



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

THIRD DIVISION

**PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,**

**CASES NOS. SB-13-
CRM 0605 to 0643**

**For: Violation of Section
3 (e) in relation to 3 (g)
of R.A. NO. 3019, as
amended**


-versus

**EFRAIM C. GENUINO, et al.
Accused.**

X-----X

Present:
CABOTAJE-TANG, P.J.,
Chairperson
FERNANDEZ, B., J and
MORENO, R.,J

PROMULGATED:

APRIL 19, 2023 




X-----X

RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution is accused-movant Efrain C. Genuino's Motion for Reconsideration dated January 23, 2023.¹

¹ pp. 621-641, Record, Volume 34

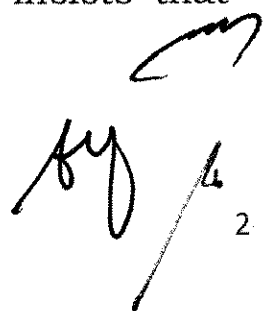




In his aforesaid motion, the accused-movant seeks a reconsideration of the Court's Resolution promulgated on January 19, 2023² which denied his [1] *Manifestation and Motion* (Criminal Cases Nos. SB-13-CRM-0605 to 0606) dated February 07, 2022; and [2] *Manifestation and Motion* (Criminal Cases Nos. SB-13-CRM-0608 to 0643) dated February 07, 2022, both for lack of merit. He basically reiterates his previous arguments invoking the doctrines of "the law of the case" and *stare decisis*.

Accused-movant argues that this Court is bound to follow the Supreme Court *en banc* Decisions promulgated on April 27, 2021 and June 15, 2021, both entitled "*Genuino v. Commission on Audit, et al.*," in G.R. Nos. 213655 and 230818, that the Philippine Amusement and Gaming Corporation's (PAGCOR's) income is not considered as "*public funds*" which can only be disbursed pursuant to "*government auditing and accounting rules and regulations*;" the funds subject of the Criminal Cases Nos. 0605 to 0606 are not subject to the Commission on Audit's (COA's) limited jurisdiction; hence, the subject funds are considered as PAGCOR's private corporate funds within the control of the PAGCOR's Board of Directors (Board); the Supreme Court held in the above-mentioned cases that all other PAGCOR funds, including the financial assistance to private entities such as the *Bida Foundation, Inc. (Bida)*, and the subject Operating Expenses Fund (OPEX Fund) where the money for the purchase of the *Baler* movie tickets was sourced, are part of PAGCOR's private corporate funds which is separate and distinct from the five percent (5%) franchise tax and fifty percent (50%) share of the government; hence, outside of the audit jurisdiction of the COA; and, the purchase of the *Baler* movie tickets did not result in any undue injury to the government or any private entity, nor did it give unwarranted advantage or benefit to any person.

Accordingly, the pronouncement of the Supreme Court on the alleged legality, validity and regularity of the said disbursement of PAGCOR's funds of *Baler* tickets is conclusively settled.³ Thus, the accused-movant insists that

² pp. 449-458, Record, Volume 234
³ pp. 621-629, Record, Volume 34



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the Court revisit its ruling pursuant to the doctrines of “*the law of the case*” and *stare decisis*.⁴

On the other hand, the prosecution opposes the subject motion. It argues that the accused-movant merely raises anew matters and issues which he had already raised in his earlier *motions*.⁵

The prosecution submits that the doctrines of “*the law of the case*” and *stare decisis* cannot be applied to these cases because of the nature of the cases involved and the difference in the parties in the subject cases and the parties in the aforesaid Supreme Court *Decisions*. Moreover, the Supreme Court did not make any pronouncement in its *Decisions* as to the guilt of the accused-movant herein.⁶

Lastly, the prosecution argues that the ruling of the Supreme Court in G.R. No. 230818 merely defined the limitation of the jurisdiction of the COA. The High Court did not expressly and categorically state that the funds outside of the five percent (5%) franchise tax and the Government’s fifty percent (50%) share of the gross earnings of PAGCOR are not public funds or that they are PAGCOR’s private funds. Accordingly, the said Supreme ruling was issued with limitations as it only resolved whether the COA acted with grave abuse of discretion in conducting an audit of the PAGCOR’s account beyond the 5% franchise tax and 50% Government share in its gross earnings. The Supreme Court did not make any pronouncement whether the financial assistance granted to private entities was violative of the public purpose requirement under the PAGCOR’s Charter.⁷

The Court finds the subject motion for reconsideration devoid of merit.

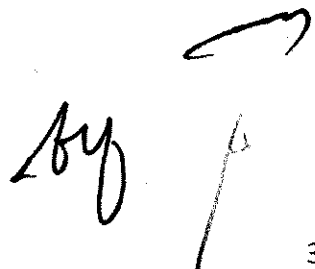
Notably, the accused-movant’s above contentions, arguments and citations are mere rehash of his previous position articulated in his earlier *motions*. They have been duly

⁴ *Id.*, at pp. 637-638

⁵ *Id.*, at p. 647

⁶ *Id.*, at p. 648

⁷ p. 647, Record, Volume 34

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considered, squarely addressed, and found to be without merit in the Court's *Resolution* subject of the present *motion for reconsideration*.⁸

Nonetheless, the Court shall again dwell on the arguments raised by the accused-movant if only to show their absolute lack of merit.

As emphasized in the assailed *Resolution*, the "*doctrine of the case*" applies only in the proceedings involving the same case and the same parties. Stated otherwise, it cannot bind the proceedings involving another case even if it involves the same parties.

The "*doctrine of the case*" means that whatever has once been irrevocably established as the controlling legal rule of a decision **between the same parties in the same case** continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be facts of the case before the court.⁹

In G.R. No. 230818 entitled "*Genuino v. Commission on Audit, et al.*," the issue resolved pertains to the financial assistance given by PAGCOR to Pleasant Village Homeowners Association (PHVA), a private entity, for the construction of a flood control and drainage system within the Pleasant Village Subdivision.¹⁰

On the other hand, in G.R. No. 213655 entitled "*Genuino v. Commission on Audit, et al.*," the Supreme Court resolved accused-movant's three (3) consolidated petitions for certiorari assailing COA Decision No. 2013-191 dated November 20, 2013, and Decision No. 2014-115 dated June 18, 2014, which affirmed Notice of Disallowance (N.D.) No. 2011-002(08) dated June 30, 2011. The COA disallowed the PAGCOR's release of funds amounting to Php26,700,000.00 as purchase price for the eighty-nine thousand (89,000) tickets to the movie *Baler*,

⁸ pp. 2-5 and 7-9, Resolution promulgated on January 19, 2023 at pp. 450-453 and 455-457, Record, Volume 34

⁹ Garcia v. Santos, 904 SCRA 205 (2019); emphasis supplied

¹⁰ p. 2 Decision, *Genuino v. Commission on Audit, et al.*, G.R. No. 230818, June 15, 2021

in favor of *Bida*. Clearly, the issues involved in the said cases are materially different from the issues in these cases.

Moreover, as We have stated in the assailed Resolution, while the factual antecedents of G.R. No. 213655 are related to the present cases, it must be underscored that the issues resolved by the High Tribunal in G.R. No. 213655, i.e., *the jurisdiction of the COA to conduct governmental audit over PAGCOR funds*, is unassociated with the criminal charges against the accused-movant herein. To be clear, the present cases stemmed from the *criminal Informations* filed by the Office of the Ombudsman with this Court on May 27, 2013,¹¹ and not on the said NDs issued by the COA. Thus, the guilt or innocence of the accused may only be determined by the Court after a consideration of the totality of the evidence submitted by the parties.

As We have likewise ruled in the *assailed Resolution*, the principle of *stare decisis* finds no application to these cases.

The principle of *stare decisis* enjoins adherence to judicial precedents. It requires the courts to follow a rule already established in a final decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.¹²

To repeat, the Decisions promulgated by the Supreme Court in the said cases relate only to the grave abuse of discretion committed by the COA in conducting an audit of PAGCOR'S account beyond the 5% franchise tax and 50% of the government share in its gross earnings as stated in Section 15 of P.D. No. 1869. To be sure, the Supreme Court made no pronouncement as to the guilt or innocence of the accused in relation to the criminal charges filed against them in these cases.



¹¹ pp. 1-4, Record, Volume 1

¹² *Lazatin, et al. v. Desierto and the Sandiganbayan*, 588 SCRA 285 (2009)

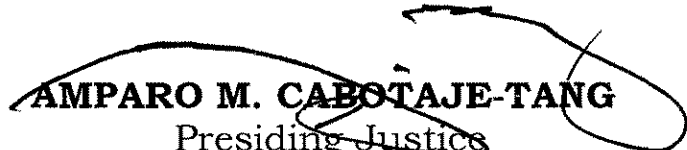
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We need not belabor on the other issues raised by accused-movant lest We become repetitive. The Court is not inclined to embark on another extended discussion of the same issue again.

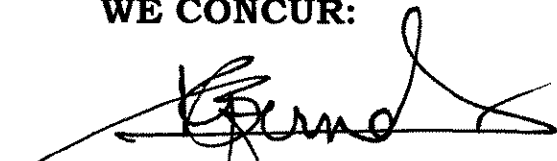
WHEREFORE, the Court **DENIES** accused-movant Efraim C. Genuino's Motion for Reconsideration dated January 23, 2023, of the Court's Resolution promulgated on January 19, 2023, for utter lack of merit.

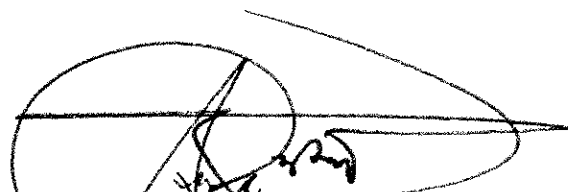
SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice