REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on September 6, 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-13-CRM-0323 to 0558

PEOPLE v. FLORENDO B. ARIAS, ET AL.

Before the court are the following:

1. Norma Villarmino, Lucia Rondon, Bella Tolentino, Ronaldo Simbahan, Angelica Cabacungan, and Rolando Cabangon's **"MOTION TO LIFT HOLD DEPARTURE ORDERS ISSUED AGAINST THE ACCUSED"** dated August 30, 2022;

2. Reply-emails of Pros. Tan (sent on August 30, 2022 at 11:08 a.m.) and Pros. Domantay (sent on August 30, 2022 at 11:36 a.m.); and

3. Prosecution's **"COMPLIANCE"** dated September 1, 2022.

GOMEZ-ESTOESTA, J.:

Before this court are the (a) Prosecution's *Compliance* dated September 2, 2022; (b) Villarmino, Rondon, Tolentino, Simbahan, Cabacungan and Cabangon's *Motion to Lift Hold Departure Orders,* and the Prosecution's e-mail replies thereto.

THE PROSECUTION'S COMPLIANCE

In its *Resolution* dated August 18, 2022, this court granted the Demurrers to Evidence filed by Melquiadesa T. Gubatina and Renan C. Sikat, cashiers impleaded in a number of cases, finding that no particular act has been attributed to them in the *Informations,* much less proven during trial. In its evaluation of all the cases, each of which was the subject of demurrers filed by several accused, this court ascertained that accused **Carmen D. Ramos**, a cashier, was similarly situated as Gubatina and Sikat in that there is no particular allegation nor proof of her participation in the offenses charged against her. Thus, pursuant to Rule 119, Section 23 of the Revised Rules of Criminal Procedure, this court directed the Prosecution to explain why the cases against her should not likewise be dismissed. Said Rule provides:

> *Section 23. Demurrer to evidence.* — **After the prosecution rests its case**, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the **opportunity to be heard** or (2) upon demurrer to evidence filed by the accused with or without leave of court. x x x

While this court, pursuant to said Rule, afforded the Prosecution an **opportunity to be heard why the cases filed against Carmen D. Ramos should not likewise be dismissed,** the Prosecution instead responded by assailing that such directive has become *functus officio,* by sheer reason that such has **already lapsed.**[1] Supposedly, such directive should have been done **upon resolution** of its Formal Offer of Evidence, when the prosecution is deemed to have **rested its case.**

This court fails to see the prosecution's basis for setting a deadline for this court to accord it due process, as well as the point of arguing that it was accorded due process **too late.** This court is asking the Prosecution for evidence to sustain the cases against accused Ramos, that is all. **The answer to this query can be found in the evidence that the Prosecution has as of the time it has rested its case, which will not vary with time.** The Rule actually speaks of a starting point when the court would have the complete set of evidence to consider for sufficiency to sustain a case, in sharp contrast to the time bar touted by the Prosecution, which is not found in the afore-cited Rules. Again, the evidence that the Prosecution had at the time it rested its case is the **same** evidence it had when this court issued its directive with regard to accused Ramos. The Prosecution, therefore, should have complied with the directive by expounding on why the cases should not be dismissed against Ramos.

The Prosecution, however, averted a different tone. It opines that this court should have directed it to explain why the cases against accused Ramos should not be dismissed **when it has rested its case, and no sooner.** This is when this court admitted its documentary evidence when it ruled on its Formal Offer of Evidence. It asserted that:

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[1] Compliance dated September 1, 2022, par. 12.

> "[a] reading of [Section 23, Rule 119] would thus not allow for the Honorable Court to proceed with its ruling on the offer of evidence of the prosecution, **without, at the first instance, already exercising its initiative to dismiss the case as to Ramos** (upon affording the prosecution an opportunity to be heard). The rule clearly contemplates that, the Honorable Court, upon examining the evidence proffered by the prosecution, would immediately decipher whether the evidence is insufficient; and hence, forthwith give the prosecution the opportunity to be heard on the matter before dismissing the case. x x x The Honorable Court did not state that the evidence against the accused Ramos is insufficient at the time the prosecution rested its case on 10 May 2022, when it ruled on the Formal Offer of Evidence of the prosecution, and *well beyond* the filing of the first Motions for Leave to File Demurrer to Evidence, on 22 May 2022." (boldface in the original; underscoring supplied)

Certainly, the Prosecution is aware that only the **admissibility** of evidence is considered in the resolution of a Formal Offer of Evidence. As this court has ruled in the same *Resolution:*

> The function of the formal offer is to enable the trial judge to know the purpose or purposes for which the proponent was presenting the evidence. Such formal offer would also enable the opposing parties to examine the evidence and to reasonably object to their **admissibility.**[2]

> **Admissibility of evidence should not be confused with its probative value.** Admissibility refers to the question of whether certain pieces of evidence are to be considered **at all**, while probative value refers to the question of whether the **admitted** evidence proves an issue. Thus, a particular evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.[3]

To put it simply, a court may only rule upon the sufficiency of **admissible** evidence. Hence, the Rules allow for such determination of sufficiency only **after the prosecution rests its case.** To insist that this court is barred from examining the evidence **after they are admitted;** and **that this court immediately** assess the **sufficiency** of evidence **at the same time as their admissibility,** is unfounded, unprocedural, if not imprudently rash.

The cause of the Prosecution may emphatically seek that the charges remain as charged. Caution, however, should have guarded that it be worn on its sleeve rather than smack the court of a lesson in "procedural" law which only strikes at an alien idea that was flung at mindless endeavor.

A reading of Section 23 of Rule 119 cannot be any clearer.

After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving

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[2] *Bank of Commerce v. Heirs of Dela Cruz,* G.R. No. 211519, August 14, 2017.
[3] *Disini v. Republic,* G.R. No. 205172, June 15, 2021.

the prosecution the **opportunity to be heard** or (2) upon demurrer to evidence filed by the accused with or without leave of court.

When, indeed, can it be said that the prosecution has rested its case?

Simply, the prosecution is deemed to have rested its case when the trial court admitted its documentary evidence. In *Cabador v. People*,[4] this Court held that "only **after** [the court ruled on the prosecution's formal offer of documentary evidence] could the prosecution be deemed to have rested its case."[5]

To reiterate, the prosecution is considered to have rested its case **after** the court has already ruled on the admissibility of the prosecution's documentary exhibits. *After,* not *during* or *no sooner than* its assessment of the admissibility of prosecution evidence.

In any event, the Prosecution obviously failed to fortify the sufficiency of evidence, as required. For failure to point to any evidence of accused Carmen Ramos' participation in the offenses charged against her, the charges against her must perforce be dismissed.

Motion to Lift Hold Departure Orders Issued Against Villarmino, Rondon, Tolentino, Simbahan, Cabacungan and Cabangon

In *People v. Ting,* the Supreme Court explained:

> A demurrer to evidence is filed after the prosecution has rested its case and the trial court is required to evaluate whether the evidence presented by the prosecution is sufficient enough to warrant the conviction of the accused beyond reasonable doubt. **If the court finds that the evidence is not sufficient and grants the demurrer to evidence, such dismissal of the case is one on the merits, which is equivalent to the acquittal of the accused.**[6] (emphasis supplied)

As this court has found that there is insufficient evidence against Villarmino, Rondon, Tolentino, Simbahan, Cabacungan and Cabangon, and has accordingly granted their Demurrer to Evidence, they have, in effect, already been acquitted of the offenses charged against them. Consequently, this Court grants their motion to lift the Hold Departure Orders against them. Likewise, their cash bonds may now be ordered released.

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[4] G.R. NO. 186001, October 2, 2009.
[5] *BDO Unibank, Inc. v. Choa,* G.R. No. 237553, July 10, 2019.
[6] G.R. No. 221505, December 5, 2018.

In an email to Villarmino et al.'s counsel dated August 30, 2022, copy furnished this court, Pros. Joshua Tan[7] replied:

> "Opposed.
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> The prosecution has yet to exhaust its remedies under the Rules pursuant to Yu v. Samson-Tatad, G.R. No. 170979."

For his part, Pros. Jackson Domantay[8] replied:

> Too premature. There is a pending incident which was explicitly discussed in open court during the last hearing. We are opposing the precipitous Motion. Appropriate pleading shall be filed by the prosecution in due time.

With the acquittal of Villarmino, et al., the lifting of the Hold Departure Orders against them necessarily follows. In any event, Pros. Tan's citation of *Yu v. Samson-Tatad* is misplaced, as it deals with the applicability of the fresh period rule to **appeal** under *Neypes v. Court of Appeals*[9] to criminal cases. A judgment of acquittal, however, is **final, unappealable, and immediately executory upon its promulgation,** correctible only by **certiorari** where it should be demonstrated that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.[10] Indeed, the Motion to Lift the Hold Departure Orders was not premature.

WHEREFORE, the *Motion to Lift Hold Departure Orders Issued Against Norma Villarmino, Lucia Rondon, Bella Tolentino, Ronaldo Simbahan, Angelita Cabacungan and Rolando Cabangon is* **GRANTED.** The Hold Departure Order issued by this Court against them on May 31, 2013 is necessarily set aside and the Order issued by the Bureau of Immigration insofar as it incorporated their names in the Hold Departure List is ordered recalled and cancelled. Further, their respective cash bonds are ordered **RELEASED,** subject to the usual auditing and accounting procedure.

For failure of the Prosecution to explain that it has presented sufficient evidence against her, accused **Carmen D. Ramos** is similarly **ACQUITTED** of the crimes charged, as with Melquiadesa T. Gubatina and Renan C. Sikat, under Crim. Case Nos. **00345 & 0463 and 0360 & 0478**. Her cash bond in the amount of ₱108,000.00 is ordered **RELEASED,** subject to the usual auditing and accounting procedure. The Hold Departure Order issued by this Court against her on May 31, 2013 is necessarily set aside and the Order issued by the Bureau of Immigration insofar as it incorporated her name in the Hold Departure List is ordered recalled and cancelled.

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[8] jackson.osp@gmail.com
[9] G.R. No. 141524, September 14, 2005.
[10] *People v. Alejandro*, G.R. No. 223099, January 11, 2018.

SO ORDERED.

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

WE CONCUR:

ZALDY V. TRESPESES
Associate Justice

GEORGINA D. HIDALGO
Associate Justice