



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on January 30, 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, Merose L. Tordesillas, and Charmelle P. Recoter’s **“CONSOLIDATED MOTION FOR PARTIAL RECONSIDERATION (ON THE RESOLUTION DATED JANUARY 9, 2024)”** dated January 17, 2024; and
2. Prosecution’s **“OPPOSITION TO ACCUSED NAPEÑAS, ET AL.’S CONSOLIDATED MOTION FOR PARTIAL RECONSIDERATION”** dated January 19, 2024.

GOMEZ-ESTOESTA, J.:

Accused Purita S. Napeñas, Merose L. Tordesillas, and Charmelle P. Recoter (**the accused**) seek the partial reconsideration of the court’s *Resolution*¹ dated January 9, 2024, specifically on the **exclusion** of Exhibits “3-Recoter, Napeñas and Tordesillas” to “5-Recoter, Napeñas and Tordesillas.”

To recall, the aforementioned Exhibits were found to be inadmissible documents under the Original Document Rule² because, while the same are certified photocopies attested to by Atty. Anna Marie D. Crespillo (**Atty. Crespillo**), Executive Clerk of Court III, Second Division of the court, it has

¹ Records, Vol. 9, pp. 153-155.

² See Section 3, Rule 130 of the 2019 Revised Rules on Evidence.

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not been duly proven that said official has custody of the original documents from which they were certified.

In their *Motion*, the accused argued that the existence, authenticity, and genuineness of the Exhibits in question have already been established in the *Decision* dated February 10, 2023 rendered by the *Second Division* of the court in *People of the Philippines v. Antonio P. Belicena, et al.*³ The accused contended that their exhibits are not merely “certified copies,” but “certified true copies” which are in the custody of Atty. Crespillo, who is the custodian of the court’s records pertaining to said judgment. The accused thus prayed for the admission of Exhibits “3-Recoter, Napeñas and Tordesillas” to “5-Recoter, Napeñas and Tordesillas.”

The prosecution argued for the denial of the Motion because the Seventh Division of the court is not bound to take judicial notice of a decision rendered by the Second Division of the same court. Moreover, the prosecution underscored that the Exhibits in question were not properly authenticated since Atty. Crespillo is not the custodian of the original documents she attested to. The prosecution thus prayed for the denial of the Motion.

THIS COURT’S RULING

The *Motion* of the accused must be denied.

Before the introduction of secondary evidence is permissible, the offeror must first establish the order of proof, which is: existence, execution, loss and contents, citing the case of *Yangco Vda. De Espino v. Espino*:⁴

Under the Best Evidence Rule, the original document must be produced whenever its contents are the subject of inquiry. When the original is lost, secondary evidence may be allowed. However, "before a party is allowed to adduce secondary evidence to prove the contents of the original, the offeror must prove the following: (1) the existence or due execution of the original; (2) the loss and destruction of the original or the reason for its non-production in court; and (3) on the part of the offeror, the absence of bad faith to which the unavailability of the original can be attributed. **The correct order of proof is as follows: existence, execution, loss, and contents.**

It bears stressing that since part of the accused’s defense relates to the contents of the documents they presented, it was imperative that they first comply with the Original Document Rule (formerly referred to as the Best Evidence Rule), which requires the production of the original document prior

³ Docketed as Criminal Case Nos. 26160 to 26172, penned by Associate Justice Oscar C. Herrera, Jr. and concurred in by Associate Justice Edgardo M. Caldonga and Associate Justice Arthur O. Malabaguio (Records, Vol. 9, pp. 169-222).

⁴ G.R. No. 222842 (Notice), December 10, 2018.

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to the introduction of the certified copies,⁵ but they failed to do so. Consequently, without having established the basis for the introduction of secondary evidence, the photocopies presented by the accused, while certified copies, remain inadmissible evidence under the *Rules*.

In any event, the accused's heavy reliance on the attestation made by Atty. Crespillo on their Exhibits is misplaced because the matter to which they allude is not subject to mandatory judicial notice.

In general, the concept of judicial notice is explained by *Juan v. Juan*,⁶ as follows:

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. Put differently, it is the assumption by a court of a fact without need of further traditional evidentiary support. The principle is based on convenience and expediency in securing and introducing evidence on matters which are not ordinarily capable of dispute and are not bona fide disputed.

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Under the *Rule 129 of the 2019 Revised Rules on Evidence*, the taking of judicial notice may be mandatory or discretionary, viz:

SECTION 1. Judicial Notice, When Mandatory. — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (1a)

SECTION 2. Judicial Notice, When Discretionary. — A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. (2)

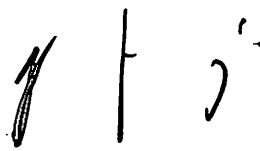
Addressing the contentions of the accused, the case of *Bongato v. Spouses Malvar* is clear that courts do not take judicial notice of any evidence presented in other proceedings, viz:⁷

[A]s a general rule, courts do not take judicial notice of the evidence presented in other proceedings, even if these have been tried or are pending in the same court or before the same judge. There are exceptions to this rule. Ordinarily, an appellate court cannot refer to the record in another case to ascertain a fact not shown in the record of the case before it, yet, it has been

⁵ *Supra* note 2.

⁶ G.R. No. 221732, August 23, 2017.

⁷ G.R. No. 141614, August 14, 2002.



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held that it may consult decisions in other proceedings, in order to look for the law that is determinative of or applicable to the case under review. In some instances, courts have also taken judicial notice of proceedings in other cases that are closely connected to the matter in controversy. These cases "may be so closely interwoven, or so clearly interdependent, as to invoke" a rule of judicial notice.

Applying the above-cited jurisprudence, the court cannot take judicial notice of the evidence presented in *People of the Philippines v. Antonio P. Belicena, et al.* (docketed as Criminal Case Nos. 26160 to 26172) which was adjudicated by the Second Division of the court. Other than the mere fact that the Exhibits in question are similar to the evidence passed upon by another Division of the court, the present controversy pertains to different parties, issues, and subject matters. Presently, the accused were not able to establish any closely interwoven connection or interdependence between the cases alluded to, which could have warranted the taking of judicial notice of the subject evidence they offered.

"Down the oft-trodden path in our judicial system, by common sense, tradition and the law, the Judge in trying a case sees only with judicial eyes as he ought to know nothing about the facts of the case, except those which have been adduced judicially in evidence. Thus, when the case is up for trial, the judicial head is empty as to facts involved and it is incumbent upon the litigants to the action to establish by evidence the facts upon which they rely."⁸

WHEREFORE, in light of the foregoing, the *Consolidated Motion for Partial Reconsideration (on the Resolution dated January 9, 2024)* dated January 17, 2024 filed by the accused is **DENIED**.

SO ORDERED.


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

WE CONCUR:


ZALBY V. TRESPESES
Associate Justice

⁸ *Lopez v. Sandiganbayan*, G.R. No. 103911, October 13, 1995.

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GEORGINA D. HIDALGO
Associate Justice

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