



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 28 July 2022.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson

Justice ZALDY V. TRESPESSES----- Member

Justice ARTHUR O. MALABAGUIO----- Member*

The following resolution was adopted:

Crim. Case No. SB-17-CRM-2092 to 2093 - People vs. SIMEON AMPATUAN DATUMANONG, ET AL.

This resolves the following:

- 1) Prosecution's "FORMAL OFFER OF DOCUMENTARY EXHIBITS AND COMPLIANCE" dated June 29, 2022 and filed on June 30, 2022;¹
- 2) Accused Sales (Atty. Bernabe)'s "COMMENT/OBJECTION TO THE PROSECUTION'S FORMAL OFFER OF EXHIBIT" (undated) filed on July 18, 2022;²
- 3) Prosecution's "MOTION TO EXPUNGE" dated and electronically filed on July 19, 2022;³
- 4) Accused Sales (Atty. Bernabe)'s "COMMENT ON THE PROSECUTION'S MOTION TO EXPUNGE" dated and electronically filed on July 20, 2022;⁴ and
- 5) Prosecution's "MANIFESTATION" dated July 21, 2022 and electronically filed on July 22, 2022.⁵

TRESPESSES, J.

This resolves the Prosecution's Formal Offer of Documentary Exhibits, accused Gracita Cecilia Mascenon-Sales's Comment/Objection thereto, the Prosecution's Motion to Expunge accused's comment/objection,

*Sitting as Special Member per Administrative Order No. 0165-2022 dated 26 July 2022 in lieu of Justice Georgina D. Hidalgo, who is on leave.

¹ Record, Vol. 4, pp. 261-276.

² Record, Vol. 4, pp. 277-286.

³ Record, Vol. 4, pp. 287-291.

⁴ Record, Vol. 4, pp. 293-296.

⁵ Record, Vol. 4, pp. 297-300.

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accused Sales' Comment on the prosecution's motion to expunge, and the prosecution's Manifestation.

THE PROSECUTION'S MOTION TO EXPUNGE

The prosecution prays that the Comment/Objection to the Prosecution's Formal Offer of Exhibits filed by accused Mascenon-Sales be expunged from the records as it was filed out of time.

The prosecution alleges that in the Order dated 30 June 2022, accused was given ten days from receipt of the prosecution's formal offer of evidence within which to file her comment/opposition. It further alleges that it served a copy of the Formal Offer of Documentary Exhibits to accused on 30 June 2022 per LBC Tracking Receipt. Thus, accused has until 10 July 2022 to file her comment/objection thereto. However, it was only on 18 July 2022 that she filed her Comment/Objection to the Prosecution's Formal Offer of Exhibits dated 15 July 2022. Clearly, accused's comment/objection was filed out of time.

ACCUSED'S COMMENT ON THE PROSECUTION'S MOTION TO EXPUNGE

Accused Mascenon-Sales counters that on 28 June 2022, the prosecution filed a Manifestation that it will be resting its case and requested for three days to file its formal offer of evidence. In the Order dated 30 June 2022, the Court directed the prosecution to file its formal offer of evidence within three days. On the same day, the defense also received a copy of the prosecution's formal offer of evidence via LBC which appears to have been sent on 29 June 2022 by the prosecution before the Court could have acted on its Manifestation. Accused argues that it was sent prematurely and allegedly jumped the gun on the defense.

On 7 July 2022, the defense received another copy of the prosecution's formal offer of evidence via registered mail. The said copy was sent on 30 June 2022 and thus, deemed to be in compliance with the Order of the Court. It is to this formal offer that the defense filed its comment. Considering that the tenth day from 7 July 2022 is 17 July 2022 which falls on a Sunday (sic), the deadline is the Monday that follows or 18 July 2022 (sic).

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THE PROSECUTION'S MANIFESTATION

The prosecution alleges that accused admitted to have received prosecution's FOE on 30 June 2022. She also received the Court's Order dated 30 June 2022 on the same day, giving her ten days to file comment/objection to the FOE. Thus, there is no need to wait for another transmission of the prosecution's FOE since accused already has a copy of the same on 30 June 2022. From the foregoing, accused's comment/opposition should have been filed on 11 July 2022.

OUR RULING

I. On the procedural aspect

*On the prosecution's
Motion to Expunge*

We resolve to **deny** the prosecution's Motion to Expunge.

On 30 June 2022, the defense received the Court's Order giving accused a period of ten days from receipt of the prosecution's FOE within which to file her comment/objection. Further, the defense admittedly received a copy of the prosecution's formal offer of documentary exhibits on 30 June 2022. The Court holds that the counting of the period should reckon from 30 June 2022 and thus, accused should have filed her comment on or before 10 July 2022. However, the period already lapsed without any comment having been filed by accused. Record shows that accused belatedly filed her comment/objections on 18 July 2022.

While it is clear that accused's Comment/Objection was filed out of time, the Court deems it prudent to relax the application of procedural rules and admit accused's Comment/Objection to afford her the opportunity to be heard. Verily, procedural rules are established for a fair and orderly conduct of proceedings.⁶ However, when the strict application thereof would result in technicalities, the court has the discretion to relax them and resolve the substantive issues of the case.⁷ Moreover, the Court is of the view that cases should, as much as possible, be decided on their merits and not on sheer technicalities. In *Bank of the Philippine Islands v. Dando*,⁸ the Supreme Court held that:

The Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation

⁶ *Cruz v. Gagan*, G.R. No. 226222 (Notice), 12 February 2020.

⁷ *Id.*

⁸ G.R. No. 177456, 4 September 2009 (614 PHIL 553-565)



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is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.

This is not to say that adherence to the Rules could be dispensed with. However, exigencies and situations might occasionally demand flexibility in their application. In not a few instances, the Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merit. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfection should, thus, not serve as basis of decisions. In that way, the ends of justice would be better served. For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.

Accordingly, there being no showing that the prosecution will be unjustly prejudiced by the admission of accused's comment/objection, the prosecution's Motion to Expunge is **denied**.

II. On the substantive aspect

*On the Prosecution's Formal
Offer of Documentary Exhibits*

After due consideration of the above incident, the Court resolves as follows:

ADMIT Exh. A to A-6 (Complaint of the Field Investigation Office), as it is an original copy. During the hearing held on 13 June 2022, the defense stipulated that Mary Chile G. Nivera can identify the Complaint filed through the FIO, Office of the Ombudsman of which she was then an AGIO II, and that she was the one who executed the said Complaint.⁹

ADMIT Exh. A-7 (Certificate of Candidacy of Simeon A. Datumanong for member, House of Representatives),¹⁰ **Exh. A-8** (Certificate of Canvass of Votes and Proclamation of Winning Candidates for member of House of Representative), **Exh. A-9** (Certificate of Nomination and Acceptance),¹¹ **Exh. A-10 to A-18** (Report of Contribution), **Exh. A-19 to A-22** (PDS of Mehol K. Sadain), **Exh. A-23** (Service/Employment Record of Sadain), **Exh. A-24** (Letter of Appointment

⁹ Record, Vol. 3, pp. 237-239 (Order dated 13 June 2022).

¹⁰ The Court notes that the document offered as Exh. A-7 appears to be marked as Exh. K-7.

¹¹ The Court notes that the document offered as Exh. A-8 appears to be marked as Exh. A-7.

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of Sadain), **Exh. A-25 to A-26** (Panunumpa sa Katungkulan of Sadain), **Exh. A-27 to A-28** (CSC Form No. 1 of Sadain), **Exhs. A-29 to A-34** (PDS and Service/Employment Record or Galay Mokamad Makalinggan), **Exh. A-35** (Appointment of Makalinggan), **Exh. A-36** (Certification dated 5 March 2010), **Exh. A-37 to A-43** (PDS of Fedelina D. Aldanese), **Exh. A-44 to A-45** (Service/Employment Record of Aldanese), **Exh. A-46** (Appointment of Aldanese), **Exh. A-47 to A-50** (PDS of Aurora Aragon-Mabang), **Exh. A-51** (Appointment of Aragon-Mabang), **Exh. A-52** (Job Description of Mabang), **Exh. A-53** (Certification dated 23 February 2015), **Exh. A-54 to A-60** (PDS of Olga Sajise Galido), **Exh. A-61 to A-62** (Service Employment Record of Galido), **Exh. A-63 to A-64** (Appointment of Galido), **Exh. A-65** (SARO of National Commission of Muslim Filipinos), **Exh. A-66** (Advice of NCA Issued dated 6 July 2012), **Exh. A-67** (Letter to Sec. Mehol K. Sadain dated 16 July 2012), **Exh. A-68 to A-72** (MOA dated 10 August 2012), **Exh. A-73** (NLMF Disbursement Voucher), **Exh. A-74** (LBP Check No. 446187 dated 31 July 2012), **Exh. A-75** (NLMF Disbursement Voucher dated 13 February 2016), **Exh. A-76** (LBP Check No. 0000084530 dated 14 February 2013), **Exh. A-77** (O.R. No. 1580 dated 14 February 2013), **Exh. A-78 to A-159** (Commission on Audit [COA] Consolidated Annual Audit Report on the National Commission of Muslim Filipinos for the year ended 31 December 2012), as they are all certified true copies and the defense stipulated that prosecution witness Nivera will be able to identify the said exhibits attached to the Complaint she executed.¹² **Exh. A-67** was also identified by prosecution witness Marieflor Dimaano Tubaña in her judicial affidavit.¹³ Accused Mascenon-Sales's objection pertains not to the admissibility of the afore-said exhibits but rather to their probative value.

ADMIT Exhs. B to B-79 (Commission on Audit [COA] Consolidated Annual Audit Report [CAAR] on the National Commission of Muslim Filipinos [NCMF] for 2012), **Exh. B-80** (SARO No. BMG-G-12-T000002360 dated 29 May 2012), **Exh. B-81** (Advice of NCA Issued dated 06 July 2012), **Exh. B-82** (Letter of Simeon A. Datumanong to Hon. Sec. Mehol K. Sadain dated 16 July 2012), **Exh. B-83 to B-87** (Memorandum of Agreement dated 10 August 2012), **Exh. B-88** (NCMF Unnumbered and Undated Disbursement Voucher), **Exh. B-89** (Check No. 446187), **Exh. B-90** (MLFI OR No. 0057 dated 4 August 2012), **Exh. B-91** (NCMF DV dated 13 February 2016 in the amount of ₱266,000.00), **Exh. B-92** (Landbank Check No. 084530), **Exh. B-94** (Audit Observations Memorandum [AOM] No. 2015-037 [2014] dated 15 May 2015), **Exh. B-95** (Notice of Disallowance No. 2015-020-PDAF dated 12 October 2015), **Exh. B-96** (Copy of COA Circular No. 2007-001), **Exh. B-97** (CAAR-NCMF 2013), **Exh. B-98** (CAAR-NCMF 2014), as they appear to be certified true copies.

¹² Record, Vol. 3, pp. 237-239 (Order dated 13 June 2022).

¹³ JA Vol. 1, pp. 9, 494.

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Prosecution witness Estrelita Morante Aguilar identified Exhs. B to B-92¹⁴ as the same documents she certified. Exhs. B-80 to B-95 and Exhs. B-97 to B-98 are the documents Aguilar surrendered to the prosecution.¹⁵ Further, prosecution witness Tubaña identified Exhs. B-80 to B-93 as part of the audit they conducted in arriving at the observations incorporated in the CAAR-NCMF.¹⁶ She also identified Exh. B-73 and B-96.¹⁷ The objections raised by accused Panlilio pertains not to the admissibility but on the probative value of the said exhibits.

ADMIT Exh. B-93 (MLFI OR No. 1580 dated 29 May 2012),¹⁸ even if it is a mere photocopy, there being no objection by accused on such ground. It should be noted that the Court is not precluded from accepting a mere photocopy of a document as evidence when no objection was raised when it was formally offered.¹⁹ Thus, it may validly be considered by the court in arriving at its judgment.²⁰

ADMIT Exhs. C (SARO No. BMG-G-12-T000002360 dated 29 May 2012), **Exh. C-1** (Notice of Cash Allocation NCA-BMG-G-12-8001765 dated 6 July 2012), **Exh. C-2** (Advice of NCA Issued dated 6 July 2012), **Exh. C-3** (1st Indorsement dated 8 May 2012), **Exh. C-4** (1st Tranche FY 2012), **Exh. C-5** (Letter of Simeon A. Datumanong to Hon. Feliciano Belmonte dated 2 May 2012), as they are all certified copies and identified by prosecution witness Marissa A. Santos, records custodian of the DBM official files, as the same documents she certified and submitted to the Office of the Ombudsman.²¹

ADMIT Exh. D to D-7 (Maharlikang Lipi Foundation Incorporated [MLFI] Articles of Incorporation), **Exh. D-8 to D-12** (MLFI GIS for 2012), **Exh. D-13 to D-25** (MLFI GIS for 2013), **Exh. D-26 to D-49** (MLFI Financial Statement for 2013), **Exh. D-50 to D-75** (MLFI Financial Statement for 2012), as they are certified true copies issued by the Securities and Exchange Commission (SEC). They were admitted by accused, through Atty. Purificacion S. Bartolome-Bernabe, as to their authenticity and due execution.²² In her Comment/Objection, accused objected only to the Purpose No. 4 of the offer and not as to the admissibility of the exhibits.

ADMIT Exh. E (Service/Employment Record of Mehol Kiram Sadain), **Exh. E-1 to E-4** (PDS of Sadain), **Exh. E-5** (Letter of Appointment of Sadain), **Exh. E-6** (Panunumpa sa Katungkulan of Sadain), **Exh. E-7 to**

¹⁴ JA Vol. 1, p. 58

¹⁵ JA Vol. 1, pp. 57-58

¹⁶ JA Vol. 1, pp. 6-7.

¹⁷ JA Vol. 1, pp. 10, 7, 495, 492.

¹⁸ Similar to Exh. A-77.

¹⁹ *Tapayan v. Martinez*, G.R. No. 207786, 30 January 2017.

²⁰ *BPI v. Mendoza*, G.R. No. 198799, 20 March 2017.

²¹ JA, Vol. 1, pp. 529-530.

²² Record, Vol. 4, p. 217 (Order dated 21 April 2022, Record, Vol. 4, pp. 212-219.

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E-8 (CSC Form 1 of Sadain), **Exh. E-9 to E-10** (Employment Record of Makalinggan), **Exh. E-11 to E-14** (PDS of Makalinggan), **Exh. E-15 to E-16** (Appointment of Makalinggan), **Exh. E-17** (Panunumpa sa Katungkulan of Makalinggan), **Exh. E-18 to E-19** (CSC Form 1 of Makalinggan), **Exh. E-20 to E-21** (Employment Record of Fedelina Dumalanta Aldanese), **Exh. E-22 to E-26** (PDS of Aldanese), **Exh. E-27** (Designation of Aldanese), **Exh. E-28** (Service Record of Aurora Aragon-Mabang), **Exh. E-29 to E-32** (PDS of Mabang), **Exh. E-33** (Designation of Mabang), **Exh. E-34 to E-35** (Service Employment Record of Olga Sajise Galido), **Exh. E-36 to E-39** (PDS of Galido), **Exh. E-40 to E-41** (Appointment of Galido), as they are certified true copies issued by the Human Resource Development Division of the NCMF. On 21 April 2022, accused, through Atty. Bartolome-Bernabe, stipulated on the public positions of said accused.²³ The Court notes that accused objected only to the prosecution's Purpose No. 4 and not the admissibility of the exhibits.

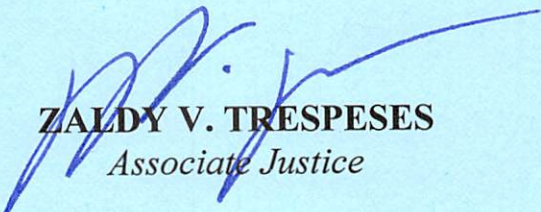
ADMIT Exh. G (Letter dated 11 July 2016 from Philippine Forest Corporation Auditor Marita Yap), although it appears to be mere photocopy, it was identified by Marita A. Yap as the same letter she sent to Ms. Queenie E. Rodriguez of MLFI.²⁴ It was stipulated by Atty. Bernabe as a faithful reproduction of accused's Exh. 9.²⁵ Also, the defense did not object as to its admissibility.

It should be noted that the admission of these exhibits is subject to the Court's appreciation of their probative value and as to the purposes for which they were offered during the final disposition of the case. In view of the admission of the documentary exhibits, the prosecution is deemed to have rested its case.

The parties are reminded of the setting for the presentation of defense evidence on **August 18, 2022 at 8:30 in the morning at the Fourth Division Courtroom.**

SO ORDERED.

Quezon City, Philippines.


ZALDY V. TRESPESES
Associate Justice

²³ Record, Vol. 4, p. 217 (Order dated 21 April 2022, Record, Vol. 4, pp. 212-219.

²⁴ JA Vol. 2, p. 30.

²⁵ Record, Vol. 4, p. 238 (Order dated 13 June 2022)

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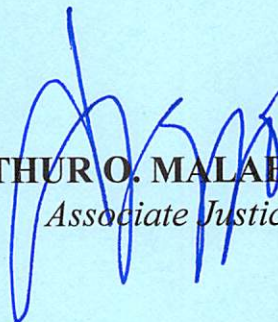
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WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


ARTHURO O. MALABAGUIO
Associate Justice

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