



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**

Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-15-CRM-0095**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

- versus -

*Present*

**ROLANDO C. ALONZO, ET AL.,** **FERNANDEZ, SJ, J.,**  
Accused. Chairperson  
**MIRANDA, J.** and  
**VIVERO, J.**

*Promulgated:*

SEP 15 2021

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Grant of Leave to Recall Accused-Witness Rolando C. Alonzo*<sup>1</sup> and the prosecution's *Comment/Opposition (In re: Motion for Grant of Leave to Recall)*.<sup>2</sup>

In his Motion, accused Rolando C. Alonzo prays that this Court (a) recall him for the purpose of identifying and testifying on certain documents, and (b) admit the attached *Supplemental Judicial Affidavit of Rolando C. Alonzo* dated July 26, 2021 and allow the hearing for his additional testimony and the presentation of additional documentary evidence. He avers:

1. On April 3 and 5, 2021, TIDCORP/PhilEXIM, now Philippine Guarantee Corporation, issued the following documents:

<sup>1</sup> Dated July 26, 2021 and filed on July 27, 2021

<sup>2</sup> Dated July 30, 2021 and filed by electronic mail on August 5, 2021

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- a. *Deed of Declaration with Acknowledgment of Receipt, Release, Waiver & Quitclaim* dated April 26, 2021;
  - b. *Secretary's Certificate* dated April 5, 2021;
  - c. *Discharge of Real Estate Mortgage* dated April 23, 2021; and,
  - d. *Official Receipt No. 0035152* dated April 26, 2021
2. The said documents were issued pursuant to the developments in the *Petition for Rehabilitation* case docketed as Spec. Proc. No. 2006-77 before Branch 57 of the Regional Trial Court (RTC) in Lucena City, involving the sale of the assets of World Granary Inc./Nation Granary Inc. (WGI/NGI) to Universal Robina Corp. (URC), as set forth in the RTC's Order dated January 22, 2021.
  3. The said developments occurred, and the said documents were issued, after the hearing for his direct and re-direct examinations by his counsel. Thus, he could not have testified on the said documents and developments, which are relevant and vital to the issues before this Court.
  4. Supervening events have created new factual circumstances and exculpatory documentary evidence. As an accused, he enjoys the constitutional right to present the said exculpatory evidence in his defense. Thus, this Court should grant him leave to re-take the witness stand and to present additional testimonial and documentary evidence relative to the aforementioned documents and the circumstances of their issuance.

In its *Comment/Opposition*, the prosecution counters:

1. There is no compelling reason for allowing the recall of accused Alonzo as witness. He will be presented to identify and authenticate several documents, which he is incompetent to identify and authenticate.
2. He acted as a mere witness in the *Deed of Declaration with Acknowledgment of Receipt, Release, Waiver & Quitclaim* dated April 26, 2021. He had no participation in the preparation and execution of the other documents.
  - a. Accused Alonzo is no longer connected with TIDCORP as early as 2006. He is incompetent to identify and authenticate the documents prepared and executed by the officials of TIDCORP.
  - b. Accused Alonzo is also incompetent to identify and authenticate the Orders issued by the RTC, Branch 27. The same should be identified by the public officials or officers having custody over the said documents.



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3. Accused Alonzo failed to show that the *Deed of Declaration* cannot be identified by the parties thereto, or that there is difficulty in securing their testimony. Alison Sy, one of the parties in the said document, is even a co-accused in this case.
4. Even if the said documents will be properly authenticated and admitted, the same will not disprove the allegations in the Information. The subject matter of the transactions mentioned in the documents accused Alonzo intends to identify happened more than a decade after the subject illegal transaction took place.

### THE COURT'S RULING

The Court resolves to grant the instant *Motion for Grant of Leave to Recall Accused-Witness Rolando C. Alonzo*.

Sec. 9, Rule 132 of the *2019 Proposed Amendments to the Revised Rules on Evidence*<sup>3</sup> provides:

**Sec. 9. Recalling witness.** – After the examination of a witness by both sides has been concluded, the witness cannot be recalled without leave of court. The court will grant or withhold leave in its discretion, as the interests of justice may require.

In *People v. Rivera*,<sup>4</sup> the Supreme Court explained that before a court may exercise its discretion to grant or deny recall, there must be a satisfactory showing of some concrete, substantial ground therefor. *Viz.:*

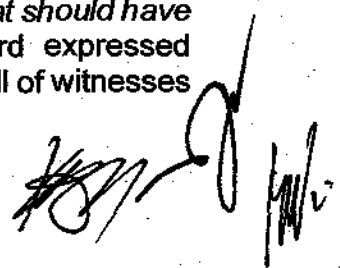
There is no doubt that a Trial Court has discretion to grant leave for the recall of a witness. This is clear from a reading of Section 9, Rule 132 of the Rules of Court, as amended, *viz.:*

x x x

But obviously that discretion may not be exercised in a vacuum, as it were, entirely, isolated from a particular set of attendant circumstances. The discretion to recall a witness is not properly invoked or exercisable by an applicant's mere general statement that there is a need to recall a witness "in the interest of justice," or "in order to afford a party full opportunity to present his case," or that, as here, "*there seems to be many points and questions that should have been asked*" in the earlier interrogation. To regard expressed generalities such as these as sufficient ground for recall of witnesses

<sup>3</sup> A.M. No. 19-08-15-SC dated October 8, 2019

<sup>4</sup> G.R. No. 98376, August 16, 1991



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would make the recall of witness no longer discretionary but ministerial. Something more than the bare assertion of the need to propound additional questions is essential before the Court's discretion may rightfully be exercised to grant or deny recall. There must be a satisfactory showing of some concrete, substantial ground for the recall. There must be a satisfactory showing on the movant's part, for instance, that particularly identified material points were not covered in the cross-examination, or that particularly described vital documents were not presented to the witness whose recall is prayed for, or that the cross-examination was conducted in so inept a manner as to result in a virtual absence thereof. Absent such particulars, to repeat, there would be no foundation for a trial court to authorize the recall of any witness.

Here, accused Alonzo was able to show substantial ground for his recall as witness. When he was presented as a witness, the documents he intends to testify on were not yet in existence. He cannot be faulted for failing to testify on documents that did not yet exist, or circumstances that have not yet occurred. The interest of justice will be better served if leave is granted for his recall to allow him to identify and testify on the said documents in support of his defense.

**WHEREFORE**, the *Motion for Grant of Leave to Recall Accused-Witness Rolando C. Alonzo* is hereby **GRANTED**. Set the hearing for the presentation of accused Alonzo's additional evidence on October 12, 2021, at 10:00 a.m.

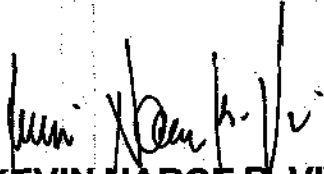
The *Supplemental Judicial Affidavit of Rolando C. Alonzo* dated July 26, 2021 is hereby **NOTED**.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice