



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
QUEZON CITY

**FIFTH DIVISION**

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

**CRIMINAL CASE NO.**  
**SB-16-CRM-1079**

FOR: Violation of Article 177 of the  
Revised Penal Code

**-versus-**

**NELSON GAMALIEL F. GARCIA,**  
**ET AL.,**

**Accused.**

**Present:**

**Lagos, J., Chairperson,**  
**Mendoza-Arcega, and**  
**Corpus-Mañalac, JJ.**

*Promulgated:*

*October 25, 2019* *Jch*

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**RESOLUTION**

***MENDOZA-ARCEGA, J.***

For resolution is the *Motion to Re-open Proceedings and to Set Case for Further Hearing with Motion to Defer and Extend the Date for Submission of Accused's Formal Offer of Evidence*<sup>1</sup> filed by accused Nelson Gamaliel F. Garcia (hereinafter accused-movant) dated 23 September 2019, and the Prosecution's *Comment and Opposition*<sup>2</sup> dated 9 October 2019.

The accused-movant manifests that his counsel observed that the documentary exhibits marked during the Pre-Trial Conference are mere photocopies and that said counsel failed to present the records officer of the Municipality of Dumanjug, Cebu and the Civil Service Commission during the course of the trial. Now, he moves for the re-opening of the proceedings of this case.

<sup>1</sup> Record, Volume 3, pages 355 to 359.

<sup>2</sup> Record, Volume 3, pages 391 to 394.

In its Comment/Opposition, the prosecution raised the fact that most of the documents, on the list which are requested to be identified and authenticated, are common exhibits with the other accused and are already formally offered. Additionally, since the time these documents were provisionally marked, up to the time they were supposed to be formally offered, the accused failed to secure the certified copies of said documents, and thus the defense counsel failed to observe due diligence.

After a judicious perusal of the issue, and the respective arguments of the parties, the Court resolves to grant the present motion.

On 10 September 2019, through the Court's order, herein accused-movant was given fifteen (15) days to file his formal offer of evidence. In accordance with such order, the accused-movant filed the present motion on 24 September 2019, fourteen (14) days from the said Court order. With the foregoing, we are inclined to say that the present motion to re-open proceedings was properly and timely filed by the accused-movant. To further emphasize the timeliness of his pleading, Section 24 of Rule 119 of the Rules on Criminal Procedure provides:

Sec. 24. Reopening – At any time before finality of the judgment of conviction, the judge may, *motu proprio* or upon motion, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it.

The paramount consideration of the foregoing procedural remedy is to avoid miscarriage of justice. The Supreme Court emphasized this principle in the case of *Cabarles vs. Hon. Judge Maceda and People*<sup>3</sup>:

“Generally, after the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only. However, the court, for good reasons, in the furtherance of justice, may allow new evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears. A motion to reopen may thus properly be presented only after either or both parties had formally offered and closed their evidence, but before judgment is rendered, and even after promulgation but before finality of judgment and the only controlling guideline governing a motion to reopen is the paramount interest of justice. This remedy of reopening a case was meant to prevent a miscarriage of justice.”

For the Court, it will be an injustice on the part of the accused if he will be deprived of the chance to present witnesses to authenticate the documents

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<sup>3</sup> G.R. No. 161330, February 20, 2007

provisionally marked during the Pre-trial Conference. No less than his liberty is at stake in this case. Higher interest of justice and equity demand that the accused-movant be not penalized based on the negligence or mistake of his counsel.

We therefore allow the accused-movant a day in court to authenticate his documentary exhibits.

**WHEREFORE**, accused NELSON GAMALIEL F. GARCIA's motion is hereby **GRANTED**. Let the proceedings of this case be **REOPENED** for trial.


Accordingly, the Division Clerk of Court is hereby ordered to issue a subpoena *ad testificandum* and subpoena *duces tecum* to the Records Officers concerned or the duly-authorized representatives of the Records Office of the Municipality of Dumanjug, Cebu, and the Civil Service Commission-Regional Office No. 7, and thereby set the case for hearing.

**SO ORDERED.**



**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

**WE CONCUR:**



**RAFAEL R. LAGOS**  
Chairperson  
Associate Justice



**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice