



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on October 20, 2023.

Present:

Justice MA. THERESA C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Associate Justice
Justice GEORGINA D. HIDALGO ----- Associate Justice

The following resolution was adopted:

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128 - People vs. Antonio P. Belicena, et al.

This resolves the following:

1. Accused Magdaet, Recoter and Tordesilla's "CONSOLIDATED MANIFESTATION AND MOTION FOR LEAVE TO ADOPT THE TESTIMONIES OF WITNESSES AND THE DOCUMENTS THEY IDENTIFIED" dated September 17, 2023¹;
2. Accused Magdaet, Recoter and Tordesilla's "CONSOLIDATED EXPLANATION AND MOTION" dated September 24, 2023²; and
3. Prosecution's "COMMENT ON ACCUSED MAGDAET, RECOTER AND TORDESILLA'S CONSOLIDATED EXPLANATION AND MOTION" dated September 26, 2023³.

HIDALGO, J.:

In their *Consolidated Manifestation and Motion for Leave to Adopt the Testimonies of Witnesses and the Documents They Identified*⁴ dated September 17, 2023 (Consolidated Manifestation and Motion), accused Asuncion M. Magdaet (Magdaet), Charmelle P. Recoter (Recoter), and Meros L. Tordesillas (Tordesillas) asseverated the following:

- 1) That they be allowed to adopt the following exhibits since these documents are already attached to the Court records in SB-12-CRM-0151 to 0162 entitled "People of the Philippines v. Antonio P. Belicena, et al.," pending before this Court, to wit:

¹ Records, Vol. 11, pp. 154-164.

² Records, Vol. 11, pp. 178-181.

³ Records, Vol. 11, pp. 183-186.

⁴ Records, Vol. 11, pp. 154-164.

1 2 3

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 2 of 10

X-----X

Marking in SB-12-CRM-0151 to 0162	Document Description	Proposed Marking in SB-09-CRM-0087 to 0088, etc.
1-Recoter, Napeñas and Tordesillas	Organizational Chart	"33"
2-Recoter, Napeñas and Tordesillas	OSS Center Process Flow	"34"
3-Recoter, Napeñas and Tordesillas	Office Order No. 93-07A dated July 2, 1993	"35"
4-Recoter, Napeñas and Tordesillas	Office Order No. 93-13 dated August 30, 1993	"36"
5-Recoter, Napeñas and Tordesillas	Office Order No. 93-17 dated November 3, 1993	"37"
7-Recoter, Napeñas and Tordesillas	CSC Report on the Organization Development Project for OSS Center Phase 1	"38"
8-Recoter, Napeñas and Tordesillas	CSC Final Report on Organization Development Project for OSS Center Book 1	"39"
9-Recoter, Napeñas and Tordesillas	CSC Final Report on Organization Development Project for OSS Center Book 2	"40"
10-Recoter, Napeñas and Tordesillas	Checklist of Document Requirements for Investment Incentive Group	"41"
26-Recoter, Napeñas and Tordesillas	Memorandum dated September 3, 1996	"42"
26-A Recoter, Napeñas and Tordesillas	Standard Rates Section	"42-A"

2) They be allowed to adopt the testimonies and documents identified by the following witnesses:

a) In SB-09-CRM-0040 to 0042, 0045 to 0046, 0048 to 0050, 0054 to 0055, 0058 to 0061, 0068 and 0069.

i. Carlo V. Baloloy (Baloloy) – He testified on July 19,

Handwritten marks: a checkmark, a question mark, and a vertical line.

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 3 of 10

X-----X

2023.

b) In SB-12-CRM-0151 to 0162.

- i. Carmelo T. Casibang, Jr. (Casibang Jr.) - His testimony was the subject of stipulation on November 10, 2021;
- ii. Atty. Maria Isobel Providencia T. Solis (Atty. Solis) - Her testimony was the subject of stipulation stipulated on January 26, 2023;
- iii. Purita S. Napeñas (Napeñas) – She testified on July 20, 2022 and October 19, 2022;
- iv. Majidi John Rufo Bola (Bola) – She testified on November 18, 2021; and
- v. Charmelle P. Recoter (Recoter) – She testified on July 12, 2021.

Further, in their *Consolidated Explanation and Motion*⁵ dated September 24, 2023 (Consolidated Explanation and Motion), accused Magdaet, Recoter and Tordesillas alleged that there is still a necessity for the accused to utilize one (1) setting/schedule on November 22, 2023 for the presentation of accused Recoter, considering that she is one of the accused in this case.

In its *Comment*⁶ dated September 26, 2023, the prosecution argued as follows:

- 1) The exhibits sought for adoption in these cases were initially included in Accused Napeñas's Judicial Affidavit dated June 8, 2022, and were already part of the records in cases SB-12-0151 to 0162. However, when the same Judicial Affidavit was proposed for use in these current cases, the prosecution strongly objected. They argued that the exhibits contained therein pertained to Circular Knitting Industries and were irrelevant to the ongoing cases involving Filstar. Consequently, the Judicial Affidavit was removed from the records as per Order dated October 19, 2022. Now, the present Consolidated Motion omits the Circular Knitting Industries exhibits and seeks permission for the accused to adopt the aforementioned exhibits;
- 2) Accused cannot simply adopt the foregoing exhibits except for Exhibits 7 [Exh. 38], Exhibit 8 [Exh. 39], and Exhibit 9 [Exh. 40] without any witness authenticating them pursuant to Rule 132 (B),

⁵ Records, Vol. 11, pp. 178-181.

⁶ Records, Vol. 11, pp. 183-186.

7)

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 4 of 10

X-----X

par. 24 to 25 of the Rules of Court. None of the witnesses so far presented by the defense was able to properly authenticate them, nor were any of them the official custodian of the originals thereof;

- 3) They object to the adoption by the defense of the foregoing exhibits, except for the exhibits subject of the testimony of Director Agnes Padilla, which were already stipulated; and
- 4) As to their Consolidated Explanation and Motion, accused simply failed to state any good cause why they should be given further consideration for another setting. Hence, the same should be outrightly denied.

THE COURT'S RULING

Upon conscientious evaluation of the records, the court finds the accused's Consolidated Manifestation and Motion⁷ and Consolidated Explanation and Motion⁸ meritorious.

On the adoption of testimonies and documents as exhibits for the accused

The court resolves to **GRANT** the adoption by accused Magdaet, Recoter and Tordesillas of the following:

Testimonies and the documents identified by the following witnesses:

- 1) **Casibang, Jr.** - His testimony was subject to stipulation on November 10, 2021; and
- 2) **Atty. Solis** - Her testimony was subject to stipulation stipulated on January 26, 2023.

The adoption by the accused of the testimonies and the documents identified by Casibang, Jr. and Atty. Solis is hereby granted since their testimonies were already admitted and stipulated.

⁷ Records, Vol. 11, pp. 154-164.

⁸ Records, Vol. 11, pp. 178-181.

1 ? . |

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 5 of 10

X-----X

Exhibits:

The adoption of the following exhibits is hereby granted as they are not objected by the prosecution in its Comment⁹ dated September 26, 2023:

Marking in SB-12-CRM-0151 to 0162	Document Description	Proposed Marking in SB-09-CRM-0087 to 0088, etc.
7-Recoter, Napeñas and Tordesillas	CSC Report on the Organization Development Project for OSS Center Phase 1	"38"
8-Recoter, Napeñas and Tordesillas	CSC Final Report on Organization Development Project for OSS Center Book 1	"39"
9-Recoter, Napeñas and Tordesillas	CSC Final Report on Organization Development Project for OSS Center Book 2	"40"

With regard to the adoption of the exhibits attached to **Director Agnes Padilla's Judicial Affidavit**¹⁰ marked as **Exhibits "29," "29-A," "30,"** and **"31,"** the court grants the same since they have already been subject to stipulation, as stated in the Order¹¹ dated September 21, 2023.

Likewise, the court resolves to **GRANT** the adoption by accused Magdaet, Recoter and Tordesillas of the following:

Testimonies and the documents identified by the following witnesses:

- 1) **Carlo V. Baloloy;**
- 2) **Purita S. Napeñas;**
- 3) **Majidi John Rufo Bola;** and
- 4) **Charmelle P. Recoter**

⁹ Records, Vol. 11, pp. 183-186.

¹⁰ Judicial Affidavit of Agnes Padilla.

¹¹ Records, Vol. 11, pp. 114-116.

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 6 of 10

X-----X

Exhibits:

Marking in SB-12-CRM-0151 to 0162	Document Description	Proposed Marking in SB-09-CRM-0087 to 0088, etc.
1-Recoter, Napeñas and Tordesillas	Organizational Chart	"33"
2-Recoter, Napeñas and Tordesillas	OSS Center Process Flow	"34"
3-Recoter, Napeñas and Tordesillas	Office Order No. 93-07A dated July 2, 1993	"35"
4-Recoter, Napeñas and Tordesillas	Office Order No. 93-13 dated August 30, 1993	"36"
5-Recoter, Napeñas and Tordesillas	Office Order No. 93-17 dated November 3, 1993	"37"
10-Recoter, Napeñas and Tordesillas	Checklist of Document Requirements for Investment Incentive Group	"41"
26-Recoter, Napeñas and Tordesillas	Memorandum dated September 3, 1996	"42"
26-A Recoter, Napeñas and Tordesillas	Standard Rates Section	"42-A"

Such witnesses were not, however, among the witnesses listed by the accused in *the Pre-trial Order*¹² dated April 3, 2019. Furthermore, the exhibits they seek to adopt were not part of their listed evidence in the Pre-trial Order, which also did not include a provision reserving the right for the accused to present additional witnesses and exhibits during the trial.

Nonetheless, the Judicial Affidavit (JA) Rule and the Guidelines on Pre-Trial¹³ do not totally proscribe the submission of additional evidence even after trial had already commenced.¹⁴ Despite that these Supreme Court issuances sprang from the Rules of Civil Procedure, the 2019 Amendments to the 1997 Rules of Civil Procedure¹⁵ states that "these Rules shall govern the procedure to be observed in actions, civil or **criminal**, and special proceedings."

Necessarily so, the JA Rule and Guidelines on Pre-Trial should apply

¹² Records, Vol. 11, pp. 44-92.

¹³ A.M. No. 03-1-09-SC, or the *Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures*.

¹⁴ *Lara's Gift and Decors. Inc. vs. PNB General Insurers Co., Inc.*, G.R. Nos. 230429-30, January 24, 2018.

¹⁵ A.M. No. 19-10-20-SC.

Handwritten marks at the bottom of the page, including a large '1' and other scribbles.

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 7 of 10

X-----X

to the present cases.

Under the JA Rule, the parties are mandated under Sec. 2 to file and serve the judicial affidavits of their witnesses, together with their documentary or object evidence, not later than five days before pre-trial or preliminary conference. The documentary and testimonial evidence submitted will then be specified by the trial judge in the Pre-Trial Order. Concomitant thereto, Sec. 10 of the same Rule contains a caveat that the failure to timely submit the affidavits and documentary evidence shall be deemed to be a waiver of their submission, thus:

Section 10. Effect of non-compliance with the Judicial Affidavit Rule. - (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than P1,000.00 nor more than P 5,000.00 at the discretion of the court.

It bears to note that Sec. 10 does not contain a blanket prohibition on the submission of additional evidence. However, the submission of evidence beyond the mandated period in the JA Rule is strictly subject to the conditions that: a) the court may allow the late submission of evidence only once; b) the party presenting the evidence proffers a valid reason for the delay; and c) the opposing party will not be prejudiced thereby.

Corollary thereto, the Guidelines on Pre-Trial instruct the parties to submit their respective pre-trial briefs at least three (3) days before the pre-trial, containing, inter alia, the documents or exhibits to be presented and to state the purposes thereof, viz:

I. Pre-Trial

A. Civil Cases

The parties shall submit, at least three (3) days before the pre-trial, pre-trial briefs containing the following:

x x x x

d. The documents or exhibits to be presented, stating the purpose thereof (No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been earlier identified and pre-marked during the pre-trial, except if allowed by the court for good cause shown) x x x.

Notwithstanding the foregoing procedural prescription, the same rule confers upon the trial court the discretion to allow the introduction of additional evidence during trial other than those that had been previously

1 2 3

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 8 of 10

X-----X

marked and identified during the pre-trial, provided there are valid grounds.¹⁶

Here, the *Consolidated Manifestation and Motion for Leave to Adopt the Testimonies of Witnesses and the Documents They Identified*, to reiterate, essentially seeks to present additional witnesses, along with pertinent pieces of documentary evidence, other than what were stipulated during the pre-trial. The grounds relied upon by the accused are as follows: (1) Carlo V. Baloloy's testimony should be adopted because he was allowed to testify in SB-09-CRM-0040 to 0042, 0045 to 0046, 0048 to 0050, 0054 to 0055, 0058 to 0061, 0068 and 0069, as the said witness was also presented by the accused in the Third Division in a similar case entitled "*People of the Philippines vs. Antonio P. Belicena, et al.*" and docketed as Crim. Case Nos. 25596-25636; (2) Napeñas and Bola's oral and documentary evidence were already presented and identified in Crim. Case Nos. SB-12-CRM-0151 to 0162, pending before this court; and (3) in their *Consolidated Explanation and Motion*, accused maintained that Recoter's testimony should be included, considering that she is one of the accused in the present cases.

To this court, these serve as sufficient grounds to allow the adoption by the accused of the subject documentary and testimonial evidence from the other similar criminal cases. After all, it is a mere adoption; and presentation of witnesses and identification of documentary evidence will be dispensed with, in consonance with the doctrine on speedy trial and the Constitutional right of the accused "to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf."¹⁷

To disallow the adoption of the questioned documentary evidence on the ground of failure to identify and authenticate the same is premature at this juncture. Sec. 34, Rule 132 of the Revised Rules on Evidence clearly instructs that:

Section 34. Section 34. Offer of evidence. – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

The failure to properly authenticate the documents would result in their inadmissibility. The court, however, can only rule on such issue upon the accused's formal offer of evidence, which, pursuant to the Revised Rules on Evidence, is made after the presentation of the party's testimonial evidence. The present cases clearly have not reached that stage yet when the said documents were asked before the court to be adopted as accused's evidence. As of this point, therefore, it is too early to rule on the admissibility of such evidence; the prosecution still can object to their admissibility when the accused file their formal offer of evidence.

¹⁶ *Lara's Gift and Decors. Inc. vs. PNB General Insurers Co., Inc.*, G.R. Nos. 230429-30, January 24, 2018.

¹⁷ CONSTITUTION, Art. III, Sec. 14(2).

1 1 1

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 9 of 10

X-----X

**On another setting on
November 22, 2023**

In its *Order*¹⁸ dated September 21, 2023, the court directed accused Magdaet, Recoter, and Tordesillas to file their written Manifestation/Motion to present good cause for the presentation of other witnesses when no other trial dates are available.

In their *Consolidated Explanation and Motion*¹⁹, accused Magdaet, Recoter, and Tordesillas contended that there is still a necessity for the accused to utilize the November 22, 2023 setting, particularly for the presentation of accused Recoter, given her role in this case.

In its *Comment*²⁰ dated September 26, 2023, the prosecution argued that the accused had not sufficiently demonstrated a good cause for another setting. Therefore, they recommended that the request be denied.

The court, after careful consideration and in the interest of justice allows the accused, particularly accused Recoter, to testify on November 22, 2023. This, notwithstanding the allegation of the prosecution that there is no good cause shown for the allowance of a new setting. It should be remembered that Recoter is an accused in these cases, hence could not be deprived of her day in court.

WHEREFORE, premises considered, the Court **GRANTS** the accused's "CONSOLIDATED MANIFESTATION AND MOTION FOR LEAVE TO ADOPT THE TESTIMONIES OF WITNESSES AND THE DOCUMENTS THEY IDENTIFIED" dated September 17, 2023 and "CONSOLIDATED EXPLANATION AND MOTION" dated September 24, 2023. Consequently, the court allows the accused to adopt the testimonies and documentary evidence stated therein, present evidence for the last time on **November 22, 2023**, and present accused Recoter to testify.

SO ORDERED.

GEORGINA D. HIDALGO
Associate Justice

¹⁸ Records, Vol. 11, pp. 114-116.

¹⁹ Records, Vol. 11, pp. 178-181.

²⁰ Records, Vol. 11, pp. 183-186.

Resolution

People vs. Antonio P. Belicena. et. al.

SB-09-CRM-0087-88, 0097-98, 0107-0108, 0117-0118, 0127 & 0128

Page 10 of 10

X-----X

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA

Associate Justice

Chairperson


ZALDY V. TRESPESES

Associate Justice

1

RECEIVED
JUL 10 2009
CLERK OF COURT
JUL 10 2009