



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0428 and 0429**
Plaintiff, For: Violation of Sec. 3(e)
of R.A. No. 3019

Present

- versus -

MARCELINO C. LIBANAN,
ET AL.,

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

Accused.

Promulgated:

03 JAN 2024 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. Accused Clotilde J. Salazar and Manuel B. Japzon's *Joint Manifestation*;¹
2. Prosecution's *Comment/Opposition (Re: Joint Manifestation dated November 3, 2023 filed by Accused Clotilde J. Salazar and Manue [sic] B. Japzon)*;² and,
3. Accused Salazar and Japzon's *Reply (Re: Comment/Opposition dated Nov.22, 2023 filed by the Office of the Special Prosecutor of the Office of Ombudsman [sic])*.³

In their *Joint Manifestation*, accused Salazar and Japzon pray for the dismissal of the cases against them. They aver:

¹ Dated November 3, 2023; Record, Vol. 14, pp. 331-334

² Dated November 22, 2023; Record, Vol. 14, pp. 336-339

³ Dated December 7, 2023

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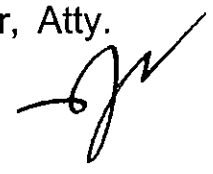
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1. The Supreme Court, in its Resolution dated December 5, 2022, ordered the dismissal of the present cases as to accused Marcelino C. Libanan, Jesus A. Agda, Reynaldo C. Dorado, Necitas A. Ponferrada, and Ma. Vilma B. Bormate, for violation of their right to speedy disposition of cases.
2. Under Sec. 11 [sic] of the Rules of Criminal Procedure, an appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.
3. These cases should also be dismissed as to them because the judgment in favor of accused Libanan, Ponferrada, Agda, Dorado and Bormate would also be beneficial to them.

In its *Comment/Opposition*, the prosecution counters:

1. Accused Salazar and Japzon's *Joint Motion* must be treated as an unsigned pleading/submission.
2. Sec. 3, Rule 7 of the Rules of Civil Procedure provides that pleadings and other submissions to the court must be signed by the party or counsel representing him or her. Otherwise, the pleading or submission produces no legal effect.
3. Accused Salazar and Japzon's *Joint Manifestation* was signed by Atty. Jill Lea L. Adrales "in representation of Atty. Leslie Rose A. Torres who now works for the government." Atty. Adrales did not file a formal entry of appearance as counsel for the said accused, and there is no showing that the said accused authorized her to act in their behalf.
4. Atty. Torres, counsel of record for accused Salazar and Japzon, did not formally withdraw her appearance as counsel. The *Joint Manifestation* was neither signed by accused Salazar and Japzon themselves or by their counsel of record, and hence, the same is an unsigned pleading which must be considered to be a mere scrap of paper.
5. Furthermore, these cases should not be dismissed as to accused Salazar and Japzon because they were not parties in the cases before the Supreme Court. The Supreme Court's Resolution dated December 5, 2022 ordered the dismissal of the cases against petitioners therein specifically, and did not include accused Salazar and Japzon.

In their *Reply*, accused Salazar and Japzon argue that under the Rules of Court, an attorney is presumed to be properly authorized to represent any cause in which he or she appears. Moreover, Atty.



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Adrales is an Associate lawyer in Atty. Torres' law office, and is working as a collaborating counsel. Atty. Torres' withdrawal as counsel is not necessary for the appearance of Atty. Adrales as collaborating counsel because they belong to the same office.

THE COURT'S RULING

First, the matter of whether Atty. Jill Lea L. Adrales is authorized to represent accused Salazar and Japzon.

This Court notes that Atty. Adrales has not previously filed her notice of entry of appearance before filing the instant *Joint Manifestation* as "[c]ounsel for Accused Salazar and Japzon in representation of Atty. Leslie Rose A. Torres who now works for the Government." The Court, however, disagrees with the prosecution's contention that the said *Joint Manifestation* should be considered as a mere scrap of paper for not having been signed by accused Salazar and Japzon, or by Atty. Torres, their counsel of record.

In *Cebu Stevedoring Company, Inc. v. Ramolete*,⁴ the Supreme Court explained that the notice of appearance of an attorney is required to be in writing, filed with the court, and served upon parties affected, to enable the officers concerned to effectively serve processes on the attorney of record, but the absence of such written notice could not seriously affect, much less nullify, the validity of the acts and pleadings filed by the appearing attorney. *Viz.:*

The question for determination is whether the lack of a formal written notice of appearance by the collaborating lawyer for herein petitioner, Atty. Malilong, Jr., would affect adversely the validity of the appeal timely perfected by such counsel.

Section 2 of Rule 113 provides:

SEC. 2. *Papers to be filed and served.* – Every order required by its terms to be served, every pleading subsequent to the complaint, every written motion other than one which may be heard ex parte, and every written notice, *appearance* with the court [sic], and served upon the parties affected thereby.⁵ If any of such parties has appeared by an attorney or attorneys, service upon him shall be made upon his attorneys or one of them, unless service upon the party himself is ordered by the court. Where

⁴ G.R. No. L-56627, August 17, 1981

⁵ Now Sec. 4, Rule 13 of the 2019 Amended Rules of Court

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an attorney appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side.⁶ x x x”

While the context of the above-quoted provision of the Rules that the formal appearance of an attorney shall be filed with the court and served upon the parties affected thereby clearly indicate that the appearance of such an attorney shall be in writing, the underlying reason for such requirement is that to enable the officers concerned to effectively serve processes on the attorney of record. Accordingly, the fact that no formal written entry of appearance has been filed by a new collaborating counsel or that the same was filed only after he had filed certain pleadings could not seriously affect, much less nullify, the validity of the acts and the pleadings filed by the appearing attorney – as wrongly held by respondent judge. (At most, the judge could compel the attorney to file a formal written notice of appearance, in addition to his appearance through the pleadings filed by him.)

It has thus been categorically ruled in *Ong Ching vs. Ramolete, etc., et al.* that “while it may be desirable in the interest of an orderly conduct of judicial proceedings that a counsel for a party should file with the court his formal written appearance in the case, before filing a pleading therein, or mention in said pleading that he is submitting the same in collaboration with the counsel of record, the mere circumstance that such acts were not done does not warrant the conclusion that the pleading filed by such counsel has no legal effect whatsoever.”

(underscoring supplied)

Similarly, the fact that Atty. Adrales has not previously filed her notice of entry of appearance as counsel for accused Salazar and Japzon does not affect the validity of the filing of their instant *Joint Manifestation*.

Although Atty. Torres remains to be the counsel of record for accused Salazar and Japzon, the Court having received no notice of withdrawal from her, it does not mean that Atty. Adrales has no authority to appear for the said accused.

In *Land Bank of the Philippines v. Pamintuan Development Co.*,⁷ it was held that a lawyer is presumed to be properly authorized to appear in behalf of his or her client, and need not present a written authorization from the latter. However, the court may, on its own

⁶ Now included in par. 2 of Sec. 2, Rule 13 of the 2019 Amended Rules of Court

⁷ G.R. No. 167886, October 25, 2005

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initiative or on motion of the other party, require the lawyer to adduce authorization from the client. In the same case, it was held that absent a formal notice of substitution, all lawyers who appeared before the court or filed pleadings in behalf of the client are considered counsels of the latter.

Applying the foregoing, Atty. Adrales is presumed to have the authority to appear for accused Salazar and Japzon, and to file their instant *Joint Manifestation*. Atty. Torres remains to be the said accused's counsel of record, but Atty. Adrales shall also be considered their counsel.

Next, the Court will consider accused Salazar and Japzon's *Joint Manifestation* as their Motion to Dismiss. The Court nonetheless resolves to deny the same.

In the Resolution dated December 5, 2022⁸ in G.R. Nos. 244742-43 (*Reynaldo c. Dorado v. Sandiganbayan [Sixth Division] and People of the Philippines*); G.R. No. 244745 (*Jesus A. Agda v. Sandiganbayan [Sixth Division] and People of the Philippines*); G.R. Nos. 245910-11 (*Necitas A. Ponferrada v. Sandiganbayan [Sixth Division] and People of the Philippines*); and G.R. Nos. 246677-78 (*Ma. Vilma B. Bormate v. Sandiganbayan [Sixth Division], represented by Presiding Justice Sarah Jane T. Fernandez, Associate Justice Karl B. Miranda and Associate Justice Kevin Narce B. Vivero*), the Supreme Court ordered the dismissal of SB-18-CRM-0428 and SB-18-CRM-0429 for violation of therein petitioners' right to speedy disposition of cases. Herein accused Salazar and Japzon were not parties in the said cases, and thus, the ruling in the said Resolution of the Supreme Court does not apply to them.

Accused Salazar and Japzon's reliance on Sec. 11(a), Rule 122 of the Rules of Court is also misplaced. The said provision reads:

Sec. 11. Effect of appeal by any of several accused. –

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

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⁸ Record, Vol. 14, pp. 54-59

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It is apparent from the aforementioned provision that it pertains to the effects of the judgment of the appellate court on accused who did not appeal the trial court's judgment. The cases before the Supreme Court pertained to the consolidated Petitions for *Certiorari* assailing this Court's Resolutions dated October 26, 2018 and February 20, 2019. This Court has not yet rendered its judgment in the present cases. Consequently, there is nothing to appeal to the Supreme Court, and Sec. 11(a), Rule 122 of the Rules of Court finds no application.

Finally, accused Salazar and Japzon's motion to dismiss has no leg to stand on, inasmuch as they have not alleged, much less shown any valid ground to support their motion.

WHEREFORE, the Motion to Dismiss of accused Salazar and Japzon is hereby DENIED for lack of merit. Their *Reply* is NOTED.

Atty. Jill Lea L. Adrales is DIRECTED to submit her authority to appear for accused Salazar and Japzon, and to file her formal notice of entry of appearance for the said accused within five (5) days from receipt of this Resolution.

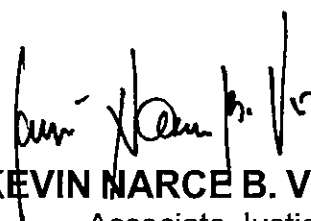
Finally, considering that Atty. Leslie Rose A. Torres allegedly now works for the government, she is DIRECTED to manifest, within five (5) days from receipt of this Resolution, whether or not she is authorized to engage in the private practice of law. If she is not authorized to do so, she is further directed to take steps to formalize the withdrawal of her appearance as counsel for accused Salazar and Japzon.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice