



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on January 9, 2024.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson

Justice ZALDY V. TRESPESES ----- Member

Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

SB-12-CRM-0151 to 0162 – People v. Antonio P. Belicena, et al.

This resolves the following:

1. Accused Purita S. Napeñas, Merosé L. Tordesillas, and Charmelle P. Recoter's "**CONSOLIDATED FORMAL OFFER OF EXHIBITS**" dated October 10, 2023;¹ and
2. Prosecution's "**COMMENT ON ACCUSED**"¹ (sic) **FORMAL OFFER OF DOCUMENTARY EVIDENCE**" dated December 15, 2023.²

GOMEZ-ESTOESTA, J.:

This resolves accused Purita S. Napeñas, Merosé L. Tordesillas, and Charmelle P. Recoter's *Consolidated Formal Offer of Exhibits* which offered and prayed for the admission of Exhibits "1-Recoter, Napeñas and Tordesillas" to "51-Recoter, Napeñas and Tordesillas."

For its part, the prosecution only objected to the admissibility of Exhibits "1-Recoter, Napeñas and Tordesillas" to "5-Recoter, Napeñas and Tordesillas" and "26-Recoter, Napeñas and Tordesillas" to "26-A-Recoter, Napeñas and Tordesillas" for being mere photocopies. The prosecution argued that these exhibits were not properly authenticated under Sections 24 and 25 of Rule 132 because the same were not identified by the proper officer under whose custody the originals thereof were kept.

¹ Records, Volume 9, pp. 115-126.

² Ibid., pp. 143-152.

1 | 5 -

Resolution

People v. People v. Antonio P. Belicena, et al.

SB-12-CRM-0151 to 0162

Page 2 of 3

X-----X

THIS COURT'S RULING

After a consideration of the exhibits offered by the accused, and the comment made thereto by the prosecution, the court resolves to:

EXCLUDE Exhibits “1-Recoter, Napeñas and Tordesillas” to “5-Recoter, Napeñas and Tordesillas” and “26-Recoter, Napeñas and Tordesillas” to “26-A-Recoter, Napeñas and Tordesillas,” for being mere photocopies. Under the original document rule, the original document itself must be produced whenever its contents are the subject of inquiry.³ While not every writing is considered a document for purposes of the Original Document Rule, the contents of these documents form the cornerstone of accused’s defense theory; and hence, offered as proof of their contents.⁴ A photocopy, being a mere secondary evidence, is thus not admissible unless it is shown that the original is unavailable.⁵

Neither were the aforementioned exhibits properly introduced as evidence in accordance with Section 24 of Rule 132 of the *2019 Revised Rules on Evidence* which requires that, “[t]he record of public documents referred to in paragraph (a) of section 19, when admissible for any purpose, may be evidenced by [...] a copy attested by the officer having the legal custody of the record[.]”⁶ In particular, while Exhibits “1-Recoter, Napeñas and Tordesillas” to “5-Recoter, Napeñas and Tordesillas” were “certified photocopies” attested to by Atty. Anna Marie D. Crespillo, Executive Clerk of Court III, Second

³ Section 3, Rule 130 of the 2019 Revised Rules on Evidence provides:

SECTION 3. Original Document Must be Produced; Exceptions. — When the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself, except in the following cases:

- (a) When the original is lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice, or the original cannot be obtained by local judicial processes or procedures;
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole;
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office; and
- (e) When the original is not closely-related to a controlling issue. (3a)

⁴ Vide: *Evidence Benchbook for Trial Court Judges* accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/44/50146>.

⁵ Section 5, Rule 130 of the 2019 Revised Rules on Evidence states:

SECTION 5. When Original Document is Unavailable. — When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his or her part, may prove its contents by a copy, or by recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (5a)

⁶ A.M. No. 19-08-15-SC dated October 8, 2019.

1 1 2

Resolution

People v. People v. Antonio P. Belicena, et al.

SB-12-CRM-0151 to 0162

Page 3 of 3

X-----X

Division of the court, the accused did not establish that said official has custody of the original documents from which they were certified from.

ADMIT Exhibits “6-Recoter,”⁷ “10-Recoter, Napeñas and Tordesillas” to “25-Recoter, Napeñas and Tordesillas,” and “27-Recoter, Napeñas and Tordesillas” to “48-Recoter, Napeñas and Tordesillas,” being common with the prosecution’s Exhibits “O⁴,” “C,” “TT,” “UU,” “VV,” “WW,” “XX,” “YY,” “ZZ,” “AAA,” “BBB,” “CCC (page 1),” “CCC (page 2),” “DDD,” “EEE,” “FFF,” “HHH,” “PPPP,” “L⁵,” “M⁵,” “N⁵,” “O⁵,” “P⁵,” “Q⁵,” “R⁵,” “S⁵,” “T⁵,” “U⁵,” “V⁵,” “W⁵,” “X⁵,” “Y⁵,” “Z⁵,” “A⁶,” “B⁶,” “B⁶⁻¹,” “D⁶,” “R,” “SS,” and “K⁵,” respectively.

ADMIT Exhibits “7-Recoter, Napeñas and Tordesillas” to “9-Recoter, Napeñas and Tordesillas,” there being no objection raised by the prosecution on the admissibility of the same.

ADMIT Exhibits “49-Recoter, Napeñas and Tordesillas” to “51-Recoter, Napeñas and Tordesillas,” the parties having stipulated on the existence, due execution, and authenticity of the same.⁸

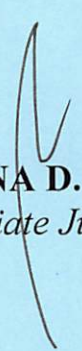
With the resolution of the formal offer from the last batch of the defense panel to present evidence, the prosecution is directed to submit a formal manifestation within five (5) days from notice whether it intends to present rebuttal evidence.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALDY V. TRESPES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

⁷ Exhibit “6” was marked for Recoter only; See Folder of Exhibits.

⁸ *Vide*: Order dated September 21, 2023; Records, Vol. 8, pp. 555-558.