



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case Nos.
SB-15-CRM-0037-0042
For: Violation of Section 3(e)
of R.A. No. 3019

-versus-


SB-15-CRM-0043-0048
For: Malversation

SB-15-CRM-0049-0053
For: Direct Bribery

SAMUEL M. DANGWA, ET AL.,
Accused.

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

Promulgated:

APR 8, 2022 

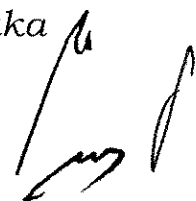
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RESOLUTION

Moreno, J.:

For resolution is the prosecution's *Motion to Recall Witness* dated March 7, 2022.

The prosecution avers that during the hearing on May 24, 2018, it called to the witness stand Atty. Eunice Dalisay-Salazar of the Securities and Exchange Commission (SEC), who completed and terminated her testimony by way of stipulations. The parties stipulated, among others, the existence of Exhibits "K" to "M", which are corporate documents of varied companies. However, the parties did not include the corporate documents of JCLN Global Properties Development Corp. and *Ginintuang Alay sa Magsasaka*



Foundation, Inc., which are the subject of AMLC's Inquiry Report (Exhibit "Q" and series). While the AMLC found JCLN Global Properties Development Corp. as one of the beneficiaries of fund transfers from the accounts of NGOs owned and controlled by accused Janet Lim Napoles, it found the Metrobank account of *Ginintuang Alay sa Magsasaka Foundation, Inc.* to be the source of a cash rebate for Representative Samuel M. Dangwa in the amount of P1,000,000.00, which was coursed through the Metrobank account of accused Erwin Dangwa.

During the hearing on May 24, 2018, the AMLC's Inquiry Report was still being finalized thus, the prosecution had no way of knowing that the aforementioned corporations were the subject of the report. In this regard, the prosecution moves that it be allowed to recall to the witness stand Atty. Eunice Dalisay-Salazar, or in case of her unavailability, an equally competent witness from the SEC, to produce and identify the corporate documents of JCLN Global Properties Development Corp. and *Ginintuang Alay sa Magsasaka Foundation, Inc.* pursuant to Section 9, Rule 132 of the Revised Rules of Court.

In his *Comment on and/or Opposition to (Prosecution's Motion to Recall Witness)* dated March 14, 2022, accused Cunanan counters that the filing of a mere motion contravenes Section 9, Rule 132 of the Rules of Court which states that the witness cannot be recalled without leave of court. In conjunction thereto, Section 10, Rule 15 of the 2019 Rules of Civil Procedure reads that a motion for leave to file a pleading or motion shall be accompanied by the pleading or motion sought to be admitted. Cunanan also notes that the motion does not contain at least copies of the documents which the Government seeks to be identified by the SEC representative and that it is only making its motion now and intends to recall Atty. Eunice Dalisay-Salazar when the AMLC report has already been available for a while. The Government could have immediately filed the proper motion as soon as it became aware of the finality of the AMLC report.

Cunanan also argues that a review of the Informations would show that neither JCLN Global Properties Development Corp. nor *Ginintuang Alay sa Magsasaka Foundation, Inc.* was named as NGOs involved in these cases. Hence, the corporate documents sought to be identified are irrelevant and immaterial.



THE COURT'S RULING

The Court resolves to **grant** the prosecution's *Motion to Recall Witness*.

Section 9, Rule 132 of the 2019 Amendments to the 1989 Revised Rules on Evidence provides:

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

The Supreme Court in *People v. Rivera*¹ explained that before the court exercises its discretion to grant or deny the recall, the movant must show some concrete, substantial ground therefor, to wit:

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.:

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

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 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,

¹ G.R. No. 98376, August 16, 1991

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.

It is indubitable that this Court has discretion to allow the recall of witness, subject to the requirement under Section 9 of Rule 132. Here, the prosecution was able to show *substantial* ground for the recall of Atty. Eunice Dalisay-Salazar as witness: the corporate documents that the prosecution intends to present are the subject of AMLC's Inquiry Report, which has not yet been finalized when Atty. Dalisay-Salazar was presented as a witness. Thus, Atty. Dalisay-Salazar cannot be faulted for failing to present and identify them at the time she testified.

Considering also that she (Atty. Dalisay-Salazar) had already been previously called to the witness stand to testify, the Court deems it best to allow the prosecution to fully present its case, **without prejudice to right of the accused to cross-examine and interpose its objections at the opportune time.**

Simply put, the greater interest of justice will be better served if the Court allows the recall of Atty. Eunice Dalisay-Salazar to produce and identify the said corporate documents in support of the prosecution's allegations and to afford it the opportunity to fully present its case.

The Court's exercise of its discretion in this case shall not in a way be construed as favoring the prosecution, as the Court will still rule on the admissibility of the evidence presented.

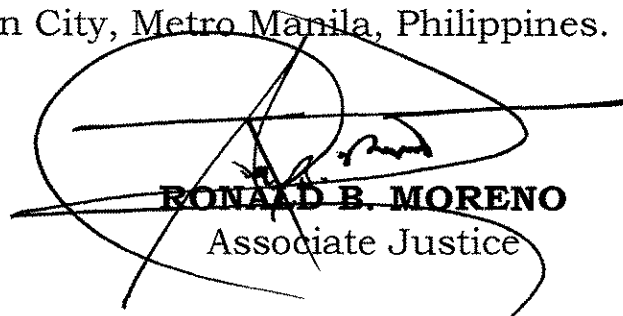
In view thereof, the Court in the exercise of its discretion, grants the recall of Atty. Eunice Dalisay-Salazar as prosecution witness.



WHEREFORE, the prosecution's *Motion to Recall Witness* is hereby **GRANTED**. Set the hearing for the presentation of the prosecution's additional evidence on May 5, 2022 at 8:30 A.M.

SO ORDERED.

Quezon City, Metro Manila, Philippines.

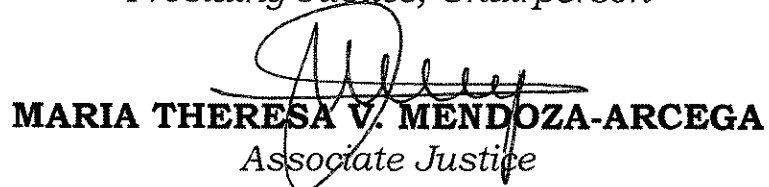


RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice, Chairperson



MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice