



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case Nos.
SB-12-CRM-0074 to
0076

*For: Estafa thru
Falsification of Official
/Public Documents*

Crim. Case Nos.
SB-12-CRM-0077 to
0079

*Violation of Section 3(e),
R.A. No. 3019, as amended*

-versus-

ANTONIO D. BELICENA, ET AL.
Accused.

Present:
Cabotaje-Tang, A.M., *PJ.*,
Chairperson
Fernandez, B.R., *J.* and
Moreno, R.B., *J.*

PROMULGATED:

SEPTEMBER 29, 2020

X ----- X

RESOLUTION

Moreno, J.:

For resolution is the *Motion for Reconsideration* x x x¹ dated July 6, 2020 filed by accused-movant Rosanna P. Diala assailing the Resolution dated March 16, 2020 which denied her *Motion for Leave to Avail of Remedies* x x x. The prosecution (through the Office of the Special Prosecutor) filed its *Opposition*² on July 13, 2020.

In her motion, Diala claimed that her *Motion for Leave to Avail of Remedies* had been timely filed. According to Diala, she received a copy of the Court's November 29, 2019 Decision through her counsel only on December 9, 2019.

In its *Opposition*, the People of the Philippines countered that Diala failed to file her *Motion for Leave to Avail of Remedies* under the period prescribed under Section 6, Rule 120 of the Revised Rules of Court, that is, within fifteen (15) days from promulgation of judgment. It added that Diala also failed to show that she had already surrendered to the Court.

The Court's Ruling:

We **DENY** the present motion for lack of merit.

Section 6, Rule 120 of the Revised Rules of Criminal Procedure provides that an accused who failed to appear at the promulgation of the judgment of conviction shall lose the remedies available against the said judgment.

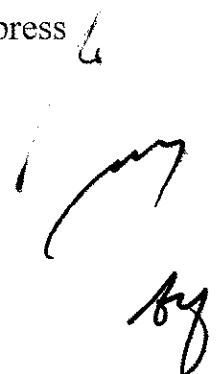
Nonetheless, Section 6 also provides the remedy by which the accused who were absent during the promulgation may reverse the forfeiture of the remedies available to them against the judgment of conviction. In order to regain their standing in court, the accused must do as follows: (1) surrender and (2) file a motion for leave of court to avail of the remedies, stating the reasons for their absence, **within 15 days from the date of the promulgation of judgment.**³

We note that the promulgation of the Court's decision was on November 29, 2019. Corollarily, it is undisputed that Diala was unable to attend the promulgation of the present consolidated cases. Under the express

¹ Record, pp. 142-145.

² *Id.* at 146-151.

³ See *Jaylo v. Sandiganbayan (First Division)*, G.R. Nos. 183152-54, January 21, 2015.

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x-----x

provisions of Section 6, Diala had 15 days from promulgation of judgment (or until December 14, 2019) to surrender and file a motion for leave of court to avail of the available remedies. The hearing on the motion for leave would have been the proper opportunity for her to allege and contest whatever cause prevented her non-appearance during the promulgation, and whether that cause was indeed justifiable. The stamp marking on the envelope, however, showed that Diala's motion was served through registered mail only on December 23, 2019, or beyond the 15-day period from promulgation of judgment under Section 6 of Rule 120.

Even assuming that Diala was "ill and sick" as she had previously claimed, she did not fulfill the other requirement of Section 6, i.e., to surrender herself to the trial court. The term *surrender* used in the rule visibly necessitated her physical and voluntary submission to the jurisdiction of the court to suffer any consequences of the verdict against her.

Simply put, Diala did not surrender within 15 days from the promulgation of the judgment of conviction; she also failed to file her *Motion for Leave to Avail of Remedies* from the period prescribed under Section 6, Rule 120 of the Revised Rules of Court, that is, also within fifteen (15) days from promulgation of judgment. For failure of Diala to regain her standing in court and avail of the remedies against the judgment of conviction, the Decision of the Sandiganbayan attained finality *as to her* 15 days reckoned from November 29, 2019.

As the Supreme Court held in *Jaylo v. Sandiganbayan*:

Clearly, the convicted accused are the ones who should show that their reason for being absent at the promulgation of judgment was justifiable. If the court finds that the reasons proffered justify their nonappearance during the promulgation of judgment, it shall allow them to avail of the remedies. Thus, unless they surrender and prove their justifiable reason to the satisfaction of the court, their absence is presumed to be unjustified

Diala's failure to fulfill the requirements under Section 6 of Rule 120 rendered her conviction final and immutable. Diala ought to be reminded that the right to appeal, being neither a natural right nor a part of due process, is merely a statutory privilege that should be exercised in the manner and in accordance with the provisions of the law establishing the right; otherwise, it is lost.⁴

Considering the immutability of judgment as regards Diala's conviction in view of her failure to comply with the required procedure under Section 6 of Rule 120, the Court is hereby constrained to order her immediate arrest. We recall that after the promulgation of judgment on

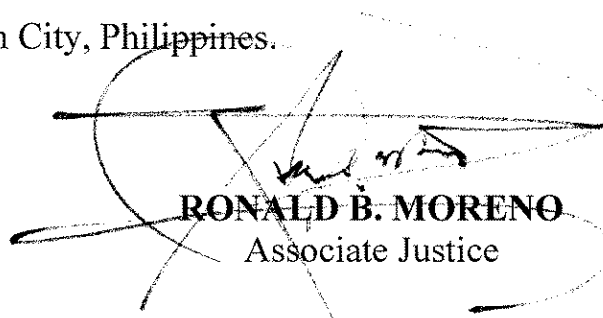
⁴ See *Salvador v. Chua*, G.R. No. 212865, July 15, 2015.

November 29, 2019, the Court already issued a warrant of arrest against Diala for her failure to appear in the scheduled promulgation of judgment despite notice. To order Diala's arrest is the proper course of action to take so as not to put her in a better position than her co-accused who may have appealed his conviction.

WHEREFORE, premises considered, the *Motion for Reconsideration x x x* filed by Rosanna P. Diala dated July 16, 2020 is **DENIED** for lack of merit.

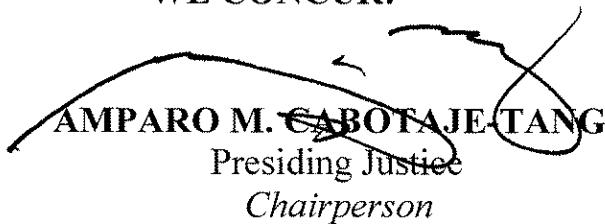
SO ORDERED.

Quezon City, Philippines.



RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ
Associate Justice