



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.
SB-19-CRM-0143
*For: Violation of Section 3(e),
R.A. No. 3019, as amended*

-versus-

CAROLINA LACSON DELLOSA,
Accused.

Present:
Cabotaje-Tang, P.J.,
Chairperson
Fernandez, B.R., J. and
Moreno, R.B., J.

Promulgated:

NOVEMBER 23, 2021

X

X

RESOLUTION

Moreno, J.:

For resolution is accused Carolina L. Dellosa's *Omnibus Motion to Order the NBI to Conduct Forensic Examination and to Produce the Original Documents* dated October 11, 2021.¹

In the motion, accused Dellosa avers that one of the listed witnesses for the defense is an *expert witness*. She coordinated with the National Bureau of Investigation (NBI) for the conduct of forensic examination on her alleged signature appearing on the BAC Resolution No. 15, Disbursement Voucher and Delivery and Inspection Report in order to determine if there is a similarity or dissimilarity to her actual signature and to report the findings on the presence or absence of tampering or falsification of documents. Per the NBI Forensic, Examination Services, Questioned Documents Laboratory Division, a court order is necessary for it to have authority to access and examine the relevant original documents. Hence, accused prays that the

¹ Records, pp. 533-536

Questioned Documents Laboratory Division of the NBI Forensic Investigation Service or any designated officer of the service be ordered to conduct the necessary forensic examination on her alleged signature on the subject documents and to submit its findings before the Honorable Court. She likewise prays that the custodian of the documents, Mr. Martiniano D. Javier, be required to submit the original copies of BAC Resolution No. 15 Series of 2014 dated 27 August 2014, Disbursement Voucher No. 101-2014-9-519, and Purchase Order dated 04 September 2014 before the NBI.

The plaintiff, in its *Comment* dated October 17, 2021,² states that while Mr. Martiniano Javier identified and produced the original of BAC Resolution No. 15 series of 2014 dated 27 August 2014, it was another witness, Mr. Robert John Donesa, Head of the Bids and Awards Committee of Baliwag, Bulacan, who identified and produced the originals of Disbursement Voucher No. 101-2014-9-519 and Purchase Order dated 04 September 2014. Hence, the subpoena for the production of the originals of the questioned documents should be addressed accordingly. The plaintiff further states that there are standard operating procedures for the presentation of forensic questioned documents experts from the NBI. Hence, there is a need for the NBI to clarify certain matters which will be taken into consideration when the Honorable Court crafts and issues the requested subpoena. Lastly, plaintiff submits that in order to preserve the integrity and accuracy of the forensic examination, exemplars should be public documents submitted under oath by their official custodians and not ones produced by the accused herself.

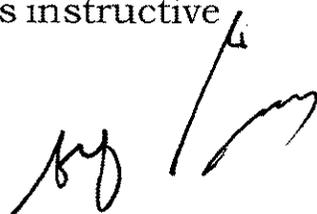
THE COURT'S RULING

Accused can implore and invoke the coercive power of the Court to require the production of the originals of the prosecution's exhibits and to have them referred to the NBI for examination. This is pursuant to accused's constitutional right to due process. Further, records show that accused claims that she did not sign the questioned documents and that someone placed her signature therein without her knowledge and authority.³ The case of *Marquez v. Sandiganbayan*⁴ is instructive

² *Id* at pp. 642-646

³ See Judicial Affidavit of Carolina L. Dellosa, *Id* at pp. 463-473

⁴ G.R. Nos. 187912-14, January 31, 2011

A handwritten signature in black ink, appearing to be 'M. D. Javier', is located in the bottom right corner of the page.

on the propriety of allowing the examination by the NBI of the alleged forgery:

One of the most vital and precious rights accorded to an accused by the Constitution is due process, which includes a fair and impartial trial and a reasonable opportunity to present one's defense. Under Section 14, Article III of the 1987 Constitution, it is provided that:

(1) No person shall be held to answer for a criminal offense without due process of law.

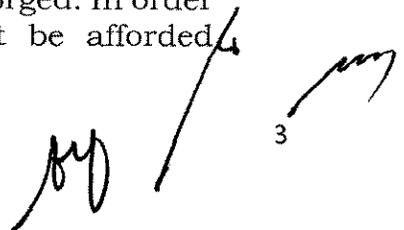
(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the **production of evidence in his behalf**. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (emphasis supplied)

In this connection, it is well settled that due process in criminal proceedings requires that (a) the court or tribunal trying the case is properly clothed with judicial power to hear and determine the matter before it; (b) that jurisdiction is lawfully acquired by it over the person of the accused; (c) **that the accused is given an opportunity to be heard**; and (d) that judgment is rendered only upon lawful hearing.

While the Constitution does not specify the nature of this opportunity, by necessary implication, it means that the accused should be allowed reasonable freedom to present his defense if the courts are to give form and substance to this guaranty. Should the trial court fail to accord an accused reasonable opportunity to submit evidence in his defense, the exercise by the Court of its certiorari jurisdiction is warranted as this amounts to a denial of due process.

In this case, the defense interposed by the accused Marquez was that his signatures in the disbursement vouchers, purchase requests and authorizations were forged. It is hornbook rule that as a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.

Thus, Marquez bears the burden of submitting evidence to prove the fact that his signatures were indeed forged. In order to be able to discharge his burden, he must be afforded

Handwritten signature and the number 3.

reasonable opportunity to present evidence to support his allegation. This opportunity is the actual examination of the signatures he is questioning by no less than the country's premier investigative force – the NBI. If he is denied such opportunity, his only evidence on this matter is negative testimonial evidence which is generally considered as weak. And, he cannot submit any other examination result because the signatures are on the original documents which are in the control of either the prosecution or the graft court.

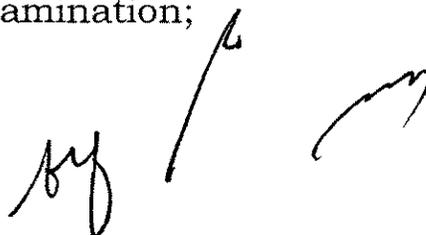
At any rate, any finding of the NBI will not be binding on the graft court. It will still be subject to its scrutiny and evaluation in line with Section 22 of Rule 132. Nevertheless, Marquez should not be deprived of his right to present his own defense. How the prosecution, or even the court, perceives his defense to be is irrelevant. To them, his defense may seem feeble and his strategy frivolous, but he should be allowed to adduce evidence of his own choice. The court should not control how he will defend himself as long as the steps to be taken will not be in violation of the rules.

Thus, in view of the foregoing, the motion filed by accused Delloso is GRANTED. The custodian of BAC Resolution No. 15 Series of 2014 dated 27 August 2014, Disbursement Voucher No. 101-2014-9-519, and Purchase Order dated 04 September 2014 is ordered to produce and submit the original copy thereof to the NBI for purposes of examination.

Considering, however, that the NBI may have existing protocols and requirements regarding the conduct of the examination, the Court refers the subject motion to the NBI Questioned Documents Division for comment within five (5) days from receipt of this Order. Thereafter, the NBI Questioned Documents Division is DIRECTED to conduct an examination of the aforesaid documents, subject to such protocols as it may prescribe and to further submit to the Court its report thereon within thirty (30) days from the termination of the examination.

WHEREFORE, accused Delloso's *Omnibus Motion* is hereby **GRANTED**. Accordingly, the Court hereby orders that:

- 1) the custodian of BAC Resolution No. 15 Series of 2014 dated 27 August 2014, Disbursement Voucher No. 101-2014-9-519, and Purchase Order dated 04 September 2014 produce and submit the original copies of the questioned documents listed above to the NBI for purposes of examination;

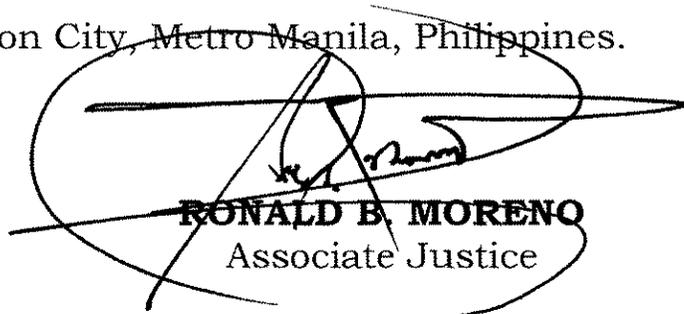


- 2) the NBI Questioned Documents Division to file a comment within five (5) days from receipt of this Order and to conduct an examination of the questioned documents and render a report thereon within thirty (30) days from the termination of the examination;
- 3) any expenses which may be incurred for the conduct of the examination shall be shouldered by the accused.

The *Compliance* of the accused dated October 19, 2021 filed before the Court through electronic mail is **NOTED**.

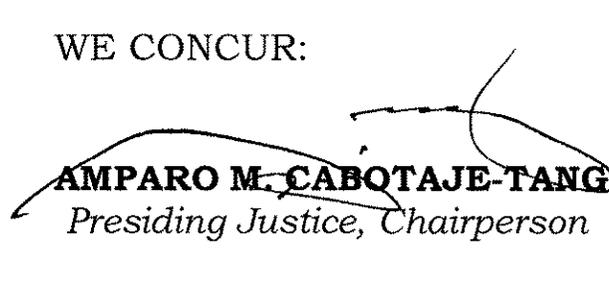
SO ORDERED.

Quezon City, Metro Manila, Philippines.

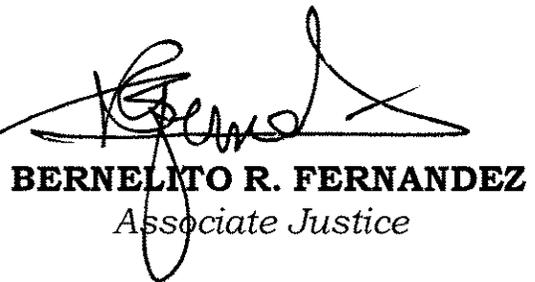


RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice, Chairperson



BERNELITO R. FERNANDEZ
Associate Justice