



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No.
SB-17-CRM-1474
*For: Violation of Section
65(4), Article XXI of R.A.
No. 9184*

Crim. Case Nos.
SB-17-CRM-1475 -1479
*For: Violation of Section
3(e) of R.A. No. 3019*

-versus-

**GAUDENCIO SAMIN
PANGILINAN, ET AL.,**
Accused.

Present:

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

PROMULGATED:

October 21, 2020 *fl*

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RESOLUTION

Moreno, J.:

For resolution is the *Motion for Reconsideration*¹ filed by accused Gaudencio S. Pangilinan dated March 16, 2020 to which the prosecution (through the Office of the Special Prosecutor) filed its *Opposition to Motion for Reconsideration*² dated September 18, 2020.

In his Motion, accused Pangilinan prayed that the Court's Resolution of February 24, 2020 (which denied his *Motion to Suppress Evidence*) be reconsidered. He maintained that there was no splitting of contracts involved in the subject transactions; and that these transactions had already been allowed in audit as early as 2013. Pangilinan added that the notice of disallowance that the prosecution is trying to present in rebuttal had been issued only on April 24, 2019

Pangilinan further claimed that the issuance of the notice of disallowance under the direction of the 'COA Commission Proper' was illegal, and "is a clear transgression of the independence of its assigned auditor x x x."³ He added that the notice of disallowance and supplemental notice of disallowance⁴ cannot yet be presented in evidence as they are not the final action of the COA.

In its *Opposition*, the People of the Philippines (through the Office of the Special Prosecutor) countered that the disbursement vouchers do not show that the subject accounts had already been allowed in audit. It also argued that the State's right (through the COA) to recover public funds does not prescribe as held by the Supreme Court in *Ramiscal, Jr. v. Commission on Audit*.⁵ The People further added that there is no reason why the Supreme Court's ruling in *Ramiscal, Jr.* should not be applied to the present case.

The prosecution likewise argued that the issuance of the Notice of Disallowance had been directed not just by the Special Audit Team, but by the Commission Proper.

OUR RULING:

After due consideration, we **deny** the present motion.

¹ Record, pp. 115-130.
² *Id.* at 134-141.
³ *Supra*, note 2 at 125.
⁴ Both dated April 24, 2019.
⁵ G.R. No. 213716, October 10, 2017 (En Banc).

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We point out at the outset that the arguments raised by accused Pangilinan *were mere reiterations* of the arguments he previously raised in his *Motion to Suppress Evidence*. These arguments have already been deliberated and passed upon by this Court, and we see no reason to overturn our previous ruling on the matter.

There is no debate that under Section 52 of Presidential Decree (P.D.) No. 1445, a settled account may only be reopened or reviewed within three (3) years after the original settlement on the grounds that it is tainted with fraud, collusion, or error calculation, or when new and material evidence is discovered.

However, the Supreme Court held in *Jose S. Ramsical, Jr. v. Commission on Audit* that the right of the State to recover public funds that have been established to be irregular and illegally disbursed does not prescribe. The Court's ruling in *Ramsical* serves as an exception to the general rule laid down in Section 52. Thus, while it may be true that the transactions covered by the subject notice of disallowance happened in 2011 to 2012, the State (through the COA) is not precluded from opening or reviewing these accounts. We find without merit the accused's argument that the ruling in this case is inapplicable, as the Court's pronouncement as regards the exception to Section 52 was clear and unequivocal.

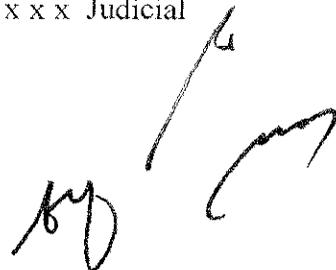
Contrary to accused Pangilinan's claim, we see no irregularity in the issuance of the notice of disallowance and the supplemental notice of disallowance by the COA Commission itself. That the assigned auditor is mandated to maintain complete independence, impartiality and objectivity does not lead to an absurd conclusion that the Commission Proper is precluded from issuing a ruling that is contrary to the auditor's finding/s.

In any event, we reiterate that the evidentiary and/or probative value of the presented testimonial and documentary evidence shall be left to the determination and appreciation of this Court in the final disposition of this case. Corollarily, whether the issuance of the Notice of Disallowance under the COA's direction was valid; and whether such Notice of Disallowances and Supplemental Notice of Disallowance could already be presented even if an appeal had been made on these notices, are matters which go into the determination of the probative value of these pieces of evidence.

The Supreme Court's pronouncement on this point in *People v. Abalos*⁶ is particularly instructive, thus:

Trial courts have ample discretion to determine whether or not the parties should be allowed to introduce evidence in rebuttal. x x x Judicial

⁶ G.R. No. 29039, November 28, 1969.



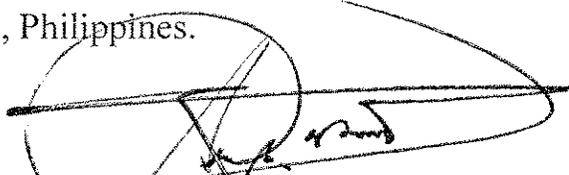
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discretion, however, is not unlimited. It must be exercised reasonably, with a view to promoting the ends of justice, one of which is to ascertain the truth. Hence, whenever discretion is vested, it must be understood to be a sound one, inasmuch as the interest of justice, equity and fair play cannot be advanced otherwise. This is particularly true with respect to rules of procedure, especially those governing the admission or exclusion of evidence. As a matter of general practice, it is deemed best to resolve doubts in favor of the admission of the contested evidence, without prejudice to such action as the court may deem fit to take in deciding the case on the merits

WHEREFORE, in light of all the foregoing, the present motion for reconsideration filed by accused Gaudencio S. Pangilinan 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