



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.:
SB-15-CRM-0008
For: Plunder

- versus -

EDGAR DE LEON VALDEZ, et al.,
Accused.

Present:
Lagós, J., Chairperson,
Mendoza –Arcega, and
Corpus-Mañalac, JJ.

Promulgated:

August 08, 2023

Genel P. Ligon

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RESOLUTION

MENDOZA-ARCEGA, J.:

Before this Court, for resolution, are the following:

1. ***Motion for Reconsideration*** (of the Resolution dated July 4, 2023) filed by accused Janet Lim Napoles dated July 7, 2023; and
2. The prosecution's ***Comment/Opposition*** (to the Motion for Reconsideration dated July 7, 2023 of accused Janet Lim Napoles) dated July 19, 2023.

Accused Napoles' Motion for Reconsideration

Accused Janet Lim Napoles (herein after referred as accused), questions this honorable Court's Resolution denying to admit accused's Memorandum with Motion to Take Judicial Notice (of the TSNs of the hearings on the cross-examination of witness Benhur Luy by accused Napoles' counsel in SB-15-CRM-0009 to 0015).

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Accused admits that the Memorandum was belatedly filed and there was no plausible explanation for such delay. For the accused, taking judicial notice to the TSNs is valid since it involves voluminous records which were not turned over to her new counsel.¹

The accused reiterated that filing of the Memorandum is not mandatory, as admitted in the assailed Resolution, the accused submits that the filing thereof within the imposed period is not also mandatory provided that its admission after the prescribed period will not be prejudicial to the other party. Moreover, contrary to the prosecution's argument, the admission or non-admission of the Memorandum of the parties has nothing to do with due process since the filing thereof is not also mandatory. Further, the reason for filing such pleading is not only for the parties to summarize and ventilate their respective claims and defenses, but to assist the court in resolving the issues and the case based on the merits and not on mere technicalities.²

Lastly, herein accused alleges that given the seriousness of the charge of Plunder, this case must be decided based on its merits and not on mere technicalities. In this light, accused cited *Martin Peñoso vs. Macrosman Dona*³ emphasizing that the strict and rigid application of the rules which would frustrate rather promote the ends of justice are to be avoided.

Prosecution's Comment/Opposition

By way of comment/opposition, the prosecution claims that the assertions in the present motion for reconsideration are mere rehash arguments.⁴ The prosecution further argues that more than three (3) years has elapsed since the present counsel has entered his appearance for the accused, this has been a considerably long time to prepare and gather all the necessary documents, evidence and/or records that would fortify the accused's defense.⁵

Furthermore, the prosecution reiterates that the filing of a memorandum is a mere prerogative. Consequently, this prerogative is effectively waived after the lapse of the period to file the same. In asking to take judicial notice of the proceedings, the accused should point-out the material portions of the testimonies which the accused believes to be "matters decisive of any material issue", this is not only for the prosecution to squarely address the arguments raised but also for the Court to properly determine its merits.⁶

¹ Motion for Reconsideration (of the Resolution [received via e-mail on July 4, 2023] dated July 4, 2023), page 2.

² Id.

³ G.R. No. 154018, April 3, 2007.

⁴ Prosecution's Comment/Opposition dated July 19, 2023, page 2.

⁵ Id.

⁶ Id., page 3.

The prosecution objects on the matters that accused would like to take judicial notice of, for being irrelevant and inconclusive of any material issues before this Court. For the prosecution, these matters could be well established during trial.

The Court's Ruling

After due consideration, the Court finds no cogent reason to overturn its previous ruling.

We reiterate that accused Napoles failed to present any plausible reason of the belated filing of her memorandum. Nevertheless, she pleads that her motion, although incorporated in a belated memorandum, be decided based on its merits and not on mere technicalities.

Ultimately, the accused moves to reconsider her previous motion to take judicial notice of the Transcript of Stenographic Notes (TSNs) on Benhur Luy's cross-examination of accused counsel in Criminal Case Nos. SB-15-CRM-0009-0015.

We resolve to deny this motion.

The accused sought the following matters to be judicially noticed:

1. 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;⁷
2. 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;⁸
3. 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 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;⁹
4. 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;¹⁰

⁷ Record, Vol. 16, pp. 27-127 (TSN dated July 14, 2022, pp. 59-89; TSN dated September 8, 2022, pp. 8-82).

⁸ Id., pp. 128-198 (TSN dated September 22, 2022, pp. 7-67, TSN dated July 14, 2022, pp.39-49).

⁹ Id., pp. 199-207 (TSN dated July 14, 2022, pp. 51-59).

¹⁰ Id., pp. 208-216 (TSN dated July 14, 2022, pp. 19-22, 74-78).

5. 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.¹¹

Judicial notice is the cognizance of certain facts that judges may properly take and act on without proof because these facts are already known to them.¹² Dispensing with the traditional form of presentation of evidence, the court assumes that the matter is so notorious that it would not be disputed.¹³

Essentially, the court has the discretion to take judicial notice of matter which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.¹⁴ In denying to take judicial notice of the matters at hand, We rely on the doctrine laid down by the Supreme Court in the case of *Republic vs. Sandiganbayan (4th Div.)*, et al.¹⁵ where the Court categorically emphasized the general rule and the exceptions in taking judicial notice of the contents of the records of other cases, thus:

In adjudicating a case on trial, generally, courts are not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding that both cases may have been tried or are actually pending before the same judge. This rule though admits of exceptions.

As a matter of convenience to all parties, a court may properly treat all or any part of the original record of a case filed in its archives as read into the record of a case pending before it, when, **with the knowledge of, and absent an objection from, the adverse party, reference is made to it for that purpose**, by name and number or in some other manner by which it is sufficiently designated; or when the original records of the former case or any part of it, is actually withdrawn from the archives at the court's direction, at the request or with the consent of the parties, and **admitted as a part of the record of the case then pending**.

¹¹ Id., pp. 217-233 (TSN dated July 14, 2022, pp.022-39).

¹² Rep. of the Phils. Vs. Sandiganbayan (4th Div.), et al. G.R. No. 152375. December 13, 2011, citing Ricardo J. Francisco, *The Revised Rules of Court in the Philippines, Evidence, Part I, 1997 ed.*, p. 69.

¹³ Rep. of the Phils. Vs. Sandiganbayan (4th Div.), et al. G.R. No. 152375. December 13, 2011

¹⁴ Section 2. Rule 129, Rules of Court, Revised Rules on Evidence.

¹⁵ G.R. No. 152375. December 13, 2011

Courts must also take judicial notice of the records of another case or cases, where sufficient basis exists in the records of the case before it, warranting the dismissal of the latter case. *(citations omitted)*

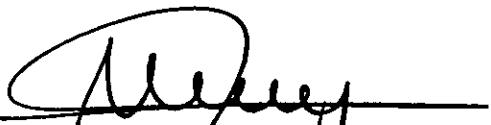
Although repeated reference to the testimony of witness Benhur Luy has been made by herein accused, the prosecution has also consistently objected in taking judicial notice of said testimony. With the congruent opposition of the prosecution to take the matters on judicial notice, the Court cannot consider the case falling in the first exception. Furthermore, the cases docketed as SB-15-CRM-0009 to 0015 are actually pending before this Division, in which case it is neither archived nor decided with finality. Consequently, the matters cannot fall under the second exception. Finally, the case at bar is not subject to dismissal based on the testimony of witness Luy, the mere intention is to submit the testimony and be admitted as evidence to form part of the records of this case.

After careful examination of the issue at hand, We are not persuaded to take judicial notice of TSNs pertaining to the cross-examination of witness Benhur Luy by accused's counsel.


WHEREFORE, premises considered, the *Motion for Reconsideration* dated July 7, 2023, filed by accused Janet Lim Napoles, is hereby **DENIED** for utter lack of merit.


Accordingly, the *Resolution* dated July 4, 2023 is hereby **MAINTAINED**.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice