



REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
QUEZON CITY

**THIRD DIVISION**

**REPUBLIC OF THE  
PHILIPPINES,**

**Petitioner,**

**SB-14-CVL-0002**

For: Forfeiture of Unlawfully  
Acquired Properties  
under R.A. No. 1379

**- versus -**

*Present:*

**HERNANDO B. PEREZ,  
ROSARIO S. PEREZ, ERNEST  
D. ESCALER, and RAMON  
ANTONIO C. ARCEO JR.,  
Respondents.**

**CABOTAJE-TANG, P.J.,**  
Chairperson,  
**FERNANDEZ, B., J. and  
MORENO, J.**

*Promulgated:*

November 17, 2022 xl

X-----X

**RESOLUTION**

**CABOTAJE-TANG, P.J.:**

For resolution is respondent Ernest De Leon Escaler's  
"Motion [To Correct Pre-Trial Order]" dated October 18, 2022.

In his *motion*, respondent Escaler submits that the petitioner's reservation appearing on pages 22 and 28 of the *Pre-Trial Order* should be deleted considering that this Court already gave the petitioner a non-extendible period of fifteen (15) days from notice of its Resolution promulgated on July 28, 2022 within which to submit the judicial affidavits of all its witnesses. Moreover, the Court also ruled in the same *Resolution* that the petitioner did not properly make a reservation for the

x-----x

presentation of additional evidence. Thus, he avers that the *Pre-Trial Order* should be amended to conform to the above facts.

Respondent Escaler likewise avers that the petitioner's list of witnesses appearing on pages 25 to 28 of the *Pre-Trial Order* must be amended and trimmed down to nine (9), as expressly manifested by the petitioner and clarified by the Court during the hearing on October 11, 2022.

In its *Comment* dated October 28, 2022, the petitioner argues that respondent's motion is belatedly filed. It claims that the reckoning date of the five-day period within which the parties could comment on the *Pre-Trial Order* was October 11, 2022. Nonetheless, in the event that the Court grants respondent's motion, it claims that the deletion of the reservation should be extended to all parties. It argues that the respondents' reservations were likewise not compliant with the requirements of the Rules as they were also general reservations.

**THE RULING OF THE COURT**

We find the motion meritorious.

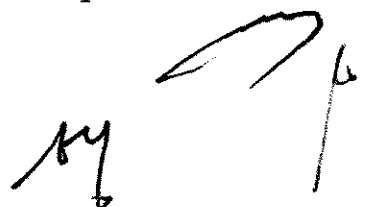
***The motion was filed on time.***

=====

At the outset, the Court finds it necessary to address the question of whether respondent's Escaler's motion filed on October 18, 2022 was filed on time.

In his motion, respondent Escaler alleged that he received a copy of the PTO on October 13, 2022, giving him five (5) days from the said date, or until October 18, 2022, to comment or make corrections thereon. On the other hand, the petitioner asserts that the five (5) day period should be reckoned from October 11, 2022 as agreed upon by the parties during the hearing on even date.

To recall, during the hearing on October 11, 2022 originally scheduled for the presentation of the petitioner's

Handwritten signature and initials in the bottom right corner of the page.

**Resolution**

Civil Case No. SB-14-CVL-0002  
Republic v. Perez, *et al.*

x-----x

witnesses, the parties manifested that they still have not received a copy of the PTO. Nonetheless, since all the parties were present, they agreed to have the PTO signed on the same date, viz:

JUSTICE MORENO:

It should be like this. Parties will be signing the Pre-Trial Order today. And then, the parties will be given their respective copies. As per the Pre-Trial Order, you were given five (5) days from receipt within which to move for amendments and modification of the Pre-Trial Order. So, let us wait until such period to lapse first before we allow the petitioner to present evidence.

PROS. CALALANG:

We submit, Your Honor.<sup>1</sup>

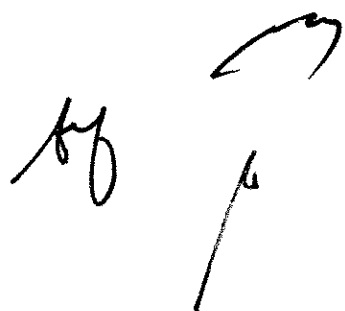
... ..

JUSTICE MORENO:

So I would assume that the Pre-Trial Order was [sic] already been duly signed by the parties, and we will be issuing a copy of the same within the day po. And we would like all the parties to acknowledge receipt within the day.

ATTY. PEREZ:

For Mr. Ramon Arceo, Jr., has lapses of memory already. And he may not be able to come here to sign. I don't know if he can still sign.

Handwritten signatures and initials in black ink, including a large flourish and a vertical line.

---

<sup>1</sup> TSN dated October 11, 2022, p. 9

x-----x

JUSTICE MORENO:

We will take note of your manifestation.

ATTY. PEREZ:

Thank you, Your Honor.

ECC II:

Your Honor, respondent Escaler has not yet sign [sic] (interrupted)

JUSTICE MORENO:

Who?

ECC II:

Respondent Escaler.

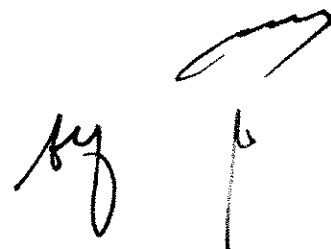
JUSTICE MORENO:

We can issue the Pre-Trial Order without prejudice to him signing the Pre-Trial Order. Wala naman prejudice iyon eh. Even in criminal cases. Only the admissions cannot be used against the accused. So, we are done po. So, we would assume that the Pre-Trial Order will be issued today. The parties would acknowledge receipt of the same. Okay po?<sup>2</sup>

To clarify, the reference to October 11, 2022 as the reckoning period was made on the assumption that the parties will receive a copy of the PTO on the same day. The records show that respondent Escaler, through his counsel, received a photocopy of the PTO on October 11, 2022. The certified true copy was sent, thereafter, and was received by respondent on October 13, 2022. By default, therefore, the respondent Escaler did not err in considering October 13, 2022 as the reckoning

---

<sup>2</sup> TSN dated October 11, 2022, pp. 35-36



x-----x

period as this is when he received his official copy of the PTO, not the mere photocopy. Besides, even if the reckoning period is October 11, 2022, the five-day period will end on October 16, 2022. However, since it fell on a Sunday, the parties had until October 17, 2022 to file their respective corrections. In this instance, the motion is belatedly filed only by one (1) day. In view of this, the Court finds it proper to admit respondent Escaler's motion in the higher interest of justice and likewise to the benefit of all parties as will be discussed below.

***The reservations were improperly made.***

=====

To recall, unlike the 1997 Rules of Civil Procedure, the 2019 Amendments explicitly state the manner in which the parties should reserve evidence, viz:

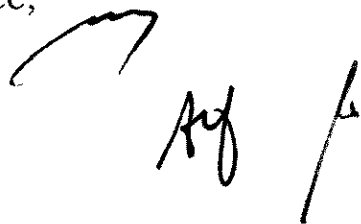
Section 2. *Nature and [p]urpose.* – The pre-trial is mandatory and should be terminated promptly.

The court shall consider:

... ..

(g) The requirement for the parties to:

1. Mark their respective evidence if not yet marked in the judicial affidavits of their witnesses;
2. Examine and make comparisons of the adverse parties' evidence *vis-a-vis* the copies to be marked;
3. Manifest for the record stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties' evidence;



x-----x

4. Reserve evidence not available at the pre-trial, but only in the following manner:
- i. For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;
  - ii. For documentary evidence and other object evidence, by giving a particular description of the evidence.

No reservation shall be allowed if not made in the manner described above.<sup>3</sup>

As gleaned therefrom, parties must now specify the witness or document that they wish to present during the trial that are not available during the pre-trial. In this case, a review of the record reveals that none of the parties sufficiently complied with this requirement. Thus, as prayed for by the petitioner, the deletion of the reservation should not only be applied to it but to the respondents as well.

**The prosecution's witnesses are limited to nine (9).**

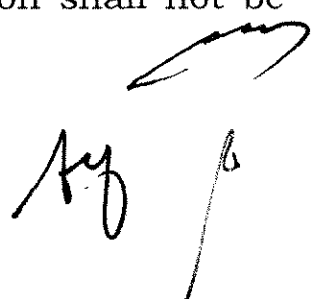
=====

Finally, we are compelled to agree with respondent Escaler that the witnesses of the prosecution, as stated in the Pre-Trial Order, should only be nine (9) due to the special circumstances surrounding this case.

*First.* As pointed out by respondent Escaler, the prosecution has been given numerous opportunities to submit the Judicial Affidavits of its intended witnesses in accordance with the Rules. Thus, in our *Resolution* promulgated on July 28, 2022, we ruled that any Judicial Affidavit submitted beyond the fifteen-day period from notice of said Resolution shall not be

---

<sup>3</sup> Rule 118, Section 2, 2019 Amendments to the 1997 Rules of Civil Procedure

Handwritten signature and initials in black ink, located in the bottom right corner of the page.

**Resolution**

Civil Case No. SB-14-CVL-0002  
Republic v. Perez, *et al.*

x-----x

admitted. As of date, the prosecution was only able to submit the judicial affidavits of nine (9) witnesses.

*Second.* The petitioner itself, through Prosecutor Charmaine M. Calalang, manifested during the hearing on October 11, 2022 that they are only presenting nine (9) witnesses, viz:

JUSTICE MORENO:

Counsels for respondents? Will you be available on October 18? How many witnesses will the petitioner be presenting in this case?

PROS. CALALANG:

Nine (9), Your Honors.

JUSTICE MORENO:

Give them nine (9) trial dates. ... ..<sup>4</sup>

... ..

PROS. CALALANG:

Your Honors, just to clarify, the Court has given the prosecution three (3) deadlines based on the records. June 9, August 13, and October 14, Your Honors, for the submission of the Judicial Affidavit and written interrogatories of its witnesses. All in all, we will be presenting nine (9) witnesses, based on the records. Eight (8) of those Judicial Affidavits [have] already been furnished to the served [sic] counsel.<sup>5</sup>

The petitioner cannot now insist that its manifestation during the hearing is non-binding and claim to retain the

<sup>4</sup> TSN dated October 11, 2022, p. 11

<sup>5</sup> *Id.*, p. 19


x-----x

original number of witnesses it wanted to present. It must be stressed that the 2019 Amendments were promulgated precisely to further facilitate the speedy resolution of cases by requiring the parties to disclose their evidence as early as possible and prevent surprises that may cause further delays in the trial.

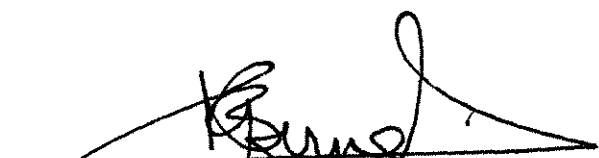
**WHEREFORE**, the “*Motion*” dated October 18, 2022, filed by respondent Ernest De Leon Escaler is **GRANTED**. Let an Amended Pre-Trial Order be issued to reflect the above-mentioned corrections.

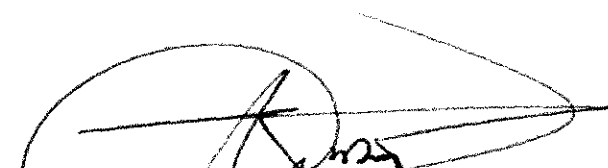
**SO ORDERED.**

Quezon City, Metro Manila

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice  
Chairperson

**WE CONCUR:**

  
**BERNELITO R. FERNANDEZ**  
Associate Justice

  
**RONALD B. MORENO**  
Associate Justice