



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan
Quezon City**

Seventh Division

MINUTES of the proceedings held on April 23, 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-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 Asuncion M. Magdaet, Charmelle P. Recoter, and Merose L. Tordesillas' **"CONSOLIDATED FORMAL OFFER OF EXHIBITS"** dated February 23, 2024, and filed on March 19, 2024; and
2. Prosecution's **"COMMENT ON ACCUSED'S CONSOLIDATED FORMAL OFFER OF EXHIBITS"** dated April 1, 2024, and electronically filed on April 2, 2023.

HIDALGO, J.:

Submitted for resolution is the Consolidated Formal Offer of Documentary Evidence filed by accused **Asuncion M. Magdaet, Charmelle P. Recoter, and Merose L. Tordesillas**, and the Prosecution's Comments on Accused's Consolidated Formal Offer of Evidence.

The prosecution objected on the admissibility of the following exhibits for being mere photocopies:

EXHIBITS	DESCRIPTION
"1"	Department of Finance Organizational Chart
"2"	One Stop Shop Inter-Agency Duty Drawback Center Organizational Chart

Handwritten marks at the bottom of the page, including a vertical line and a checkmark-like symbol.

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"3"	Order No. 5192, Series of 1992
"4"	Outline of Procedure in the Processing of Tax Credit Application of Raw Materials of the Direct Exporter
"4-A"	Sample of Claimant Information Sheet
"5"	Office Order dated 93-13 dated August 30, 1993
"6"	Office Order No. 93-07A dated July 2, 1993
"7"	Office Order No. 93-17 dated November 3, 1993
"8"	Memorandum dated January 28, 1998 from the Secretary of Finance to the President of the Philippines
"9"	Memorandum from the Executive Secretary dated June 30, 1998
"9-A"	Letter dated July 1, 1998 attached to Exhibit 9
"10"	Department of Finance Department Order 93-92, series 1992
"11"	Department of Finance Resolution No. 92-02 dated August 10, 1992
"12"	Letter to Dr. Cecilia Soriano dated October 29, 1992 from the Secretary of Finance
"13"	Letter to the Department of Finance dated May 20, 1993 from the Department of Budget and Management
"14"	CSC Resolution 94-0647 dated February 3, 1994
"15"	Administrative Order No. 138 dated July 19, 1994
"16"	Letter to the Secretary of Finance from the Department of Budget and Management dated December 26, 1994
"17"	Letter to the Secretary of Finance from the DBM dated July 21, 1995
"18"	Letter to the Secretary of Finance from the DBM dated February 5, 1996
"19"	Letter to the Secretary of Finance from the Board of Investment dated November 18, 1993
"20"	RA 7844, Export and Development Act of 1994
"21"	Rules and Regulation to Implement Export Development Act of 1994
"22"	Agreement between the Board of Investment and Department of Finance and dated October 13, 2000
"23"	Rules and Regulations to implement the Guidelines on Transferability of Tax Credit Certificate issued under Article 21 of the Omnibus Investment Code of the Philippines of 1987
"24"	Amendment to the Rules to implement the guidelines on Transferability of Tax Credit Certificate issued under Article 21 of the Omnibus Investment Code of the Philippines of 1987
"25"	Letter to the One Stop Shop from the Executive Director of

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	the Industrial Planning Group 1987
"26"	Office Order dated November 5, 1993 issued by the Undersecretary of the Department of Finance
"27"	Office Order No. 93-09 dated July 23, 1993 of the Tax Credit and Duty Drawback Center, Department of Finance
"28"	Office Order dated October 2, 1993 issued by the Acting Secretary of the Department of Finance
"29"	Office Order dated November 4, 1996 issued by the Acting Secretary of the Department of Finance
"30"	Final Report, Monitoring of Tranche 3 of Philippine Support Development Program, August 1993
"31"	Streamlining Duty Drawback System in the Philippines, June 1998
"32"	Memorandum dated August 25, 1995, Personal Service Division of Department of Finance

The prosecution reasoned that these Exhibits needed to be properly authenticated by the proper officer under whose custody the original copies were kept in accordance with Sections 24 and 25 of Rule 132 of the Revised Rules on Evidence.

Moreover, the prosecution objected to the following exhibits, arguing the irrelevance and baselessness of the documents and for failure to authenticate the same:

EXHIBITS	DESCRIPTION
"33"	Checklist of Documents Requirements
"34"	Memorandum dated February 18, 1997 issued by Raymond R. Babasoro to Atty. Antonio P. Belicena, Assistant Secretary of the Department of Finance- One Stop Shop Tax Credit and Duty Drawback Center
"35"	Letter dated August 11, 2003 addressed to Deputy Executive Director Ernesto Q. Hiansen of the DOF OSS Center

COURT'S RULING

After judicial scrutiny of the record of the cases, the Court resolves to:

EXCLUDE the following Exhibits: "1" to "19"; Exhibits "25," "30," "31," "32," and "33" for being mere photocopies, as justified by the prosecution. Under the Original Document Rule which is enunciated in Section 3 of Rule 130 of the Revised Rules on Evidence¹, the original document must be produced when the

¹ Section 3 of Rule 130 of the 2019 Revised Rules on Evidence states that:

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subject of the inquiry is the content of the document; secondary evidence such as a photocopy can be shown if the original document is unavailable.² The contents of the above-mentioned Exhibits are the keystone of the accused's defense theory; hence, the original copies should be offered in Court to be admissible.

Furthermore, as noted by the prosecution, being public documents, the accused must present the proper custodian of the documents. The mentioned exhibits are merely certified as true copies by Atty. Mary Tifanie H. Gerona, Executive Clerk of Court of the Seventh Division, as stipulated in the Order last January 26, 2024, to wit:

“Having certified these documents as true copy from the record on file, Atty. Mary Tifanie H. Gerona, Executive Clerk of Court II of the 7th Division was asked to testify so she could identify these documents. Considering, however, that it was already stipulated that she was the one who issued the certified true copies of these documents, which are all photocopies and **not being the custodian of the original copy of these documents**, her testimony was dispensed with.”³

As pointed by the prosecution, Atty. Gerona only attested that the documents produced were certified copies of the records on file. She has no privity of relation to the documents to verify the contents thereof. Since the accused failed to present the proper custodian of the documents, the photocopies cannot be admitted.

Meanwhile, the Court resolves to ADMIT Exhibits “20,” “21,” “22,” “23,” and “24”, consequently these exhibits pertain to laws and official acts of the legislative and executive departments, which fall under Section 1 of Rule 129 of the Revised Rules on Evidence.⁴ Thus, the Court deems it proper to take judicial notice

SEC. 3. Original document must be produced; exceptions. – When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

- (a) When the original has been 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;
- (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; and
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office.

² Section 5 of Rule 130 of the 2019 Revised Rules on Evidence states that:

SEC. 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 part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.

³ TSN, January 26, 2023.

⁴ Section 1 of Rule 129 of the 2019 Revised Rules on Evidence. Judicial notice, when mandatory. — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their



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of these exhibits.

ADMIT Exhibits “26” to “29” since the prosecution admitted these exhibits as reflected on the Pre-Trial Order.⁵ It should be noted that accused Magdaet adopted the documentary exhibits marked by accused Andutan, Jr. Thus, stipulations freely and voluntarily made are valid and binding and will not be set aside unless for good cause. Perforce, in this case, the Court admits the following documents and will be considered in the Court’s ruling over the case.

ADMIT Exhibits “34” and “35”, as both are certified true copies of the documents, and the comment/objection raised by the prosecution does not pertain to their admissibility but rather to their probative value. Thus, the probative value of these exhibits is still subject to the Court's further appreciation upon the case's final disposition.

ADMIT Exhibits “36 to 38”, since the prosecution did not raise any objection on their admissibility and the parties have stipulated on their existence, due execution, and authenticity, the Court deems the following exhibits admissible.

Notwithstanding the admission of the exhibits above, their evidentiary and/or probative value shall be left to the determination and appreciation of this Court in the final disposition of the cases.

Likewise, the Court notes and grants the request of accused Recoter for the correction and/or remarking of the following exhibits:

Marking in the Judicial Affidavit dated November 17, 2023 of Charmelle P. Recoter	Document Description	Proposed Correction
“33”	One Stop Shop Inter-Agency Duty Drawback Center Organizational Chart	“2”
“43”	Outline of Procedure in the Processing of Tax Credit Application of Raw Materials of the Direct Exporter	“4”
“35”	Office Order No. 93-07A dated	“6”

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, the official acts of legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

⁵ Pre-Trial Order dated April 3, 2019.

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	July 2, 1993	
"36"	Office Order dated 93-13 dated August 30, 1993	"5"
"37"	Office Order dated No. 93-17 dated November 3, 1993	"7"
"44"	Checklist of Document Requirements for Investment Group of Express Colour Industries Inc. marked as Exhibit C	"33"
"45"	Memorandum dated February 18, 1997, issued by Raymond R. Babasoro to Atty. Antonio P. Belicena, Assistant Secretary ng Department of Finance – One Stop Shop Tax Credit and Duty Drawback Center (DOF-OSS Center)	"34"


With the resolution of the Consolidated Formal Offer of Exhibits filed by accused **Magdaet, Recoter, and Tordesillas**, they are deemed to have rested their case.

SO ORDERED.

Quezon City, Philippines.


GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:


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


ZALDY V. TRESPESSES
Associate Justice