



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**  
QUEZON CITY

**THIRD DIVISION**

**PEOPLE OF THE  
PHILIPPINES**

*Plaintiff,*

- versus -

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

**Criminal Cases Nos. SB-13-  
CRM-0605, 0608, 0610,  
0612, 0614, 0616, 0618,  
0620, 0622, 0624, 0626,  
0628, 0630, 0632, 0634,  
0636, 0638, 0640, 0642**

*For: Violation of Section 3 (e),  
in relation to Section 3 (g),  
of Republic Act No. 3019*

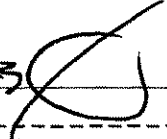
**Criminal Cases Nos. SB-13-  
CRM-0606, 0607, 0609,  
0611, 0613, 0615, 0617,  
0619, 0621, 0623, 0625,  
0627, 0629, 0631, 0633,  
0635, 0637, 0639, 0641,  
0643**

*For: Malversation of Public  
Funds or Property  
Defined and Penalized  
Under Article 217 of the  
Revised Penal Code*

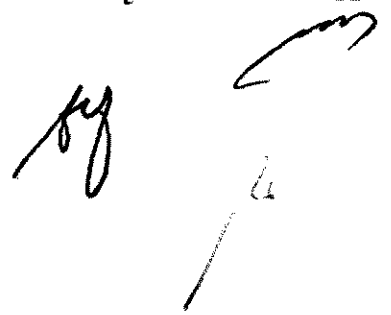
*Present:*

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

*Promulgated:*

**JUNE 8, 2023** 

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## RESOLUTION

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

For resolution is accused Efraim C. Genuino's "*Motion for Partial Reconsideration*" dated May 9, 2023.<sup>1</sup>

In the aforesaid *motion*, accused-movant Genuino prays that the Court partially reverse its *Resolution* promulgated on May 4, 2023, and allow the reopening of the presentation of his evidence in Criminal Cases Nos. SB-13-CRM-0608 to 0643.<sup>2</sup>

According to the accused-movant, it is "*in the paramount interest of justice*" for the Court to reopen the proceedings in the said cases. He submits that his intended testimony is limited to identifying and/or proving [1] that the nature of the funds used in the transactions subject of the BIDA cases is not public in character because these were charged against the PAGCOR's Operating Expenses Fund (OPEX Fund); [2] that all disbursements for the subject transactions were approved by the PAGCOR's Board of Directors; [3] the subject transactions were part of the PAGCOR's advertising and marketing campaigns, and its Corporate Social Responsibility programs; [4] which documents bear his genuine signatures, and confirming that he did not sign any of the check vouchers and checks presented by the plaintiff in the BIDA cases; and, [5] the relevant documents in relation to such testimony, as well as the signatures appearing thereon.<sup>3</sup>

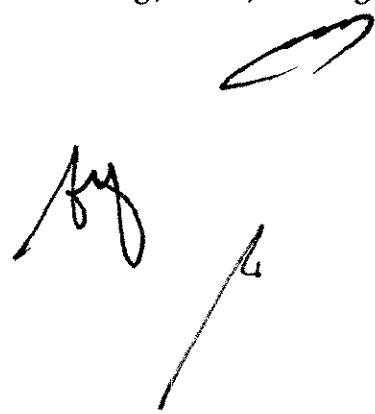
He reiterates that a "*plain comparison*" of his alleged signatures appearing on the subject check vouchers and his genuine signatures appearing on the PAGCOR board *minutes* are different. Relying on the case of *Dy Teban Trading, Inc., v. Dy*,<sup>4</sup>

<sup>1</sup> pp. 189-197, Vol. XXXVII, Record

<sup>2</sup> *Id.*, at p. 194

<sup>3</sup> *Id.*, at pp. 190-191

<sup>4</sup> 832 SCRA 533 (2017)

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accused-movant Genuino argues that by allowing him to testify on the signatures allegedly erroneously attributed to him is consistent with the objective of the Court to search for the truth.<sup>5</sup>

Moreover, accused-movant Genuino argues that while the Court noted in its questioned *Resolution* that the said variance in signatures will be subject to the Court's appreciation in due time, he pleads that he be given "one last opportunity" by testifying before the Court under oath to prove that "there is no basis for the prosecution's malicious claim that he purportedly performed the overt act of affixing his signatures on the subject check vouchers."<sup>6</sup>

Accused-movant Genuino further relies on the case of *Republic v. Sandiganbayan (Second Division)*<sup>7</sup> and contends that just like the petitioner therein who was allowed to present additional evidence even after resting its case, his *motion to reopen the presentation of his evidence* should likewise be granted based on substantial justice. He points out that ten (10) years have elapsed since these cases were filed with this Court and he has "patiently participated" in every hearing awaiting the opportunity to present his evidence. Thus, to prevent him from "fully establishing" his defense at this stage of the proceedings is gravely unjust and may amount to grave abuse of discretion on the part of the Court.<sup>8</sup>

He also notes that in its assailed *Resolution*, the Court granted his *motion to reopen the proceedings* in Criminal Cases Nos. SB-13-CRM-0605 to 0606 or the "Baler Cases," and allowed him to present additional evidence therein. He adds that the prosecution's *opposition* to his present *motion* cannot override his constitutional right to be heard considering that "the reopening of the proceedings in the 'BIDA Cases' does not cause any harm or prejudice to [the] plaintiff."<sup>9</sup>

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<sup>5</sup> *Id.*, at p. 191

<sup>6</sup> *Id.*, at p. 192

<sup>7</sup> 625 SCRA 55 (2010)

<sup>8</sup> *Id.*, at p. 193

<sup>9</sup> *Id.*, at p. 194

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In its “*Opposition (To Accused Efrain C. Genuino’s Motion for Partial Reconsideration Dated 09 May 2023)*” dated May 22, 2023,<sup>10</sup> the prosecution contends that the present *motion for reconsideration* failed to raise any new point or issue that will warrant the reversal of the questioned *Resolution* promulgated on May 4, 2023.<sup>11</sup>

It maintains that the wordings of Section 24, Rule 119 of the Revised Rules of Court are clear, that the reopening of the proceedings is discretionary on the part of the court. It adds that it is not sufficient justification that the said *motion* was raised before the finality of judgment of conviction.<sup>12</sup>

Relying on the pronouncement of the Court in its assailed *Resolution*, the prosecution submits that the *reopening* of the present cases must not be done whimsically, capriciously and/or unreasonably. It adds that accused-movant Genuino has not been able to establish that the evidence that he seeks to introduce is “*newly discovered*” and that he was unable to introduce it during the presentation of his evidence, or that the same was not made available to him such that he was not given the opportunity to rebut the said signatures.<sup>13</sup>

It further points out that accused-movant Genuino was given “*countless*” times to view and counter the subject signatures; in fact, the said accused-movant filed a *motion for leave to file demurrer to evidence* and failed to raise therein the above-mentioned matters.<sup>14</sup>

Lastly, the prosecution stresses that accused-movant Genuino was given ample opportunity to fully present his evidence in these cases. Thus, his failure to do so must not affect the

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<sup>10</sup> *Id.*, at pp. 228-229

<sup>11</sup> *Id.*, at p. 228

<sup>12</sup> *Id.*, at p. 228

<sup>13</sup> *Id.*, at pp. 228-229

<sup>14</sup> *Id.*, at p. 229

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proceedings in these cases such that it would be made dependent on the “*fluctuating disposition*” of the accused-movant.<sup>15</sup>

**THE RULING OF THE COURT**

The Court finds the subject *motion* bereft of merit.

As aptly pointed out by the prosecution, the above-mentioned matters raised by the accused-movant in his present *motion* are mere reiterations of the same arguments that he had raised in his *motion to reopen the presentation of evidence*.

To be sure, in its assailed *Resolution* promulgated on May 4, 2023, the Court carefully passed upon the arguments raised by the parties and applied existing laws and jurisprudence. Therein, the Court held, to wit:

Regarding accused-movant Genuino’s *Motion to Reopen the Presentation of Evidence in Criminal Cases Nos. SB-13-CRM-0608 to 0643*, Section 24, Rule 119 of the Revised Rules on Criminal Procedure provides:

**Sec. 24. Reopening.** – At any time before finality of judgement of conviction, the judge may, *motu proprio* or upon motion, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it.

On the other hand, the case of ***Cabarles v. Maceda***,<sup>16</sup> reiterated the following requirements for reopening a case, namely: [1] the reopening must be before the finality of a judgment of conviction; [2] the order is issued by the judge on his own initiative or upon motion; [3] the order is issued only

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<sup>15</sup> *Id.*, at p. 229

<sup>16</sup> 516 SCRA 303 (2007)

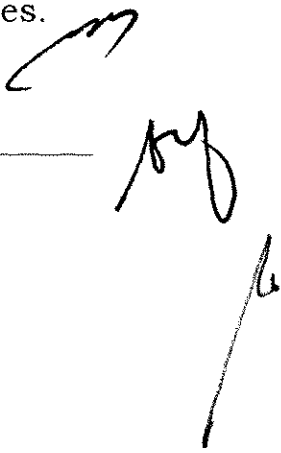
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after a hearing is conducted; [4] the order intends to prevent a miscarriage of justice; and, [5] the presentation of additional and/or further evidence should be terminated within thirty days from the issuance of the order.

Furthermore, it must be noted that in **Cabarles**, the Supreme Court held that a *motion to reopen* may properly be presented after either or both parties had formally offered and closed their evidence, but before judgment is rendered, and even after promulgation but before finality of judgment, and the only guiding parameter is to **“avoid a miscarriage of justice.”** The High Tribunal also teaches in the said case that while the matter of reopening a case for reception of further evidence is largely a matter of discretion on the part of the trial court judge, this judicial action must not be done whimsically, capriciously and/or unreasonably.<sup>17</sup> Therein, the Supreme Court annulled and set aside the questioned *order* of the respondent judge which allowed the reopening of the case after it found that *“the prosecution was given ample opportunity to present all its witnesses but it failed to do so; [t]he failure of the prosecution to take full advantage of the opportunities given does not change the fact that it was accorded such opportunities; and, [c]ontrary to the justification stated in the April 1, 2003, Order, the prosecution was not deprived of its day in court.”*<sup>18</sup>

Here, there is no showing that accused-movant Genuino was deprived of the opportunity to fully examine and/or rebut the documentary exhibits presented by the prosecution. Indeed, accused-movant Genuino had every reasonable opportunity to rebut the prosecution evidence, particularly his signature on the PAGCOR check vouchers in issue which he failed to do. Thus, the fourth requirement mentioned in **Cabarles** is not present in these cases considering that no miscarriage of justice will be occasioned to accused-movant Genuino by the disallowance of his bid to reopen the proceedings in the said criminal cases.

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<sup>17</sup> *Id*  
<sup>18</sup> *Id*

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Obviously, as pointed out by the prosecution, accused-movant Genuino's present *motion to reopen the presentation of evidence* is a mere afterthought.<sup>19</sup>

Stated differently, a positive showing that accused-movant Genuino was unjustly deprived of the opportunity to fully examine the subject signatures would satisfy the fourth requirement mentioned in the case of **Cabarles**, namely: *that the order intends to prevent a miscarriage of justice*. However, the records of these cases remain wanting of circumstances that would, at the very least, demonstrate that he was not given the ample opportunity to timely object and/or rebut the authenticity of his signatures in issue. Even accused-movant Genuino himself admitted in his present *motion for reconsideration* that he "*patiently participated*" in every hearing of these cases. Certainly, the accused-movant could have raised his objection to the subject documentary evidence presented by the prosecution at the opportune time.

Absent the concurrence of all the requirements mentioned in **Cabarles**, the Court reiterates that it sees no cogent reason to grant accused-movant Genuino's *motion to reopen the presentation of his evidence* in Criminal Cases Nos. SB-13-CRM-0608 to 0643.

Again, the alleged variance of the subject signatures will be appreciated by the Court in due time taking into consideration the arguments raised by the parties and the totality of the pieces of evidence presented by them during trial.

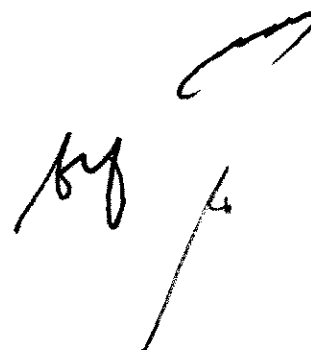
Moreover, the Court finds accused-movant Genuino's reliance on the case of **Republic v. Sandiganbayan**<sup>20</sup> misplaced.

To begin with, a reading of the said case shows that while the petitioner therein moved for the presentation of additional evidence after it had formally offered its documentary evidence, the respondents therein have not commenced the presentation of their

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<sup>19</sup> *Id.*, at pp. 155-156

<sup>20</sup> 629 SCRA 55 (2010)

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evidence. Here, the Court had already resolved the *formal offer of evidence* filed by all the accused. Also, it must be underscored that in **Republic**, the Supreme Court allowed the petitioner's plea to present additional evidence pursuant to the tenor of Executive Order No. 14 series of 1986 issued by the president and the case of **Republic v. Sandiganbayan (Third Division)**<sup>21</sup> which prescribes that it is the policy of the court to set aside technicalities and formalities that serve merely to delay or impede the judicial resolution of ***all cases involving alleged ill-gotten wealth brought by or against the Presidential Commission on Good Government.***

Plainly, the factual backdrop of the present cases is materially different from those of the above-mentioned cases; hence, the ruling therein does not find material application here.

In sum, accused-movant Genuino failed to raise any new and/or substantial matters that would warrant the grant of his *motion for reconsideration*.

**WHEREFORE**, the Court **DENIES** accused-movant Genuino's "*Motion for Partial Reconsideration*" dated May 9, 2023,<sup>22</sup> for utter lack of merit and/or being *pro-forma*.

**SO ORDERED.**

Quezon City, Metro Manila

  
**AMPARO M. CABOTAJE-TANG**

Presiding Justice  
Chairperson

<sup>21</sup> 269 SCRA 316 (1997)

<sup>22</sup> pp. 189-197, Vol. XXXVII, Record





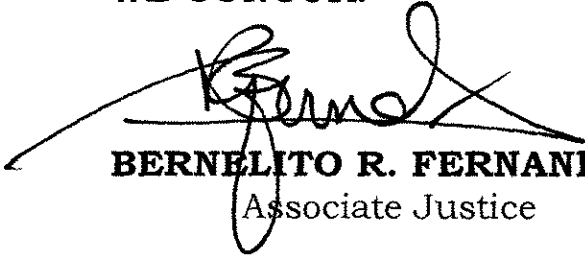
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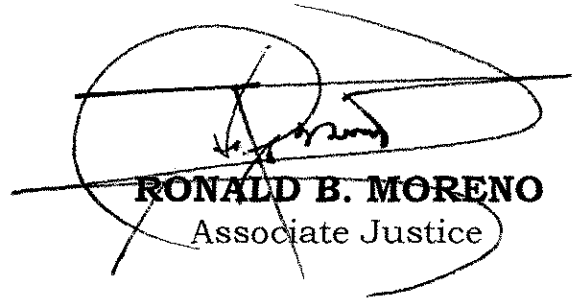
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**WE CONCUR:**



**BERNELITO R. FERNANDEZ**  
Associate Justice



**RONALD B. MORENO**  
Associate Justice

