



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No.
SB-18-CRM-0508-0509
*For: Violation of Section
3(e), R.A. No. 3019, as
amended*


-versus-

HERMINIO GUIVELONDO TEVES,
ET AL.,
Accused.

Present:

Cabotaje-Tang, A.M., *PJ,*
Chairperson
Fernandez, B.R., *J.* and
Moreno, R.B. *J.*

PROMULGATED:

MAR 29, 2023 

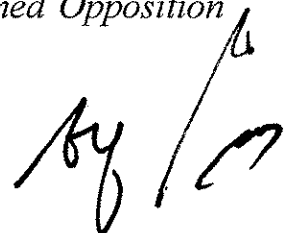
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RESOLUTION

Moreno, J.:

For resolution are the *Verified Motion for Partial Reconsideration*¹ filed by accused Samuel S. Bombeo, Sr. dated January 2, 2023; and the prosecution's *Motion for Leave of Court to Admit the Attached Opposition*

¹ Record, vol. V, pp. 649-658.



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to *Verified Motion for Partial Reconsideration*² and the *Opposition to Verified Motion for Partial Reconsideration*,³ both dated January 17, 2023.

In his motion, accused Bombeo sought a reconsideration of this Court's Order of November 24, 2022 which admitted the exhibits of all the accused except the following exhibits:

4. Accused Samuel S. Bombeo

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The following exhibits, however, are **DENIED ADMISSION**:

Exhibits 6, 13 and 13-A of accused Samuel S. Bombeo for being immaterial; Exhibits 7, 9, 10 and 11 of accused Samuel S. Bombeo for lack of proper identification.

X X X X⁴

With regard to Exhibit "6" (Roberto Gianan's Death Certificate), Bombeo argued that he would have presented Gianan as a material witness since the latter's testimony – as accused's project manager – was vital to his (Bombeo's) defense. As regards Exhibits "13" and "13-A" (the Certified True Copy of the Death Certificate of Olivia L. Marquez), Bombeo similarly alleged that Marquez would have "enlightened the Court regarding her rental agreement with Bombeo,"⁵ as well as describe the horror brought by typhoon Sendong's fury to accused's office in *Barangay Carmen, Cagayan de Oro City*.

With respect to Exhibits "7" (Certification dated March 9, 2021 from the NDRRMC); "9" (Notarized Certification dated March 22, 2021 of the Punong *Barangay* of Carmen, Cagayan de Oro City); "10" (Notarized Certification of the Punong *Barangay* of Carmen, Cagayan de Oro City dated March 25, 2021); and "11" (Undated Notarized Certification of the City Social Welfare and Development of Cagayan de Oro), accused argued that these documents may be presented in evidence without further proof since they are "public documents issued by public officers in the usual performance of their duties";⁶ and that they have been "notarized by, and acknowledged before, a duly commissioned notary public."⁷

In its *Motion for Leave x x x*,⁸ the People of the Philippines (through the Office of the Special Prosecutor) claimed that a scanned copy of the

² *Id.* at 673-678.

³ *Id.* at 679-685

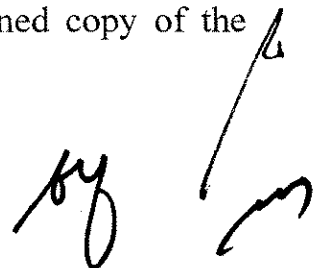
⁴ Order dated November 24, 2022, records, pp. 633-635.

⁵ *Supra*, note 1 at 654.

⁶ *Id.* at 655.

⁷ *Id.*

⁸ Record, vol. VIII, pp. 344-367.



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Court's Resolution dated January 5, 2023 was attached to an email sent by a certain Frederick A. Garong. This email had been received on January 11, 2023 but was opened only when the prosecution noticed that successive emails from Garong had been sent to the prosecution's official Gmail account. The prosecution later learned that Garong is one of the staff of the Office of the Clerk of Court who was constrained to use his email address because this Court's official email account had already been utilized to its full capacity.

In its *Opposition x x x*,⁹ the prosecution maintained that Exhibits "6," "13" and "13-A" are immaterial to Bombeo's defense; and that the supposed testimonies of Garong and Marquez were self-serving and baseless. With respect to the other exhibits, the prosecution argued that "no other witness was presented to properly identify Exhibits 7, 9, 10 and 11."¹⁰

THE COURT'S RULING:

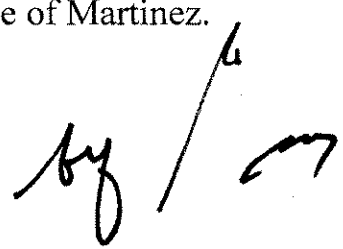
After due consideration, we find Bombeo's motion unmeritorious. Accordingly, we **deny** his motion.

Exhibits "6"; "13" and "13-A"

We point out at the outset that Bombeo, Sr. was being charged of having conspired with Congressman Herminio Teves and several others in causing undue injury to the government in the amount of ₱9,600,000. The indictment essentially alleged that Teves unilaterally chose and indorsed Molugan Foundation, Inc. (MFI) - a non-governmental organization operated and/or controlled by Bombeo - to implement a livelihood program funded by his (Teves') ₱10 million Priority Development Assistance Fund (PDAF) without public bidding, despite the fact that MFI was unaccredited and unqualified to undertake the said project.

To be sure, Bombeo claimed that Roberto Gianan was his employee (i.e., project manager), and that the latter implemented the livelihood projects upon his (Bombeo's) instruction. We do not, however, see the relevance of the presentation of Gianan's death certificate to the issue of whether Bombeo conspired with the other co-accused in misappropriating Cong. Teves' PDAF. In like manner, that there existed a rental, agreement between accused Bombeo and deceased Olivia Martinez regarding the former's office space in Cagayan de Oro has no bearing on the conspiracy indictment against the accused, including the allegation that he received a check amounting to ₱9.6 million for and in behalf of MFI. As such, we do not see any materiality in presenting the death certificate of Martinez.

⁹ Supra, note 3
¹⁰ *Id.* at 681.

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Exhibits “7”; “9”; “10” and “11”

In like manner, the Court rightly denied admission to Exhibits “7”; “9”; “10” and “11.”

Section 19 of Rule 132 of the Revised Rules on Evidence distinguishes between public and private documents, as follows:

Section 19. Classes of documents. - For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledged before a notary public except last wills and testaments;
- (c) Documents that are considered public documents under treaties and conventions which are in force between the Philippines and the country of source; and
- (d) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

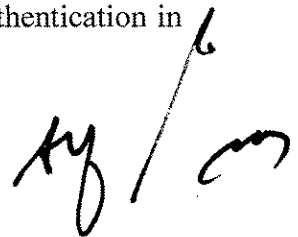
Corollarily, Section 23 of Rule 132, of the same Rules provides:

Section 23. Public documents as evidence. - Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

In *Patula v. People*,¹¹ the Supreme Court explained the need for authentication for private documents but not of public documents, thus:

The nature of documents as either public or private determines how the documents may be presented as evidence in court. A public document, by virtue of its official or sovereign character, or because it has been acknowledged before a notary public (except a notarial will) or a competent public official with the formalities required by law, or because it is a public record of a private writing authorized by law, is self-authenticating and requires no further authentication in

¹¹ G.R. No. 164457, April 11, 2012, 669 SCRA 135.



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order to be presented as evidence in court. In contrast, a private document is any other writing, deed, or instrument executed by a private person without the intervention of a notary or other person legally authorized by which some disposition or agreement is proved or set forth. Lacking the official or sovereign character of a public document, or the solemnities prescribed by law, a private document requires authentication in the manner allowed by law or the Rules of Court before its acceptance as evidence in court.

We recall that the excluded exhibits in this case consisted of the following:

Exhibit "7" - Certification dated March 9, 2021 from the National Disaster Risk Reduction and Management Council);

Exhibit "9" - Notarized Certification dated March 22, 2021 issued by the Office the Punong *Barangay* of Carmen, Cagayan de Oro City;

Exhibit "10" - Notarized Certification dated March 25, 2021 issued by the Office of the Punong *Barangay* of Carmen, Cagayan de Oro City; and

Exhibit "11" - Undated Notarized Certification of the City Social Welfare and Development of Cagayan de Oro.

There is no question that these certifications are public documents. The defense, however, did not satisfy the requirement of presenting public documents as evidence, i.e., conform to the mode of proving public documents as provided for under Sections 24 and 25 of the Revised Rules on Evidence,¹² as follows.

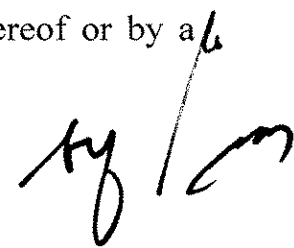
Section 24. Proof of official record. - The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his or her deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody.

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Section 25. What attestation of copy must state. - Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

These Sections prescribed the form and manner by which public documents could be offered as evidence in judicial proceedings in lieu of authentication. Accordingly, while there is no more need to prove the due execution of a public document, proof of an official record may only be made by an official publication thereof or by a

¹² A.M. No. 19-08-15-SC



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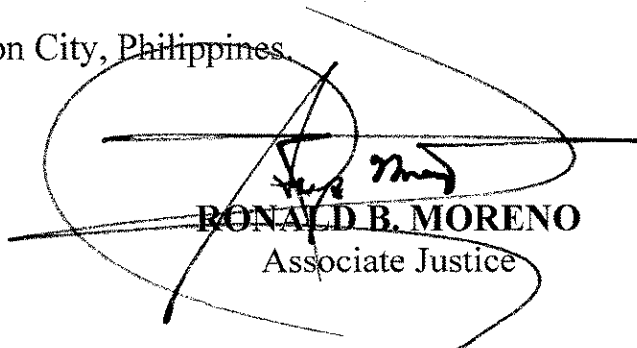
copy attested by the officer having the legal custody of the record, or by his or her deputy, pursuant to Rule 132, Section 24 vis-à-vis Section 25. In the present case, the subject pieces of evidence lacked this attestation.

WHEREFORE, premises considered, the Court rules as follows:

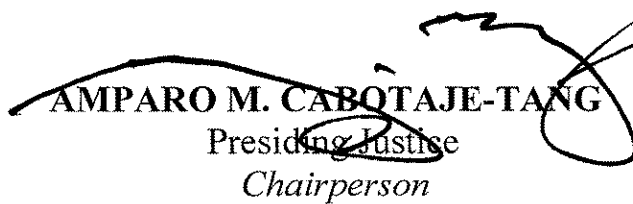
- (1) the prosecution's *Motion for Leave of Court to Admit the Attached Opposition* x x x is **GRANTED**;
- (2) the *Opposition to Verified Motion for Partial Reconsideration* is **NOTED**; and
- (3) the *Verified Motion for Partial Reconsideration* filed by accused Samuel S. Bombeo, Sr. is **DENIED**.

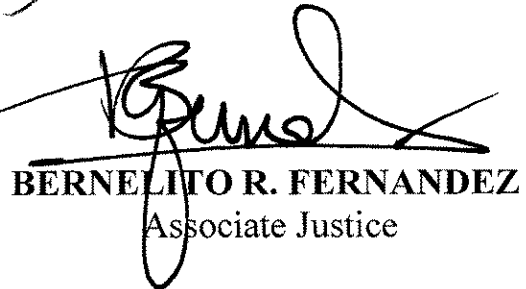
SO ORDERED.

Quezon City, Philippines.


RONALD B. MORENO
Associate Justice

WE CONCUR:


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson


BERNELITO R. FERNANDEZ
Associate Justice