



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-22-CRM-0186**
Plaintiff, For: Violation of Section 3(e)
of R.A. No. 3019

- versus -

JOEL S. RUDINAS, ET AL.,
Accused.

Present

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

July 19, 2023

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the prosecution's *Motion to Withdraw Information*.¹ In the said Motion, the prosecution prays that the Information in the present case be withdrawn pursuant to the Order dated August 30, 2022.² In the said Order, the Office of the Ombudsman directed the Office of the Special Prosecutor to withdraw the Information in SB-22-CRM-0186 on the following grounds:

1. Based on their Counter-Affidavits and Joint Motion for Reconsideration, respondents Rudinas and Artazo merely followed the directives of Regional Executive Director Chan, and they discharged the functions, duties and obligations of their respective offices/positions.
2. The records indicate that the sole basis for charging respondents Bongalo, Cacananta, Castillo, Manlingan, Deiparine and Perafer is the fact that they were incorporators and/or were associated with POPDF

¹ Dated September 12, 2022; Record, pp. 267-279

² Record, pp. 272-279 (attached to the prosecution's *Motion to Withdraw Informations*)

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RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 2 of 7

X-----X

3. The evidence at hand suggests that proof beyond might not be achieved if the prosecution of the case against the respondents/accused will push through.

In the Resolution dated September 13, 2022,³ the Court directed the accused to file their comment on or opposition to the prosecution's Motion and maintained its earlier resolution⁴ that deferred the release of the warrant of arrest. However, the Court did not receive any comment or opposition from the accused.

In the Resolution dated July 3, 2023, this Court deemed the accused to have waived their right to file their comment and directed the prosecution to submit further evidence in its possession which are not yet included in the records. In compliance with the Court's directive, the prosecution submitted accused Joel S. Rudinas and Claudia B. Artazo's *Joint-Motion for Reconsideration* dated August 16, 2017 in OMB-C-C-13-0062.⁵

THE COURT'S RULING

The Court resolves to deny the prosecution's *Motion to Withdraw Informations*.

In *Crespo v. Mogul*,⁶ the Supreme Court held that once the Information is filed in court, any disposition of the case rests upon its sound discretion. *Viz.:*

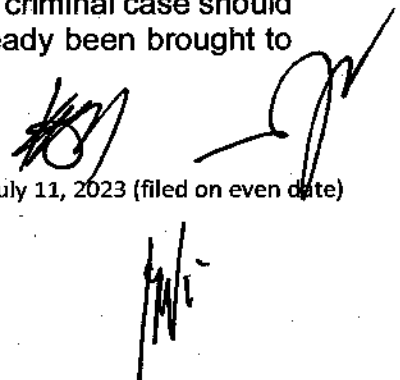
The preliminary investigation conducted by the fiscal for the purpose of determining whether a *prima facie* case exists warranting the prosecution of the accused is terminated upon the filing of the information in the proper court. In turn, as above stated, the filing of said information sets in motion the criminal action against the accused in Court. Should the fiscal find it proper to conduct a reinvestigation of the case, at such stage, the permission of the Court must be secured. After such reinvestigation[,] the finding and recommendations of the fiscal should be submitted to the Court for appropriate action. While it is true that the fiscal has the *quasi-judicial* discretion to determine whether or not a criminal case should be filed in court or not, once the case had already been brought to

³ Record, p. 280

⁴ Resolution dated August 12, 2022; Record, p. 264

⁵ Attached to the prosecution's *Compliance and Manifestation* dated July 11, 2023 (filed on even date)

⁶ G.R. No. L-53373, June 30, 1987



RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 3 of 7

X-----X

Court whatever disposition the fiscal may feel should be proper in the case thereafter should be addressed for the consideration of the Court. The only qualification is that the action of the Court must not impair the substantial rights of the accused, or the right of the People to due process of law.

Whether the accused had been arraigned or not and whether it is due to a reinvestigation by the fiscal or a review by the Secretary of Justice whereby a motion to dismiss was submitted to the Court, the Court in the exercise of its discretion may grant the motion or deny it and require that the trial on the merits proceed for the proper determination of the case.

In *Personal Collection Direct Selling, Inc. v. Carandang*,⁷ citing *Baltazar v. People*,⁸ it was held that the court may grant or deny a motion to withdraw information in the exercise of judicial discretion. In granting such motion, the court must not merely accept the prosecution's findings and conclusions, but must conduct an independent assessment of the prosecution's evidence, and must be convinced that there was indeed no sufficient evidence against the accused. *Viz.:*

Thus, in granting or denying a motion to withdraw an information, the court must conduct a cautious and independent evaluation of the evidence of the prosecution and must be convinced that the merits of the case warrant either the dismissal or continuation of the action. In *Baltazar v. People*:

We have likewise held that once a case has been filed with the court, it is that court, no longer the prosecution, which has full control of the case, so much so that the information may not be dismissed without its approval. Significantly, once a motion to dismiss or withdraw the information is filed, the court may grant or deny it, in the faithful exercise of judicial discretion. In doing so, the trial judge must himself [or herself] be convinced that there was indeed no sufficient evidence against the accused, and this conclusion can be arrived at only after an assessment of the evidence in the possession of the prosecution. What was imperatively required was the trial judge's own assessment of such evidence, it not being sufficient for the valid and proper exercise of judicial discretion merely to accept the prosecution's word for its supposed insufficiency.

After examining the prosecution's *Motion to Withdraw Information*, including the attachment thereto, the supporting evidence attached to the Ombudsman's Resolution dated March 30, 2017, and the additional evidence submitted by the prosecution, the Court finds that there is sufficient evidence to establish probable cause against

⁷ G.R. No. 206958, November 8, 2017.

⁸ G.R. No. 174016, July 28, 2008

RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 4 of 7

X-----X

accused Rudinas and Artazo, and accused private individuals Ronald Bongalo, Vicente Cacananta, Jesus Castillo, Jun-Jun Manlingan, Jocelyn Deiparine, and Ireneo Perater.

The elements of Violation of Sec. 3(e) of Republic Act No. 3019 are: (a) that the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (b) that they acted with manifest partiality, evident bad faith, or inexcusable negligence; and (c) that their action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of their functions.⁹

From the supporting evidence attached to the Ombudsman's Resolution dated March 30, 2017,¹⁰ as well as the respondents' respective Counter Affidavits,¹¹ it would appear that:

1. Accused Rudinas was a former Regional Technical Director,¹² and accused Artazo was the Accountant III,¹³ both of the Department of Agriculture (DA), Region X, Cagayan de Oro.
2. While discharging their official functions, accused Rudinas signed Box A of Disbursement Vouchers No. 04-05-1535 and No. 04-07-2795, stating "Certified: Expenses/Advances necessary, lawful and incurred under my direct supervision;" accused Artazo signed Box B of the said Disbursement Vouchers, stating "Certified: Supporting documents complete and proper; and Cash available;" and Rufo C. Chan, then the Regional Executive Director (RED) of DA, Region X, Cagayan de Oro, approved the said Disbursement Vouchers.¹⁴
3. Accused Rudinas and Artazo's certifications and RED Chan's approval of the said Disbursement Vouchers

⁹ *Montero v. People*, G.R. No. 239827, July 27, 2022, citing *Fuentes v. People*, G.R. No. 186421, April 27, 2017

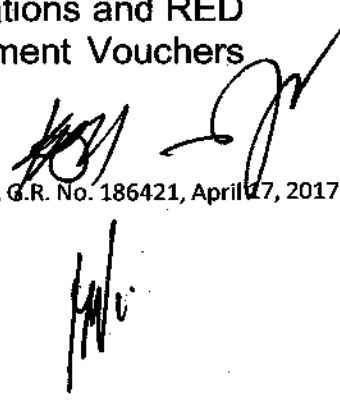
¹⁰ Record, pp. 24-39

¹¹ Record, pp. 41-58

¹² Record, p. 41

¹³ Record, p. 50

¹⁴ Record, pp. 242, 246



RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 5 of 7

X-----X

caused the release of funds¹⁵ in the total amount of ₱5 million to People's Organization for Progress and Development Foundation, Inc. (POPDF) despite irregularities, specifically, the non-compliance with the requirements under Commission on Audit (COA) Circular No. 96-003 dated February 27, 1996.

4. POPDF, represented by its President, Merlina P. Suñas, entered into the Memorandum of Agreement dated February 25, 2004 with DA, Region X and the Office of the Governor of Camiguin, presumably upon the authority of POPDF's Board of Trustees, of which accused Cacananta, Castillo, Manlingan, Deiparine and Perater were members.¹⁶
5. Accused Bongalo, who was authorized by POPDF President Merlina P. Suñas to receive checks payable to POPDF,¹⁷ received from DA, Region X the checks in the amounts of ₱3,250,000.00¹⁸ and ₱1,750,000.00.¹⁹

This Court notes that the Office of the Ombudsman, in its Order dated August 30, 2022 directing the Office of the Special Prosecutor to withdraw the Information, averred that "[e]vidence at hand suggests that proof beyond reasonable doubt might not be achieved if prosecution of the herein case against the respondents/accused will push through,"²⁰ but the reasons for such conclusions were not extant in the said Order. Notably, according to the prosecution, this Court's case records are similar to the case records in the possession of the prosecution.²¹

The Office of the Ombudsman, in the same Order, also found that accused Rudinas and Artazo's acts were justified²² since they merely followed the directives of their superior and they accordingly

¹⁵ Record, pp. 243, 247

¹⁶ Record, pp. 223-227, 231-234, 240

¹⁷ Record, p. 252

¹⁸ Record, p. 242

¹⁹ Record, p. 246

²⁰ Order dated August 30, 2022, p. 6

²¹ *Compliance and Manifestation* dated July 11, 2023

²² *Revised Penal Code. Art. 11. Justifying circumstances.* – The following do not incur any criminal liability:
x x x 5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office; x x x

RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 6 of 7

X-----X

discharged the functions, duties and obligations of their respective offices. *Viz.*²³

A second hard and pain-staking [sic] look at the Counter-Affidavits, as well as the Joint Motion for Reconsideration filed by respondents Rudinas and Artazo will reveal that they merely followed the directives of Regional Executive Director Chan and that they accordingly discharged the functions, duties and obligations of their respective offices/positions. Certainly, any person who acts in the fulfillment of a duty, or in the lawful exercise of a right or office does not incur any criminal liability.

Since the Information has already been filed in Court, the issues of whether accused Rudinas and Artazo merely acted upon the directives of RED Chan, and whether they acted in the fulfillment of a duty or in the lawful exercise of their office, are matters of defense, which are better threshed out in a full-blown trial on the merits.

The prosecution's role is to see that justice is done, and not necessarily to secure the conviction of the accused. Thus, the prosecution must perform its duty of presenting evidence to the Court, which will arrive at its own independent judgment as to whether the accused should be convicted or acquitted. As the Supreme Court held in *Crespo v. Mogul*:²⁴

However, one may ask, if the trial court refuses to grant the motion to dismiss filed by the fiscal upon the directive of the Secretary of Justice will there not be a vacuum in the prosecution? A state prosecutor to handle the case cannot possibly be designated by the Secretary of Justice who does not believe that there is a basis for prosecution [sic] nor can the fiscal be expected to handle the prosecution of the case thereby defying the superior order of the Secretary of Justice.

The answer is simple. The role of the fiscal or prosecutor as We all know is to see that justice is done and not necessarily to secure the conviction of the person accused before the Courts. Thus, in spite of his [or her] opinion to the contrary, it is the duty of the fiscal to proceed with the presentation of evidence of the prosecution to the Court to enable the Court to arrive at its own independent judgment as to whether the accused should be convicted or acquitted. The fiscal should not shirk from the responsibility of appearing for the People of the Philippines even under such circumstances x x x.

²³ Order dated August 30, 2022, p. 5

²⁴ *Supra*. Note 6

RESOLUTION

People vs. Rudinas, et al.
SB-22-CRM-0186

Page 7 of 7

X-----X

In fine, the Court finds that sufficient grounds exist for the finding of probable cause for the purpose of issuing warrants of arrest against the accused.

WHEREFORE, the prosecution's *Motion to Withdraw Information* is hereby **DENIED**.

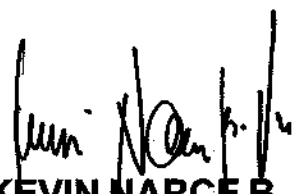
The Court finds that sufficient grounds exist for the finding of probable cause for the purpose of issuing warrant of arrest against the accused. Let warrant of arrest be issued against accused JOEL SEMANA RUDINAS and CLAUDIA B. ARTAZO, RONALD BONGALO, VICENTE CACANANTA, JESUS CASTILLO, JUN-JUN MANLINGAN, JOCELYN DEIPARINE and IRENEO PERATER.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice