



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

MINUTES of the proceedings held on October 16, 2019

PRESENT:

HON. SARAH JANE T. FERNANDEZ.....Associate Justice
HON. KARL B. MIRANDA.....Associate Justice
HON. KEVIN NARCE B. VIVERO.....Associate Justice

The following resolution was adopted:

SB-17-CRM-1407 and 1408 –

PEOPLE vs. VICENTE S. PARAGAS, ET AL.

This resolves the *Motion for Reconsideration (to the Resolution dated September 2, 2019)*¹ filed by accused Wilfredo M. Bautista, Gerry C. Mamigo and Rowena C. Manila-Tercero; and the prosecution's *Comment/Opposition [Re: Motion For Reconsideration of Accused Bautista, Mamigo and Manila-Tercero to the Resolution dated September 2, 2019]*.²

Said accused argue that the Court, in the Resolution dated September 2, 2019, erroneously admitted in evidence Exhibits K, HH and HH-1 because the documents were signed and executed by Arthur B. Serna, who was not presented as a witness by the prosecution.

The prosecution, in its *Comment/Opposition*, explained that Arthur B. Serna was not presented to identify and authenticate said exhibits because he passed away sometime in December 2018. However, the prosecution presented as witness Atty. Emilio Vidad, the leader of the Investigating Team. He identified said documents and Serna's signature therein.

The Court resolves to ***DENY*** the *Motion for Reconsideration* of accused Bautista, Mamigo and Manila-Tercero.

Said accused are mistaken in their claim that the presentation of Arthur B. Serna as witness is indispensable. Sec. 20, Rule 132 of the Rules of Court, cited by said accused, reads:

¹ Dated and filed on September 26, 2019

² Dated and filed on October 7, 2019

Sec. 20. Proof of private document. – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

For purposes of identifying and authenticating the assailed exhibits, it is not necessary to present the person who executed the documents as witness. It is sufficient to present a witness who saw the document executed or written; or who could prove the genuineness of the signature or handwriting of the maker.

Here, the prosecution presented Atty. Emilio D. Vidad, the Team Leader of the Investigating Team—of which Arthur B. Serna was a member—that conducted an investigation on the alleged anomalies in the payment and conduct of perimeter survey of the Pola Watershed located in Oriental Mindoro. He identified and authenticated said exhibits in his *Judicial Affidavit* dated February 28, 2019.

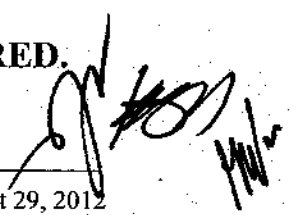
At any rate, as pointed out by the prosecution, in *Notarte v. Notarte*,³ the Supreme Court held that in case of doubt as to the relevance, competence, or admissibility of exhibits offered by a party, it is safer to be liberal, and to admit the same, unless such exhibits are plainly irrelevant, immaterial or incompetent. To wit:

Even assuming that the MTC had reservations about the relevancy of some exhibits offered by the respondent, still, it should have admitted the same subject to judicial evaluation as to their probative value. In connection with evidence which may appear to be of doubtful relevancy, incompetency, or admissibility, this Court has held that:

It is the safest policy to be liberal, not rejecting them on doubtful or technical grounds, but admitting them unless plainly irrelevant, immaterial or incompetent, for the reason that their rejection places them beyond the consideration of the court, if they are thereafter found relevant or competent; on the other hand, their admission, if they turn out later to be irrelevant or incompetent, can easily be remedied by completely discarding them or ignoring them.

Although this Court admitted the questioned exhibits into evidence, it has yet to determine the probative value of the same. If said exhibits later turn out to be irrelevant or incompetent, this Court will merely disregard them in resolving the present cases.

SO ORDERED.

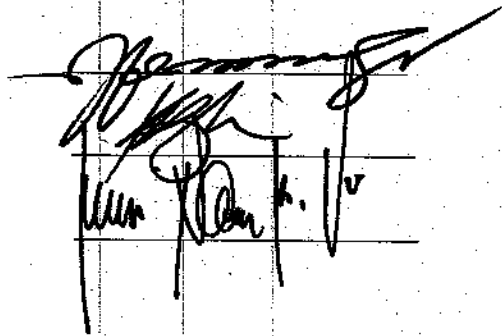

³ G.R. No. 180614, August 29, 2012

APPROVED:

FERNANDEZ, SJ, J., *Chairperson*

MIRANDA, J.

VIVERO, J.



Handwritten signatures of the three individuals listed in the 'APPROVED' section, written over horizontal lines. The signatures are in black ink and appear to be cursive or semi-cursive.