



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

-versus-

Crim. Case Nos:

SB-17-CRM-1432 to 1471

*For: Failure of Accountable
Officer to Render Accounts under
Article 218 of the Revised Penal
Code, as amended*

SEGUNDO M. GASTON,

Accused.

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Present:

CABOTAJE-TANG, A. M.,
Presiding Justice/ Chairperson
FERNANDEZ, B. R. J. and
MORENO, R. B., J.

Promulgated:

FEBRUARY 11, 2021 

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RESOLUTION

FERNANDEZ B. R., J.

For resolution is the Motion dated December 9, 2020 filed by accused Segundo M. Gaston, through counsel, seeking a reconsideration of the Decision promulgated on November 27, 2020, finding said accused guilty beyond reasonable doubt of the crime of Failure of Accountable Officer to Render Accounts punished under Article 218 of the Revised Penal Code, as amended.



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In his Motion for Reconsideration, accused-movant Gaston posed the following: (1) that the accused-movant was denied due process; (2) that the accused-movant was denied equal protection of the laws; (3) that the accused-movant was not an accountable officer; and, (4) that the prosecution failed to establish the guilt of the accused beyond a reasonable doubt.

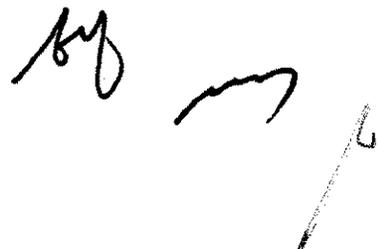
With respect to his first ground, accused-movant Gaston argues that these cases commenced only from Sworn Statements of the auditors from the Commission on Audit (COA). Procedurally, he claims that, even after the submission of the Joint Stipulation of Facts and the issuance of the Pre-Trial Order, the prosecution sought to have the latter amended over the objections of accused-movant Gaston and that the prosecution presented matters not covered by the Pre-Trial Order, in violation of this Court's own rules and his right to due process. He likewise specifically cited the Audit Observation Memoranda (AOMs) which did not even contain any indication that he received them and that the COA auditors never required him to justify the irregularities of his cash advances.

Furthermore, accused-movant Gaston alleges that prosecution witness COA Auditor Glorina Suson, in her testimony, only came to know of the AOMs (Exhs. "BBB"; "CCC"; "DDD"; "EEE"; and, "FFF") when they were presented by prosecution witness COA Auditor Ariel Caraecle during trial.

On his second ground, accused-movant Gaston insists that he was denied the equal protection of the laws having been unfairly singled out by the COA Auditors who conducted an incomplete, irregular and inaccurate audit. He maintains that he did not request for cash advances because the names, initials and signatures of other PNCC officials appear on the check vouchers. He claims being the "fall guy".

As his third ground, accused-movant Gaston insists that he was not an accountable officer within the purview of the law because he was neither required to post a bond nor issued a cash book prior to his assumption of office contrary to COA Circular No. 97-002 dated February 10, 2002.

Lastly, accused-movant Gaston contends that he must be acquitted on the ground of reasonable doubt.

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When given time (Minutes, December 11, 2020), the prosecution, in its Opposition dated December 18, 2020, asserts that accused-movant Gaston was afforded his right to due process. It manifested that its Motion to amend the Pre-Trial Order was granted by this Court over the opposition of accused-movant Gaston. Accused-movant Gaston even assailed the ruling through a Motion for Reconsideration but this was also denied.

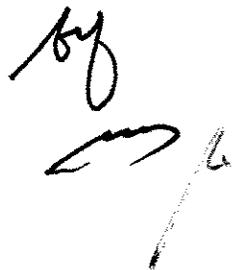
The prosecution also counters the posture of accused-movant Gaston that he was denied the equal protection of the law. According to a long line of decisions, equal protection simply requires that all persons or things similarly situated should be treated alike, both as to the rights conferred and the responsibilities imposed. (Biraogo vs. The Philippine Truth Commission, GR No. O92935, December 7, 2010)

From this, the prosecution avers that accused-movant Gaston is not similarly situated with the other officials of the Philippine National Construction Corporation (PNCC), considering that the payee in the pertinent Disbursement Vouchers (Exhs. "B" to "OO") and their corresponding checks (Exhs. "B-1" to "OO-1") were all in the name of accused-movant Gaston alone. The prosecution stresses that accused-movant Gaston himself admitted in open Court, receiving the cash money from the checks issued from June 2006 to 2010, thus, he alone had the legal duty to render an accounting of all the monies he received from PNCC.

Finally, the prosecution reiterates that accused-movant Gaston is an accountable officer. The absence of a cash book or a bond does not substantially alter the fact that accused-movant Gaston was granted cash advances, received the proceeds of the checks and failed to liquidate the said cash advances.

The Motion is bereft of merit.

After revisiting the records of these cases, the Court is fully satisfied that due process was accorded accused-movant Gaston and carefully observed throughout the proceedings. The assailed Decision promulgated on November 27, 2020 was based on the facts established during the trial and the

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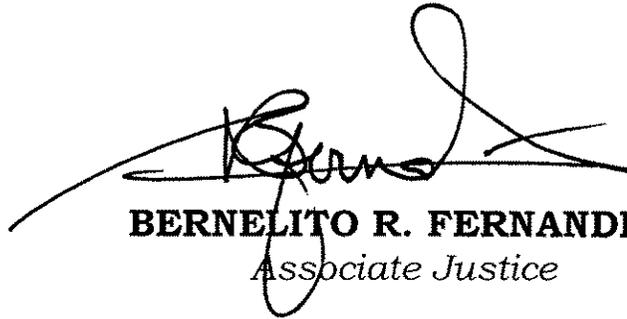
conclusions therefrom were anchored on applicable laws and jurisprudence.

The Court reiterates that Article 218 of the Revised Penal Code, as amended, is clear and there is no room for interpretation but only application. It is sufficient that there is a law or regulation requiring him to render an account. If a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is expressed in the Latin maxims "*index animi sermo*" (speech is the index of intention) and "*verba legis non est recedendum*" (from the words of a statute there should be no departure) (People vs. Court of Appeals, *et al.*, G.R. No. 227899, July 10, 2019).

Finally, this Court can only stress that the issues raised by accused-movant Gaston, in his Motion for Reconsideration, were thoroughly discussed and adequately considered by this Court in its assailed Decision. There is thus no compelling reason to warrant any deviation from its Decision promulgated on November 27, 2020.

WHEREFORE, in view of the foregoing, the Motion for Reconsideration dated December 9, 2020 of accused-movant Segundo M. Gaston is hereby **DENIED** for lack of merit.

SO ORDERED.

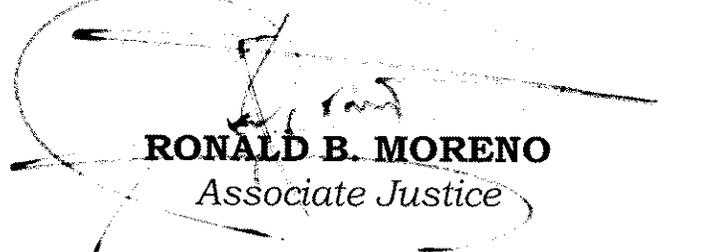


BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson



RONALD B. MORENO
Associate Justice