



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FOURTH DIVISION

MINUTES of the proceedings held on 18 January 2021.

Present:

JUSTICE ALEX L. QUIROZ -----	Chairperson
JUSTICE LORIFEL LACAP PAHIMNA -----	Member
JUSTICE BAYANI H. JACINTO -----	Member

The following resolution was adopted:

SB-14-CRM-0427 – PEOPLE v. RAUL Y. DESEMBRANA

This resolves the prosecution's *Compliance with Omnibus Motion (for Withdrawal of Information docketed as SB-14-CRM-0427 and for the Lifting of the Resolution, dated July 8, 2015)* dated 10 November 2015.¹

ANTECEDENTS

To recall, the arraignment and further proceedings in this case were held in abeyance to allow the Office of the Ombudsman (OMB) to conduct a full and complete preliminary investigation.²

On 10 November 2015, the prosecution filed its Compliance with Omnibus Motion, stating, among others, that after conducting preliminary investigation, the OMB issued its Resolution dated 29 September 2015, the dispositive portion of which reads as follows:³

WHEREFORE, premises considered, the undersigned maintain that respondent Raul Desembrana y Yazon be held liable for the crime of Direct Bribery defined and penalized under Article 210 of the Revised Penal Code.

Further, it is hereby recommended that an Information for violation of Section 3(e) of Republic Act No. 3019 as hereto attached to be filed in lieu of the Information docketed as SB-14-CRM-0427, for violation of Section 7(d) in relation to Section 11 of Republic Act No. 6713.

¹ Record, pp. 173-189.

² Resolution dated 8 July 2015, id., p. 45.

³ Id., pp. 178-189.

Consequently, the Information docketed as SB-14-CRM-0427 is hereby recommended withdrawn.

The prosecution claimed that since accused has yet to be arraigned, it should be allowed to withdraw the Information in SB-14-CRM-0427 and, in its stead, file the appropriate Information pursuant to the preliminary investigation that it conducted, in accordance with the Supreme Court's pronouncements in *Galvez v. Court of Appeals*⁴ and *Pacoy v. Cajigal*.⁵

In addition, the prosecution prayed that henceforth, further proceedings in this case be had.

In its *Comment*,⁶ accused pointed out that he seasonably filed a motion for reconsideration of the OMB's 29 September 2015 Resolution. Hence, he prayed that the resolution of the prosecution's motion be held in abeyance pending the resolution thereof.⁷

On 20 January 2017, the Court resolved to hold in abeyance its resolution on the prosecution's Compliance with Omnibus Motion until the final resolution of accused's Motion for Reconsideration before the OMB.⁸

On 6 February 2017, accused filed a *Motion to Dismiss* on the ground that the prosecution failed to prosecute the case.

On the other hand, on 15 February 2017, the prosecution filed another *Compliance with Omnibus Motion (for Resolution of the Omnibus Motion, dated November 10, 2015 and for the Arraignment of the Accused)*,⁹ stating, among others, that accused's motion for reconsideration had already been denied by the OMB in a Resolution dated 27 January 2017. It also reiterated its prayer for "the cases be allowed to proceed."

On 12 April 2017,¹⁰ the Court granted accused's motion and dismissed the case. The dispositive portion of the said Resolution reads as follows:

⁴ G.R. No. 114046, 24 October 1994.

⁵ G.R. No. 157472, 28 September 2007.

⁶ *Comment (On the Compliance with Omnibus Motion filed by the Office of the Special Prosecutor dated November 10, 2015)* dated 2 December 2015, Record, pp. 193-196.

⁷ The prosecution filed a *Reply (to Comment, dated December 2, 2015)* dated 8 January 2016, id., pp. 200-203, to which the accused filed a *Rejoinder (To Reply, dated January 8, 2016 filed by the Office of the Special Prosecutor)* dated 20 January 2016, id., pp. 204-215.

⁸ Resolution dated 20 January 2017, id., pp. 223-224.

⁹ Dated 14 February 2017, id., pp. 237-245.

¹⁰ Id., pp. 287-302.

WHEREFORE, finding the “**Motion to Dismiss**” filed by accused **RAUL Y. DESEMBRANA** to be meritorious, the same is hereby **GRANTED**. The cases against him are ordered **DISMISSED**. Let the cash bond posted by the accused be **RELEASED** and **RETURNED**, subject to the usual accounting and auditing rules and procedures.

The Hold Departure Order issued by this Court against herein accused is **LIFTED** and **SET ASIDE**. The Commissioner of the Bureau of Immigration and Deportation is directed to cancel the name of accused Raul Y. Desembrana from the Bureau's Hold Departure List. (emphases in the original)

The Court denied the prosecution's Motion for Reconsideration¹¹ in its 22 May 2017 Resolution.¹² However, the Supreme Court, on Petition for *Certiorari* by the prosecution, set aside this Court's 12 April 2017 and 22 May 2017 Resolutions in a Decision dated 28 July 2020,¹³ the dispositive portion of which reads:

Accordingly, the petition is **GRANTED**. The assailed Resolutions dated April 12, 2017 and May 22, 2017 are **REVERSED** and **SET ASIDE**. The Sandiganbayan is **DIRECTED** to **IMMEDIATELY RESOLVE** the Office of the Special Prosecution's "Compliance with Omnibus Motion (for Withdrawal of Information docketed as SB-14-CRM-0427) and for the Lifting of the Resolution, dated July 8, 2015," and to **PROCEED** with hearing the criminal cases with reasonable dispatch. (emphases in the original)

In accordance with the Supreme Court's Resolution, this Court directed the accused to file his Comment/Opposition to the prosecution's Compliance with Omnibus Motion dated 10 November 2015.¹⁴ In a *Compliance/Manifestation* dated 7 December 2020,¹⁵ accused signified that he had already previously filed his Comment/Opposition and Rejoinder to the same, and prayed that the same be considered in the resolution of the said incident.

RULING

Amendments, substitutions, and refileing of Informations are covered by Section 14, Rule 110 of the Rules of Court, which states:

¹¹ *Motion for Reconsideration (Resolution, promulgated on April 12, 2017)* dated 2 May 2017, id., pp. 307-317.

¹² Id., pp. 333-334.

¹³ G.R. Nos. 233061-62.

¹⁴ Resolution dated 23 November 2020, id., p. 566.

¹⁵ Id., pp. 572-574.

SEC. 14. *Amendment or substitution.* - A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party.

If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense in accordance with Section 19, Rule 119, provided the accused shall not be placed in double jeopardy. The court may require the witnesses to give bail for their appearance at the trial.

The rules plainly provide that amendments, whether in form or in substance, can be made even without leave of Court before an accused enters his or her plea.¹⁶ The Rules of Court allows the admission of amended Informations without leave of Court regardless of whether such would result in formal or substantial changes, so long as they do not fall within the exceptions in the second paragraph of Sec. 14, as quoted above, and are made before a plea has been entered by the accused.

In this instance, the prosecution does not seek amendment or substitution, and instead prays that it be allowed to withdraw the Information in this case as a precursor to filing a new Information for Violation of Sec. 3(e) of R.A. No. 3019¹⁷ against herein accused, in accordance with the third paragraph of Sec. 14 of Rule 110, as quoted above.

Finding the reasons provided by the prosecution to be well-taken, that accused has yet to be arraigned, and that the prosecution's course of action is in consonance with the OMB's determination in its Resolution dated 29 September 2015, the Court finds merit in granting the withdrawal of the Information for SB-14-CRM-0427.

As for the prosecution's prayer that the proceedings in SB-14-CRM-0427 and 0428 proceed, the same is already rendered moot given the Court's Resolution dated 23 November 2020.¹⁸

¹⁶ See also *Dabalos v. Regional Trial Court*, G.R. No. 193960, 7 January 2013.

¹⁷ THE ANTI-GRAFT AND CORRUPT PRACTICES ACT, as amended.

¹⁸ Record, p. 566.

WHEREFORE, based on the foregoing, the *Compliance with Omnibus Motion (for Withdrawal of Information docketed as SB-14-CRM-0427 and for the Lifting of the Resolution, dated July 8, 2015)* dated 10 November 2015 is hereby **GRANTED**. The Information in SB-14-CRM-0427 is hereby ordered **WITHDRAWN**.

SO ORDERED.

QUIROZ, J., Chairperson

LACAP PAHIMNA, J.

JACINTO, J.

The image shows three handwritten signatures in black ink, each written over a horizontal line. The top signature is 'Alex L. Quiroz' in a cursive style. The middle signature is 'Lacap Pahimna' in a cursive style. The bottom signature is 'Jacinto, J.' in a cursive style.