



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on August 18, 2022.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA -----Chairperson
ZALDY V. TRESPESES ----- Associate Justice
GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

CRIMINAL CASE Nos. SB-22-CRM-0183 to 0185

PEOPLE v. ANTONIO YRIGON ORTIZ, et al.

Before the court are the following:

1. Accused Dennis L. Cunanan's "MOTION FOR RECONSIDERATION" dated August 15, 2022.¹
2. Prosecution's "OPPOSITION (to MOTION FOR RECONSIDERATION)" dated August 17, 2022.²

GOMEZ-ESTOESTA, J.:

This resolves accused Cunanan's *Motion for Reconsideration* and Prosecution's *Opposition* thereto.

ACCUSED CUNANAN'S
MOTION FOR RECONSIDERATION

In his *Motion for Reconsideration*, Accused Cunanan reiterates that he did not receive the Ombudsman Resolution. Hence, he echoes his previous

¹ Records, Vol. 2, pp. 63-67.

² Records, Vol. 2, pp. 80-81.

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assertion that he was deprived of the right to file a motion for reconsideration before the Office of the Ombudsman. Accused Cunanan insists that the Ombudsman Resolution was not properly served. He cites that the PhilPost's official website shows that the Registry Receipt Number of the supposed mailing of the said Resolution could not be found. Accused Cunanan argues that his right to file a motion for reconsideration, while not an inherent right, remains to be a part of his statutory right to defend himself.

PROSECUTION'S OPPOSITION

The Prosecution opposes accused Cunanan's *Motion for Reconsideration* on the ground that the latter failed to forward any new or substantial argument to support his motion. The Prosecution cites that the motion itself admits that a motion for reconsideration is not an inherent right but a privilege which is subject to the limitations of the rules and law.

THE COURT'S RULING

The *Motion for Reconsideration* does not still persuade.

The issue at this point no longer dovetails on whether accused Cunanan was given the opportunity to file a motion for reconsideration to the Ombudsman Resolution, despite the fact that proof of service of the same was never adduced by the Prosecution.

In its *Resolution* dated August 9, 2022, the court has discussed in depth that the preliminary investigation as a matter of right is full and complete **immediately after** the opportunity to hear the parties and the finding of probable cause,³

The *Rules of Procedure of the Office of the Ombudsman*, as amended, clearly allows the filing of an information before a court even **without awaiting either the filing or the lapse of the period for filing any motion for reconsideration or reinvestigation, viz:**

Section 7. Motion for reconsideration -

a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filled within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;

b) **The filing of a motion for reconsideration/ reinvestigation shall not bar the filing of the corresponding information in Court** on the basis of the finding of probable cause in the resolution subject of the motion. (As amended by Administrative Order No. 15, dated February 16, 2000)

³ *People vs. Sandiganbayan (Fourth Division) and Desembrana*, G.R. Nos. 233061-62, July 28, 2020.

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The Supreme Court has repeatedly ruled that a court acquires full jurisdiction in a criminal case once the Information has been filed. Any question on the finding of probable cause, therefore, must be addressed to the court's sound discretion. Although the prosecutor retains the direction and control of the prosecution of criminal cases even while the case is already in court, the prosecutor cannot impose his or her opinion on the trial court. The court is the best and sole judge on what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence.⁴

Further, the court reiterates that it has already made a judicial determination of probable cause in its Resolution dated July 20, 2022.⁵

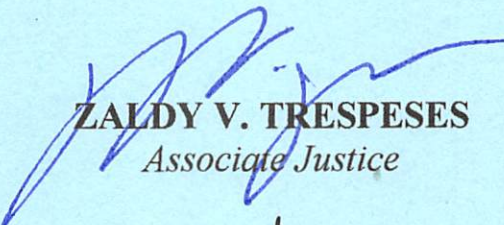
WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by accused Dennis L. Cunanan is **DENIED** for lack of merit.

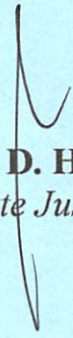
The Arraignment and Pre-Trial of said accused on **September 2, 2022 at 8:30 in the morning** shall **PROCEED** in-court, as scheduled.

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESSES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

⁴ *Non v. Office of the Ombudsman*, G.R. No. 239168, September 15, 2020 citing *Crespo v. Mogul*, G.R. No. L-53373 June 30, 1987. See also *Debuque v. Nilson*, G.R. No. 191718, May 10, 202.

⁵ Records, Vol. 1, p. 445.