



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City
FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

**CRIM. CASE No. SB-15-
 CRM-0008**

-versus-

For: Plunder (Violation of R.A.
 No. 7080, as amended)

EDGAR D. VALDEZ, et al.,
Accused.

Present:
Lagos, J., Chairperson,
Mendoza-Arcega, J., and
Corpus-Mañalac, J.

Promulgated:

July 04, 2023

x-----

 x-----
Gregorio S. Garcia

RESOLUTION

MENDOZA-ARCEGA, J.:

Before Us are the following:

1. Accused Janet Lim Napoles' *Memorandum and Motion to Admit with Motion to Take Judicial Notice (Of the TSNs of the hearings on the cross-examination of witness Benhur Luy by undersigned counsel of accused Napoles in SB-15-CRM-0009 to 0015)* dated March 16, 2023;¹ and
2. Prosecution's *Opposition (To the Memorandum and Motion to Admit with Motion to Take Judicial Notice dated March 16, 2023)* dated May 19, 2023.²

¹ Record, Volume (Vol.) 16, pp. 5-280.

² *Id.*, p. 282.

[Handwritten signature]

x-----x

In the *Minute Resolution* dated January 16, 2023,³ the Court resolved the formal exhibits of accused Edgar D. Valdez and gave the parties thirty (30) days from notice thereof to file their respective memoranda. On January 18, 2023, the said resolution was sent through email to all the parties,⁴ and it was also served to them on January 20, 2023.⁵

Then on March 31, 2023, accused Janet Lim Napoles (“Napoles”) filed the instant *Memorandum and Motion to Admit with Motion to Take Judicial Notice*. Napoles asseverated the following in her *Motion to Take Judicial Notice*:

1. In Criminal Case No. SB-14-CRM-0256 to 0266 entitled *People of the Philippines v. Jose “Jinggoy” P. Estrada, et al.*, the Court was confronted with a similar motion to take judicial notice of matters which were taken upon in a Plunder case involving almost the same parties;
2. The justifications made by the Court in its *Resolution* dated March 20, 2023 which granted Estrada’s motion for judicial notice are applicable in this case;
3. Consequently, judicial notice is prayed for the following:
 - a. The direct testimony of prosecution witness Benhur Luy that the alleged amounts given to accused Valdez as kickbacks, commissions or rebates, did not come from the NGOs MAMFI, PSDFI or SDPFFI;⁶
 - b. The direct testimony of prosecution witness Benhur Luy that the amounts given to accused Valdez as alleged kickbacks, commissions or rebates, did not come from the checks issued by the IAs pursuant to the SAROs issued by the DBM or did not come from the PDAF of Valdez;⁷
 - c. The testimony of prosecution witness Benhur Luy that he does not have the original of the alleged JLN vouchers which are supposed to show receipt by the representative of accused Valdez

³ Record, Vol. 15, pp. 37-40.

⁴ *Id.*, p. 41.

⁵ *Id.*, pp. 43, 44 and 48.

⁶ Record, Vol. 16, pp. 27-127 (TSN dated July 14, 2022, pp. 59-89; TSN dated September 8, 2022, pp. 8-82).

⁷ *Id.*, pp. 128-198 (TSN dated September 22, 2022, pp. 7-67, TSN dated July 14, 2022, pp. 39-49).

RESOLUTION

People v. Valdez, et al.

Criminal Case No. SB-15-CRM-0008

Page 3 of 6

x-----x

of the alleged kickbacks, commissions or rebates given to him by Luy. Neither does witness Luy have a photocopy or even a screenshot of the said JLN voucher stored in his cellular phone, laptop, computer, external hard drive, or any device for that matter.⁸

- d. The testimony of prosecution witness Benhur Luy that he has no documentary proof that accused Napoles owns, controlled and operated the NGOs, specifically MAMFI, PSDFI, and SDPFFI;⁹
- e. The testimony of prosecution witness Benhur Luy that aside from his bare assertions, he has no evidence at all, documentary or otherwise, that will show that any portion of the amounts indicated in the subject SAROs issued by the DBM or subject checks issued by the IAs in relation to the PDAF of accused Valdez, was received by accused Napoles or went to her personal accounts or went to accounts of JLN Corporation.¹⁰

Napoles prayed that the *Memorandum* be admitted in the interest of justice. More so, she prayed for her acquittal from the crime of plunder for failure of the prosecution to prove her guilt beyond reasonable doubt, and that the civil aspect thereof be dismissed.

In contravention, the prosecution argued as follows:

1. Napoles did not file a motion for extension of time and belatedly filed her memorandum way beyond the period given by the Court; hence, a waiver of her privilege to do so;
2. While Napoles filed the instant motion to admit, it did not offer any justification or acceptable reason to warrant even a scant consideration by the Court;
3. Likewise, the movant's reliance to the Court's *Resolution* dated March 20, 2023 in Criminal Case No. SB-14-CRM-0256 to 0266 entitled *People of the Philippines v. Jose "Jinggoy" P. Estrada, et al.* on Estrada's *Motion for Judicial Notice* is misplaced. The rules relating to judicial notice are not applicable to the instant motion. The prosecution added that the matters sought to be taken judicial

⁸ *Id.*, pp. 199-207 (TSN dated July 14, 2022, pp. 51-59).

⁹ *Id.*, pp. 208-216 (TSN dated July 14, pp. 19-22, 74-78).

¹⁰ *Id.*, pp. 217-233 (TSN dated July 14, 2022, pp. 22-39).



notice are not decisive of the material issues in this case pursuant to Section 3, Rule 129 of the Revised Rules of Court.

THE COURT'S RULING

Upon conscientious evaluation of the records, the Court finds the present *Memorandum and Motion to Admit with Motion to Take Judicial Notice* devoid of merit.

Anent the timeliness of the filing of the *Memorandum and Motion to Admit with Motion to Take Judicial Notice*, We opine that the same is filed out of time. Records disclose that the Court gave the parties thirty (30) days from notice of the *Minute Resolution*¹¹ dated January 16, 2023 within which to file their respective memoranda. The parties were duly notified via email on January 18, 2023 of the said resolution. Notably, they were also served at their given addresses with the copies of the same on January 20, 2023¹² as can be gleaned from the stamps "received" and the sheriff's return. Should we reckon the 30-day period from January 20, 2023, the 30th day of filing of the memorandum falls on a Sunday, February 19, 2023. So, the last day of filing is on February 20, 2023.

Herein memoranda of accused Edgar De Leon Valdez and the prosecution were filed on February 15, 2023¹³ and February 20, 2023,¹⁴ respectively. Meanwhile, the disputed memorandum of herein accused-movant was only filed on March 31, 2023, *i.e.*, more than a month from the last day of filing. She seeks for the admission of the present *Memorandum and Motions* without stating any plausible reason why it should be admitted. She merely prayed for its admission in the interest of justice. The case of *Miranda v. Social Security Commission, et al.* is instructive:¹⁵

"While it is true that this Court has applied a liberal application of the rules of procedure in a number of cases, we have stressed that this can be invoked only in proper cases and under justifiable causes and circumstances.¹⁶ In the instant case, aside from his contention that he should be given his day in court in the interest of substantial justice, petitioner did not give a reasonable cause to justify non-compliance with the rules. Petitioner failed to support, with substantial evidence, his argument as to how and why a normal

¹¹ Record, Vol. 15, pp. 37-40.

¹² *Id.*, pp. 43, 44 and 48.

¹³ *Id.*, p. 52.

¹⁴ *Id.*, p. 255.

¹⁵ G.R. No. 238104, February 27, 2019.

¹⁶ *Id.*, citing *Land Bank of the Phils. v. Court of Appeals, et al.*, 789 Phil. 577, 583 (2016).

x-----x

application of procedural rules would frustrate his quest for justice. The bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel this Court to suspend procedural rules.¹⁷ Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights.¹⁸ It cannot be gainsaid that obedience to the requirements of procedural rules is needed if we are to expect fair results therefrom and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction."¹⁹

The prosecution correctly maintained that the submission of memoranda is not mandatory or required as a matter of course but shall be left to the sound discretion of the court.²⁰ Besides, the denial of the subject memorandum will not result into violation of due process since its filing is not mandatory. All the parties were given the opportunity to be heard and to submit their evidence. Lamentably, Napoles failed to justify the belated filing of her memorandum.

Further, Napoles asks the Court to take judicial notice of Benhur Luy's testimonies during his cross-examinations in Criminal Case Nos. SB-15-CRM-009 to 0015 congruent with her other defenses raised in the *Memorandum*. Resultantly, the motion for judicial notice has no leg to stand on since it is merely incorporated in the *Memorandum* that is filed out of time.

IN LIGHT OF THE FOREGOING DISCUSSIONS, the *Memorandum and Motion to Admit with Motion to Take Judicial Notice (Of the TSNs of the hearings on the cross-examination of witness Benhur Luy by undersigned counsel of accused Napoles in SB-15-CRM-0009 to 0015)* dated March 16, 2023 filed by accused Janet Lim Napoles is **DENIED** for utter lack of merit.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

¹⁷ *Id.*

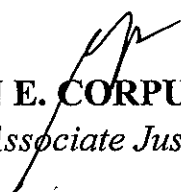
¹⁸ *Id.*

¹⁹ *Alamayri v. Pabale, et al.*, 576 Phil. 1 46, 165 (2008).

²⁰ See: Supreme Court Administrative Circular No. 28 dated July 3, 1989.

Handwritten initials


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice

