be reversed.

They contend that to take the view that the RTC has jurisdiction over the present case is more in keeping with the intention of the legislature in enacting R.A. No. 10660, aside from being more favorable to the accused.

The prosecution argues that the motion for reconsideration of Ojeda, et al. raises no new substantial arguments. It maintains that all allegations therein are mere reiterations or rehash of the arguments that they raised in their earlier *Ad Cautelam* Motion (to Quash Information, Hold in Abeyance the Issuance of Warrants of Arrest and Defer Proceedings) that the Court already clearly discussed and passed upon in the assailed Resolution.

It points out that Section 5 of R.A. No. 10660 clearly provides that the jurisdiction of the RTC shall apply to cases arising from offenses committed after the effectivity of the said law, which is not applicable in this case.

As to the date of commission of the offense alleged in the Information, the prosecution maintains that under Section 11, Rule 110 of the Rules of Court, the information only needs to state the approximate date of its commission; thus, the subject Information alleges that the offense was committed "in March 2013, or sometime prior or subsequent thereto." It finds preposterous the claim of Ojeda



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et al. that the words "subsequent thereto" covers the period even until 2015.

The motion lacks merit.

Ojeda, et al. fail to present any new and substantial arguments that will convince the Court to reconsider and set aside its Resolution dated 19 June 2019. They still insist that the RTC has jurisdiction over their case, invoking the *proviso*³ in Section 4 of Presidential Decree (P.D.) No. 1606, as further amended by R.A. No. 10660, yet overlooking the provision in Section 5 of R.A. No. 10660 that clearly states that Section 2 thereof, amending Section 4 of P.D. No. 1606 on jurisdiction, "**shall apply to cases arising from offenses committed after the effectivity**" of R.A. No. 10660. Surely, an offense committed "in March 2013, or sometime prior or subsequent thereto" is not covered by the jurisdiction of the RTC but by this Court.

They engage in a play of semantics in stretching the term "subsequent thereto" to include acts committed after 5 May 2015, the date of effectivity of R.A. No. 10660, in spite of the date of commission in "March 2013" as alleged in the Information. In this regard, Section 11, Rule 11 of the Rules of Court provides:

Section 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.** (Emphasis supplied)

In *People v. Roque*,⁴ the Supreme Court held:

The requirement that the date of the commission of the crime be sufficiently definite or certain is in consonance with the constitutional demand for due process and to fully apprise the accused of the charge in order to allow him to amply prepare for his defense. **The time averred in the Information would only need, unless the precise time of commission of the offense is an essential element thereof, to meet two criteria - 1) it is as near to the actual date of commission of the offense as the complaint or information of the prosecuting officer will permit;**

³ Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

⁴ G.R. Nos. 130659 & 144002, 14 August 2002.

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and 2) the time ultimately proved should be as so alleged in
the complaint or information.

Any date after 5 May 2015 will definitely not qualify as “a date
as near as possible to the actual date” of the commission of the
offense charged as alleged in the Information, *i.e.*, in March 2013. It
is indeed unreasonable and absurd to conclude otherwise.

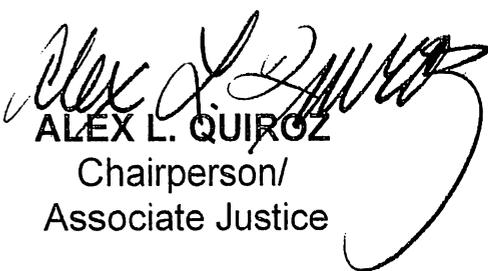
Finding no significant arguments to warrant the reconsideration
of its 19 June 2019 Resolution, the Court has to deny the motion for
reconsideration.

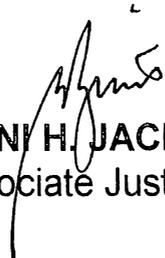
WHEREFORE, premises considered, the Court **DENIES**
accused-movants Joselito A. Ojeda, Delio H. De Leon, Marissa P.
Cortez, Noel M. Eroa and Marina L. Palillo’s *Ad Cautelam* Motion for
Reconsideration (of the Resolution dated 19 June 2019).

SO ORDERED.


REYNALDO P. CRUZ
Associate Justice

We Concur:


ALEX L. QUIROZ
Chairperson/
Associate Justice


BAYANI H. JACINTO
Associate Justice