



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

SB-22-AR-0016

**For: Violation of Section 65 (a)
(4), Republic Act No.
9184**

JOSE TIANELA y TORRES,
Accused.

X-----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

SB-22-AR-0017

**For: Violation of Section 3 (e),
Republic Act No. 3019**

JOSE TIANELA y TORRES,
Accused.

X-----X

Present:

*HERRERA, J., Chairperson
CALDONA, J. and
MALABAGUIO, J.*

Promulgated:

March 27, 2024

X-----X

RESOLUTION

CALDONA, J.:

After the promulgation of the Decision in these cases on
November 20, 2023, the appellant, Jose Torres Tianela, through

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counsel, timely filed a Motion for Reconsideration on December 13, 2023, which elicited a Comment from the prosecution dated January 15, 2024.

Appellant reiterates that he did not commit splitting of contracts as penalized under Section 65 (a) (4) of Republic Act (R.A.) No. 9184, otherwise known as the Government Procurement Reform Act, because there was no contract for him to split in the first place. The procurement project funded by the budget allocation in these cases should not be considered a contract within the meaning of the law because according to him, Section 65 of the Act which is a penal provision, should be construed *strictissimi juris* in his favor as an accused. Additionally, he pleads the Court to reconsider the penalty imposed against him of six (6) years and one (1) day, as minimum, to eight (8) years and one (1) day, as maximum, for being too severe.

The prosecution maintained otherwise in its comment. Alluding to this Court's decision, it stressed that the offense of splitting of contracts under Section 65 (a) (4) of R. A. No. 9184, for which appellant was convicted, should not be confined to splitting of perfected contracts. The prosecution pointed out that splitting of contracts, as an offense, could also refer to dividing an approved budget for a particular contract in order to fall within the threshold amount for shopping or to become small value procurement to avoid bidding process. Likewise, when the project was implemented by administration after splitting the budget, it did not redound to the benefit of the government contrary to the assertion of the appellant because the same remained incomplete.

Under Rule 121, Section 3 of the Rules on Criminal Procedure, courts shall grant reconsideration on the ground of errors of law or fact



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in the judgment which requires no further proceeding. A closer review of the case inevitably yields the conclusion that the instant motion for reconsideration is bereft of any new substantial arguments to persuade the Court to reverse its decision in these cases. In fact, appellant's arguments are mere rehash or reiterations of those that were already carefully passed upon and judiciously considered in its questioned decision. There is no need to quote the pertinent portions of appellant's motion and to deal individually with the grounds relied upon therein. It would be a useless formality or ritual to repeat the reasons set forth in the motion just to reject the arguments that he presented. We quote the Supreme Court in the case of *Ortigas and Company Limited Partnership vs. Velasco*:

The filing of a motion for reconsideration does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment.¹

On the issue of the imposable penalty for violation of the procurement law, Act No. 4130, otherwise known as the Indeterminate Sentence Law, states that if a penal law imposes a penalty different from the penalties under the Revised Penal Code, courts shall

¹ G.R. No. 109645, March 4, 1996.

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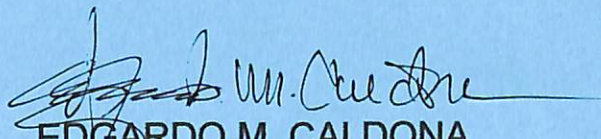
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sentence the appellant to an indeterminate sentence the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. The Court did just as the law requires it to do in its questioned decision. In this light, R.A. No. 9184 provides for a penalty of not less than six (6) years and one (1) day but not more than fifteen (15) years and one (1) day for illegal splitting of contracts. While we commiserate with the appellant on his perception of the purported harshness of the penal provision of the law, this Court is bound to apply the same on whoever may have been found guilty thereof.


WHEREFORE, premises considered, the instant motion for reconsideration is hereby DENIED for lack of merit.

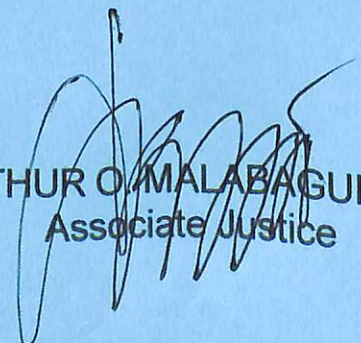
SO ORDERED.

Quezon City, Metro Manila, Philippines


EDGARDO M. CALDONA
Associate Justice

WE CONCUR:


OSCAR C. HERRERA JR.
Associate Justice
Chairperson


ARTHUR O. MALABAGUIO
Associate Justice