



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

**Quezon City**

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**Seventh Division**

***MINUTES of the proceedings held on March 22, 2022.***

*Present:*

<i>Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--</i>	<i>Chairperson</i>
<i>Justice ZALDY V. TRESPESES -----</i>	<i>Member</i>
<i>Justice GEORGINA D. HIDALGO-----</i>	<i>Member</i>

The following resolution was adopted:

***Crim. Case No. SB-08-CRM-0275 – People of the Philippines vs. Robert G. Lala, et al.***

This resolves the following:

1. Accused Isabelo A. Braza's "Motion for Reconsideration (24 JANUARY 2022 RESOLUTION) and Tender of Excluded Evidence AD CAUTELAM" dated March 3, 2022;<sup>1</sup> and
2. Prosecution's "COMMENT/OPPOSITION" dated March 14, 2022;<sup>2</sup>

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**HIDALGO, J.:**

In his Motion for Reconsideration, accused Braza seeks the admission of Exhibits "21-Braza," "22-Braza," and "39-D-Braza," which were previously excluded by the Court in its January 24, 2022 Resolution. He avers that: (1) during the proceedings for their markings, the originals of the excluded exhibits would have been shown to the prosecution for its comparison with the photocopies; thus, the "machine copies" must be admitted as the marking of the exhibits proceeded regularly; (2) the excluded exhibits are considered duplicates or duplicate originals; (3) there are no genuine questions on the authenticity of the excluded exhibits, considering that accused Braza identified those exhibits in his Judicial Affidavit, and Exhibits "21-Braza" and "22-Braza" are the Memoranda issued by the Bureau of Customs in response to his Letter to Cebu District Collector Belmonte (Exhibit "20-Braza"); and (4) the admission of the said excluded exhibits is not unjust or inequitable.

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<sup>1</sup> Record, Vol. 21, pp. 495-502, 509-516.

<sup>2</sup> Id. at 518-522.

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In its Comment/Opposition, the prosecution counters that: (1) accused Braza's Motion for Reconsideration was filed out of time. The subject Resolution was received by accused Braza via email on February 16, 2022.<sup>3</sup> Per the Revised Guidelines for Continuous Trial of Criminal Cases, the motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution.<sup>4</sup> Thus, accused Braza had until February 21, 2022 within which to move for reconsideration of the Resolution. He, however, filed his Motion on March 3, 2022 or 15 days after receipt of the Court's Resolution, making his Motion belatedly filed; (2) there is no categorical declaration on accused Braza's part that the exhibits were compared to the original during the marking; (3) Section 4(b) and Section 4(c) of the 2019 Revised Rules of Evidence were erroneously invoked by accused Braza, for the subject exhibits mentioned in his Judicial Affidavit were identified by Braza during the March 19, 2019 hearing, prior to the effectivity of the 2019 Revised Rules of Evidence on May 1, 2020; and (4) even assuming that the excluded exhibits are considered duplicates, it is unjust or inequitable to admit the duplicates in lieu of the originals, citing Sec. 4(c), Rule 130 of the 2019 Revised Rules of Evidence.

We partly grant the Motion for Reconsideration.

In its Resolution dated January 24, 2022, the Court admitted Exhibits "20-Braza" and "20-A-Braza" to "20-O-Braza" (Letter to Cebu District Collector Belmonte sent to the Bureau of Customs [BOC] and attachments). The said letter was prepared by Braza himself and he identified it in Court. In response to this letter, the BOC issued **(1) Memorandum re: Letter-Complaint of FABMIK prepared by Bureau of Customs RATS-Visayas' Atty. Celera; and (2) Memorandum re: Fact-Finding Investigation on the Letter Complaint of FABMIK from BOC Law Division Chief, which are Exhibits "21-Braza" and "22-Braza," respectively.**

While the Motion for Reconsideration was filed out of time as per the Revised Guidelines for Continuous Trial of Criminal Cases, the Court, in the interest of justice, reconsiders its previous Resolution and resolves to admit Exhibits "21-Braza" and "22-Braza," as these are intimately related to accused Braza's Letter to Cebu District Collector Belmonte of the Bureau of Customs both presented by accused Braza during trial and identified in his Judicial Affidavit.<sup>5</sup>

With regard to the relaxation of the application of procedural rules, the Supreme Court held:

Indeed, in some cases, the Supreme Court relaxed the application of

<sup>3</sup> Id. at 467.

<sup>4</sup> REVISED GUIDELINES FOR CONTINUOUS TRIAL OF CRIMINAL CASES, Part III, 2(c).

<sup>5</sup> TSN, March 19, 2019; Judicial Affidavit of Isabelo A. Braza dated November 8, 2018.



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procedural rules for the greater interest of substantial justice. It must be pointed out, however, that "resort to a liberal application, or suspension of the application of procedural rules remains the exception to the well-settled principle that rules must be complied with for the orderly administration of justice." It can only be upheld "**in proper cases and under justifiable causes and circumstances.**"

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To merit liberality, petitioner must show **reasonable cause** justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantive justice. x x x The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse.

**It is in the abovementioned occasion that the exercise of sound discretion is required of the judge.** In doing so, he must weigh the circumstances, the merits of the case and the reason proffered for the non-compliance. He must deliberate whether relaxation of the rules is necessary in the interest of substantial justice.<sup>6</sup> (emphasis supplied)

We can learn from the above jurisprudence that liberality in the interpretation and application of the rules in favor of a party must be merited by showing reasonable or justifiable causes and circumstances. In this case, while accused Braza belatedly filed his Motion for Reconsideration, accused Braza has provided a cogent reason for the admission of the excluded exhibits, that is, Exhibits "21-Braza" and "22-Braza" being the Memoranda issued by the BOC in response to Braza's Letter to Cebu District Collector Belmonte.

The Court, however, affirms its Resolution excluding Exhibit "39-D-Braza," as the Motion for Reconsideration failed to raise any new or substantial matter as regards said exhibit that would warrant a reconsideration of its assailed Resolution. Nonetheless, there is no question as to the attachment of the excluded exhibit or it being made part of the record.

Section 40, Rule 132 of the Rules of Court states:

Sec. 40. *Tender of excluded evidence.* – If documents or things offered in evidence are excluded by the court, **the offeror may have the same attached to or made part of the record.** If the evidence excluded is oral, the offeror may state for the record the name and other personal circumstances of the witness and the substance of the proposed testimony.

Evidence formally offered by a party may be admitted or excluded by the court. The applicable rule is that if a party's offered documentary or object evidence is excluded, he or she may move or request that it be attached to form part of the records of the case. Hence, despite the exclusion of Exhibit "39-D-Braza," the Court can order that it be made part of the record.

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<sup>6</sup> Ng Ching Ting vs. Philippine Business Bank, Inc., G.R. No. 224972, July 9, 2018.

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It must be pointed out, however, that the prosecution's asseveration—that Section 4(b) and Section 4(c) of the 2019 Revised Rules of Evidence were erroneously invoked by accused Braza—is specious. In other words, the prosecution asserts that the cited provisions of the 2019 Revised Rules of Evidence are inapplicable, as the old Rules on Evidence should instead apply because the excluded exhibits mentioned in his Judicial Affidavit were identified by Braza during the March 19, 2019 hearing, which is prior to the effectivity of the 2019 Revised Rules of Evidence on May 1, 2020.

Rule 144 of the 2020 Rules of Court states:

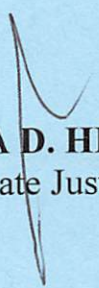
These rules x x x shall govern all cases brought after they take effect, **and also all further proceedings in cases then pending**, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which event the former procedure shall apply. (emphasis supplied)

The aforecited rule is clear when it says, its provisions shall also govern "all further proceedings in cases then pending." Therefore, accused Braza cannot be faulted for citing the new provisions—Section 4(b) and Section 4(c) of the 2019 Revised Rules of Evidence—as this case is still pending with the Court and we find that their application would not work injustice. Since accused Braza has properly invoked these provisions, the Court need not anymore rule on whether the previously excluded exhibits are duplicates or duplicate originals, for they are already admitted in the interest of justice—particularly Exhibits "21-Braza" and "22-Braza" being the BOC's actions/Memoranda in response to accused Braza's Letter to Cebu District Collector Belmonte all presented by accused Braza during trial and identified in his Judicial Affidavit.

The Court reiterates that notwithstanding the admission of Exhibits "21-Braza" and "22-Braza," their evidentiary and/or probative value shall be left to the determination and appreciation of this Court in the final disposition of this case.

**WHEREFORE**, the Motion for Reconsideration is **PARTLY GRANTED**. Consequently, the Court resolves to (1) **ADMIT Exhibits "21-Braza" and "22-Braza"**; (2) **AFFIRM** its January 24, 2022 Resolution to **EXCLUDE Exhibit "39-D-Braza"**; and (3) **GRANT** accused Isabelo A. Braza's Tender of Excluded Evidence AD CAUTELAM. Exhibit "39-D-Braza" is therefore made part of the record of this case.

**SO ORDERED.**

  
**GEORGINA D. HIDALGO**  
Associate Justice

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WE CONCUR:

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**

Associate Justice  
Chairperson

  
**ZALDY V. TRESPES**

Associate Justice

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