

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HONORABLE SANDIGANBAYAN, MANSUETO V. HONRADA, CEFERINO S. PAREDES, JR. AND GENEROSO S. SANSÆT, RESPONDENTS.

G.R. Nos. 115439-41. July 16, 1997

Ponente: REGALADO, J.

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REGALADO, J.:

Through the special civil action for certiorari at bar, petitioner seeks the annulment of the resolution of respondent Sandiganbayan, promulgated on December 22, 1993, which denied petitioner's motion for the discharge of respondent Generoso S. Sansaet to be utilized as a state witness, and its resolution of March 7, 1994 denying the motion for reconsideration of its preceding disposition.[1]

The records show that during the dates material to this case, respondent Honrada was the Clerk of Court and Acting Stenographer of the First Municipal Circuit Trial Court, San Francisco-Bunawan-Rosario in Agusan del Sur. Respondent Paredes was successively the Provincial Attorney of Agusan del Sur, then Governor of the same province, and is at present a Congressman. Respondent Sansaet was a practicing attorney who served as counsel for Paredes in several instances pertinent to the criminal charges involved in the present recourse.

The same records also represent that sometime in 1976, respondent Paredes applied for a free patent over Lot No. 3097-A, Pls-67 of the Rosario Public Land Subdivision Survey. His application was approved and, pursuant to a free patent granted to him, an original certificate of title was issued in his favor for that lot which is situated in the poblacion of San Francisco, Agusan del Sur.

However, in 1985, the Director of Lands filed an action[2] for the cancellation of respondent Paredes' patent and certificate of title since the land had been designated and reserved as a school site in the aforementioned subdivision survey. The trial court rendered judgment[3] nullifying said patent and title after finding that respondent Paredes had obtained the same through fraudulent misrepresentations in his application. Pertinently, respondent Sansaet served as counsel of Paredes in that civil case.[4]

Consequent to the foregoing judgment of the trial court, upon the subsequent complaint of the Sangguniang Bayan and the preliminary investigation conducted thereon, an information for perjury[5] was filed against respondent Paredes in the Municipal Circuit Trial Court.[6] On November 27, 1985, the Provincial Fiscal was, however, directed by the Deputy Minister of Justice to move for the dismissal of the case on the ground inter alia of prescription, hence the proceedings were terminated.[7] In this criminal case, respondent Paredes was likewise represented by respondent Sansaet as counsel.

Nonetheless, respondent* Paredes was thereafter haled before the Tanodbayan for preliminary investigation on the charge that, by using his former position as Provincial Attorney to influence and induce the Bureau of Lands officials to favorably act on his application for free patent, he had violated Section 3(a) of Republic Act No. 3019, as amended. For the third time, respondent Sansaet was Paredes' counsel of record therein.

On August 29, 1988, the Tanodbayan, issued a resolution[8] recommending the criminal prosecution of respondent Paredes. Atty. Sansaet, as counsel for his aforementioned co-respondent, moved for reconsideration and, because of its legal significance in this case, we quote some of his allegations in that motion:

“x x x respondent had been charged already by the complainants before the Municipal Circuit Court of San Francisco, Agusan del Sur, went to jail on detention in 1984 under the same set of facts and the same evidence x x x but said case after arraignment, was ordered dismissed by the court upon recommendation of the Department of Justice. Copy of the dismissal order, certificate of arraignment and the recommendation of the Department of Justice are hereto attached for ready reference; thus the filing of this case will be a case of double jeopardy for respondent herein x x x.”[9] (Italics supplied.)

A criminal case was subsequently filed with the Sandiganbayan[10] charging respondent Paredes with a violation of Section 3(a) of Republic Act No. 3019, as amended. However, a motion to quash filed by the defense was later granted in respondent court’s resolution of August 1, 1991[11] and the case was dismissed on the ground of prescription.

On January 23, 1990, one Teofilo Gelacio, a taxpayer who had initiated the perjury and graft charges against respondent Paredes, sent a letter to the Ombudsman seeking the investigation of the three respondents herein for falsification of public documents.[12] He claimed that respondent Honrada, in conspiracy with his herein co-respondents, simulated and certified as true copies certain documents purporting to be a notice of arraignment, dated July 1, 1985, and transcripts of stenographic notes supposedly taken during the arraignment of Paredes on the perjury charge.[13] These falsified documents were annexed to respondent Paredes’ motion for reconsideration of the Tanodbayan resolution for the filing of a graft charge against him, in order to support his contention that the same would constitute double jeopardy.

In support of his claim, Gelacio attached to his letter a certification that no notice of arraignment was ever received by the Office of the Provincial Fiscal of Agusan del Sur in connection with that perjury case; and a certification of Presiding Judge Ciriaco Ariño that said perjury case in his court did not reach the arraignment stage since action thereon was suspended pending the review of the case by the Department of Justice.[14]

Respondents filed their respective counter-affidavits, but Sansaet subsequently discarded and repudiated the submissions he had made in his counter-affidavit. In a so-called Affidavit of Explanations and Rectifications,[15] respondent Sansaet revealed that Paredes contrived to have the graft case under preliminary investigation dismissed on the ground of double jeopardy by making it that the perjury case had been dismissed by the trial court after he had been arraigned therein.

For that purpose, the documents which were later filed by respondent Sansaet in the preliminary investigation were prepared and falsified by his co-respondents in this case in the house of respondent Paredes. To evade responsibility for his own participation in the scheme, he claimed that he did so upon the instigation and inducement of respondent Paredes. This was intended to pave the way for his discharge as a government witness in the consolidated cases, as in fact a motion therefor was filed by the prosecution pursuant to their agreement.

Withal, in a resolution[16] dated February 24, 1992, the Ombudsman approved the filing of falsification charges against all the herein private respondents. The proposal for the discharge of respondent Sansaet as a state witness was rejected by the Ombudsman on this evaluative legal position:

“x x x Taking his explanation, it is difficult to believe that a lawyer of his stature, in the absence of deliberate intent to conspire, would be unwittingly induced by another to commit a crime. As counsel for the accused in those criminal cases, Atty. Sansaet had control over the case theory and the evidence which the defense was going to present. Moreover, the testimony or confession of Atty. Sansaet falls under the mantle of privileged

communication between the lawyer and his client which may be objected to, if presented in the trial.”

The Ombudsman refused to reconsider that resolution[17] and, ostensibly to forestall any further controversy, he decided to file separate informations for falsification of public documents against each of the herein respondents. Thus, three criminal cases,[18] each of which named one of the three private respondents here as the accused therein, were filed in the graft court. However, the same were consolidated for joint trial in the Second Division of the Sandiganbayan.

As stated at the outset, a motion was filed by the People on July 27, 1993 for the discharge of respondent Sansaet as a state witness. It was submitted that all the requisites therefor, as provided in Section 9, Rule 119 of the Rules of Court, were satisfied insofar as respondent Sansaet was concerned. The basic postulate was that, except for the eyewitness testimony of respondent Sansaet, there was no other direct evidence to prove the confabulated falsification of documents by respondents Honrada and Paredes.

Unfortunately for the prosecution, respondent Sandiganbayan, hewing to the theory of the attorney-client privilege adverted to by the Ombudsman and invoked by the two other private respondents in their opposition to the prosecution’s motion, resolved to deny the desired discharge on this ratiocination:

“From the evidence adduced, the opposition was able to establish that client and lawyer relationship existed between Atty. Sansaet and Ceferino Paredes, Jr., before, during and after the period alleged in the information. In view of such relationship, the facts surrounding the case, and other confidential matter must have been disclosed by accused Paredes, as client, to accused Sansaet, as his lawyer in his professional capacity. Therefore, the testimony of Atty. Sansaet on the facts surrounding the offense charged in the information is privileged.”[19]

Reconsideration of said resolution having been likewise denied,[20] the controversy was elevated to this Court by the prosecution in an original action for the issuance of the extraordinary writ of certiorari against respondent Sandiganbayan.

The principal issues on which the resolution of the petition at bar actually turns are therefore (1) whether or not the projected testimony of respondent Sansaet, as proposed state witness, is barred by the attorney-client privilege; and (2) whether or not, as a consequence thereof, he is eligible for discharge to testify as a *particeps criminis*.

I

As already stated, respondent Sandiganbayan ruled that due to the lawyer-client relationship which existed between herein respondents Paredes and Sansaet during the relevant periods, the facts surrounding the case and other confidential matters must have been disclosed by respondent Paredes, as client, to respondent Sansaet, as his lawyer. Accordingly, it found “no reason to discuss it further since Atty. Sansaet cannot be presented as a witness against accused Ceferino S. Paredes, Jr. without the latter’s consent.”[21]

The Court is of a contrary persuasion. The attorney-client privilege cannot apply in these cases, as the facts thereof and the actuations of both respondents therein constitute an exception to the rule. For a clearer understanding of that evidential rule, we will first sweep aside some distracting mental cobwebs in these cases.

1. It may correctly be assumed that there was a confidential communication made by Paredes to Sansaet in connection with Criminal Cases Nos. 17791-93 for falsification before respondent court, and this may reasonably be expected since Paredes was the accused and Sansaet his counsel therein. Indeed, the fact that Sansaet was called to witness the preparation of the falsified documents by Paredes and Honrada was as eloquent a communication, if not more, than verbal statements being made to him by Paredes as to the fact and purpose of

such falsification. It is significant that the evidentiary rule on this point has always referred to “any communication,” without distinction or qualification.[22]

In the American jurisdiction from which our present evidential rule was taken, there is no particular mode by which a confidential communication shall be made by a client to his attorney. The privilege is not confined to verbal or written communications made by the client to his attorney but extends as well to information communicated by the client to the attorney by other means.[23]

Nor can it be pretended that during the entire process, considering their past and existing relations as counsel and client and, further, in view of the purpose for which such falsified documents were prepared, no word at all passed between Paredes and Sansaet on the subject matter of that criminal act. The clincher for this conclusion is the undisputed fact that said documents were thereafter filed by Sansaet in behalf of Paredes as annexes to the motion for reconsideration in the preliminary investigation of the graft case before the Tanodbayan.[24] Also, the acts and words of the parties during the period when the documents were being falsified were necessarily confidential since Paredes would not have invited Sansaet to his house and allowed him to witness the same except under conditions of secrecy and confidence.

2. It is postulated that despite such complicity of Sansaet at the instance of Paredes in the criminal act for which the latter stands charged, a distinction must be made between confidential communications relating to past crimes already committed, and future crimes intended to be committed, by the client. Corollarily, it is admitted that the announced intention of a client to commit a crime is not included within the confidences which his attorney is bound to respect. Respondent court appears, however, to believe that in the instant case it is dealing with a past crime, and that respondent Sansaet is set to testify on alleged criminal acts of respondents Paredes and Honrada that have already been committed and consummated.

The Court reprobates the last assumption which is flawed by a somewhat inaccurate basis. It is true that by now, insofar as the falsifications to be testified to in respondent court are concerned, those crimes were necessarily committed in the past. But for the application of the attorney-client privilege, however, the period to be considered is the date when the privileged communication was made by the client to the attorney in relation to either a crime committed in the past or with respect to a crime intended to be committed in the future. In other words, if the client seeks his lawyer’s advice with respect to a crime that the former has theretofore committed, he is given the protection of a virtual confessional seal which the attorney-client privilege declares cannot be broken by the attorney without the client’s consent. The same privileged confidentiality, however, does not attach with regard to a crime which a client intends to commit thereafter or in the future and for purposes of which he seeks the lawyer’s advice.

Statements and communications regarding the commission of a crime already committed, made by a party who committed it, to an attorney, consulted as such, are privileged communications. Contrarily, the unbroken stream of judicial dicta is to the effect that communications between attorney and client having to do with the client’s contemplated criminal acts, or in aid or furtherance thereof, are not covered by the cloak of privileges ordinarily existing in reference to communications between attorney and client.[25] (Emphases supplied.)

3. In the present cases, the testimony sought to be elicited from Sansaet as state witness are the communications made to him by physical acts and/or accompanying words of Paredes at the time he and Honrada, either with the active or passive participation of Sansaet, were about to falsify, or in the process of falsifying, the documents which were later filed in the Tanodbayan by Sansaet and culminated in the criminal charges now pending in respondent Sandiganbayan. Clearly, therefore, the confidential communications thus made by Paredes to Sansaet were for purposes of and in reference to the crime of falsification which had not yet been committed in the past by

Paredes but which he, in confederacy with his present co-respondents, later committed. Having been made for purposes of a future offense, those communications are outside the pale of the attorney-client privilege.

4. Furthermore, Sansaet was himself a conspirator in the commission of that crime of falsification which he, Paredes and Honrada concocted and foisted upon the authorities. It is well settled that in order that a communication between a lawyer and his client may be privileged, it must be for a lawful purpose or in furtherance of a lawful end. The existence of an unlawful purpose prevents the privilege from attaching.[26] In fact, it has also been pointed out to the Court that the “prosecution of the honorable relation of attorney and client will not be permitted under the guise of privilege, and every communication made to an attorney by a client for a criminal purpose is a conspiracy or attempt at a conspiracy which is not only lawful to divulge, but which the attorney under certain circumstances may be bound to disclose at once in the interest of justice.”[27]

It is evident, therefore, that it was error for respondent Sandiganbayan to insist that such unlawful communications intended for an illegal purpose contrived by conspirators are nonetheless covered by the so-called mantle of privilege. To prevent a conniving counsel from revealing the genesis of a crime which was later committed pursuant to a conspiracy, because of the objection thereto of his conspiring client, would be one of the worst travesties in the rules of evidence and practice in the noble profession of law.

II

On the foregoing premises, we now proceed to the consequential inquiry as to whether respondent Sansaet qualifies, as a particeps criminis, for discharge from the criminal prosecution in order to testify for the State. Parenthetically, respondent court, having arrived at a contrary conclusion on the preceding issue, did not pass upon this second aspect and the relief sought by the prosecution which are now submitted for our resolution in the petition at bar. We shall, however, first dispose likewise of some ancillary questions requiring prelude clarification.

1. The fact that respondent Sandiganbayan did not fully pass upon the query as to whether or not respondent Sansaet was qualified to be a state witness need not prevent this Court from resolving that issue as prayed for by petitioner. Where the determinative facts and evidence have been submitted to this Court such that it is in a position to finally resolve the dispute, it will be in the pursuance of the ends of justice and the expeditious administration thereof to resolve the case on the merits, instead of remanding it to the trial court.[28]

2. A reservation is raised over the fact that the three private respondents here stand charged in three separate informations. It will be recalled that in its resolution of February 24, 1992, the Ombudsman recommended the filing of criminal charges for falsification of public documents against all the respondents herein. That resolution was affirmed but, reportedly in order to obviate further controversy, one information was filed against each of the three respondents here, resulting in three informations for the same acts of falsification.

This technicality was, however, sufficiently explained away during the deliberations in this case by the following discussion thereof by Mr. Justice Davide, to wit:

“Assuming no substantive impediment exists to block Sansaet’s discharge as state witness, he can, nevertheless, be discharged even if indicted under a separate information. I suppose the three cases were consolidated for joint trial since they were all raffled to the Second Division of the Sandiganbayan. Section 2, Rule XV of the Revised Rules of the Sandiganbayan allows consolidation in only one Division of cases arising from the same incident or series of incidents, or involving common questions of law and fact. Accordingly, for all legal intents and purposes, Sansaet stood as co-accused and he could be discharged as state witness. It is of no moment that he was charged separately from his co-accused. While Section 9 of Rule 119 of the 1985 Rules of Criminal Procedure uses the word jointly, which was absent in the old provision, the consolidated and joint

trial has the effect of making the three accused co-accused or joint defendants, especially considering that they are charged for the same offense. In criminal law, persons indicted for the same offense and tried together are called joint defendants.”

As likewise submitted therefor by Mr. Justice Francisco along the same vein, there having been a consolidation of the three cases, the several actions lost their separate identities and became a single action in which a single judgment is rendered, the same as if the different causes of action involved had originally been joined in a single action.[29]

Indeed, the former provision of the Rules referring to the situation “(w)hen two or more persons are charged with the commission of a certain offense” was too broad and indefinite; hence the word “joint” was added to indicate the identity of the charge and the fact that the accused are all together charged therewith substantially in the same manner in point of commission and time. The word “joint” means “common to two or more,” as “involving the united activity of two or more,” or “done or produced by two or more working together,” or “shared by or affecting two or more.”[30] Had it been intended that all the accused should always be indicted in one and the same information, the Rules could have said so with facility, but it did not so require in consideration of the circumstances obtaining in the present case and the problems that may arise from amending the information. After all, the purpose of the Rule can be achieved by consolidation of the cases as an alternative mode.

2. We have earlier held that Sansaet was a conspirator in the crime of falsification, and the rule is that since in a conspiracy the act of one is the act of all, the same penalty shall be imposed on all members of the conspiracy. Now, one of the requirements for a state witness is that he “does not appear to be the most guilty.”[31] not that he must be the least guilty[32] as is so often erroneously framed or submitted. The query would then be whether an accused who was held guilty by reason of membership in a conspiracy is eligible to be a state witness.

To be sure, in *People vs. Ramirez, et al.*[33] we find this obiter:

“It appears that Apolonio Bagispas was the real mastermind. It is believable that he persuaded the others to rob Paterno, not to kill him for a promised fee. Although he did not actually commit any of the stabbings, it was a mistake to discharge Bagispas as a state witness. All the perpetrators of the offense, including him, were bound in a conspiracy that made them equally guilty.”

However, prior thereto, in *People vs. Roxas, et al.*,[34] two conspirators charged with five others in three separate informations for multiple murder were discharged and used as state witnesses against their confederates. Subsequent thereto, in *Lugtu, et al. vs. Court of Appeals, et al.*,[35] one of the co-conspirators was discharged from the information charging him and two others with the crime of estafa. The trial court found that he was not the most guilty as, being a poor and ignorant man, he was easily convinced by his two co-accused to open the account with the bank and which led to the commission of the crime.

On appeal, this Court held that the finding of respondent appellate court that Lugtu was just as guilty as his co-accused, and should not be discharged as he did not appear to be not the most guilty, is untenable. In other words, the Court took into account the gravity or nature of the acts committed by the accused to be discharged compared to those of his co-accused, and not merely the fact that in law the same or equal penalty is imposable on all of them.

Eventually, what was just somehow assumed but not explicitly articulated found expression in *People vs. Ocimar, et al.*,[36] which we quote in extenso:

“Ocimar contends that in the case at bar Bermudez does not satisfy the conditions for the discharge of a co-accused to become a state witness. He argues that no accused in a conspiracy can lawfully be discharged and utilized as a state witness, for not one of them could satisfy the requisite of appearing not to be the most

guilty. Appellant asserts that since accused Bermudez was part of the conspiracy, he is equally guilty as the others.

We do not agree. First, there is absolute necessity for the testimony of Bermudez. For, despite the presentation of four (4) other witnesses, none of them could positively identify the accused except Bermudez who was one of those who pulled the highway heist which resulted not only in the loss of cash, jewelry and other valuables, but even the life of Capt. Cañeba, Jr. It was in fact the testimony of Bermudez that clinched the case for the prosecution. Second, without his testimony, no other direct evidence was available for the prosecution to prove the elements of the crime. Third, his testimony could be, as indeed it was, substantially corroborated in its material points as indicated by the trial court in its well-reasoned decision. Fourth, he does not appear to be the most guilty. As the evidence reveals, he was only invited to a drinking party without having any prior knowledge of the plot to stage a highway robbery. But even assuming that he later became part of the conspiracy, he does not appear to be the most guilty. What the law prohibits is that the most guilty will be set free while his co-accused who are less guilty will be sent to jail. And by “most guilty” we mean the highest degree of culpability in terms of participation in the commission of the offense and not necessarily the severity of the penalty imposed. While all the accused may be given the same penalty by reason of conspiracy, yet one may be considered least guilty if We take into account his degree of participation in the perpetration of the offense. Fifth, there is no evidence that he has at any time been convicted of any offense involving moral turpitude.

x x x

Thus, We agree with the observations of the Solicitor General that the rule on the discharge of an accused to be utilized as state witness clearly looks at his actual and individual participation in the commission of the crime, which may or may not have been perpetrated in conspiracy with the other accused. Since Bermudez was not individually responsible for the killing committed on the occasion of the robbery except by reason of conspiracy, it cannot be said then that Bermudez appears to be the most guilty. Hence, his discharge to be a witness for the government is clearly warranted.” (Italics ours.)

The rule of equality in the penalty to be imposed upon conspirators found guilty of a criminal offense is based on the concurrence of criminal intent in their minds and translated into concerted physical action although of varying acts or degrees of depravity. Since the Revised Penal Code is based on the classical school of thought, it is the identity of the mens rea which is considered the predominant consideration and, therefore, warrants the imposition of the same penalty on the consequential theory that the act of one is thereby the act of all.

Also, this is an affair of substantive law which should not be equated with the procedural rule on the discharge of particeps criminis. This adjective device is based on other considerations, such as the need for giving immunity to one of them in order that not all shall escape, and the judicial experience that the candid admission of an accused regarding his participation is a guaranty that he will testify truthfully. For those reasons, the Rules provide for certain qualifying criteria which, again, are based on judicial experience distilled into a judgmental policy.

III

The Court is reasonably convinced, and so holds, that the other requisites for the discharge of respondent Sansaet as a state witness are present and should have been favorably appreciated by the Sandiganbayan.

Respondent Sansaet is the only cooperative eyewitness to the actual commission of the falsification charged in the criminal cases pending before respondent court, and the prosecution is faced with the formidable task of establishing the guilt of the two other co-respondents who steadfastly deny the charge and stoutly protest their innocence. There is thus no other direct evidence available for the prosecution of the case, hence there is absolute necessity for the testimony of Sansaet whose discharge is sought precisely for that purpose. Said respondent has

indicated his conformity thereto and has, for the purposes required by the Rules, detailed the substance of his projected testimony in his Affidavit of Explanations and Rectifications.

His testimony can be substantially corroborated on its material points by reputable witnesses, identified in the basic petition with a digest of their prospective testimonies, as follows: Judge Ciriaco C. Ariño, Municipal Circuit Trial Court in San Francisco, Agusan del Sur; Provincial Prosecutor and Deputized Ombudsman Prosecutor Claudio A. Nistal; Teofilo Gelacio, private complainant who initiated the criminal cases through his letter-complaint; Alberto Juvilan of the Sangguniang Bayan of San Fernando, Agusan del Sur, who participated in the resolution asking their Provincial Governor to file the appropriate case against respondent Paredes, and Francisco Macalit, who obtained the certification of non-arraignment from Judge Ariño.

On the final requirement of the Rules, it does not appear that respondent Sansaet has at any time been convicted of any offense involving moral turpitude. Thus, with the confluence of all the requirements for the discharge of this respondent, both the Special Prosecutor and the Solicitor General strongly urge and propose that he be allowed to testify as a state witness.

This Court is not unaware of the doctrinal rule that, on this procedural aspect, the prosecution may propose but it is for the trial court, in the exercise of its sound discretion, to determine the merits of the proposal and make the corresponding disposition. It must be emphasized, however, that such discretion should have been exercised, and the disposition taken on a holistic view of all the facts and issues herein discussed, and not merely on the sole issue of the applicability of the attorney-client privilege.

This change of heart and direction respondent Sandiganbayan eventually assumed, after the retirement of two members of its Second Division [37] and the reconstitution thereof. In an inversely anticlimactic Manifestation and Comment [38] dated June 14, 1995, as required by this Court in its resolution on December 5, 1994, the chairman and new members thereof [39] declared:

“4) That the questioned Resolutions of December 22, 1993 and March 7, 1994 upon which the Petition for Certiorari filed by the prosecution are based, was penned by Associate Justice Narciso T. Atienza and concurred in by the undersigned and Associate Justice Augusto M. Amores;

5) That while the legal issues involved had been already discussed and passed upon by the Second Division in the aforesaid Resolution, however, after going over the arguments submitted by the Solicitor-General and re-assessing Our position on the matter, We respectfully beg leave of the Honorable Supreme Court to manifest that We are amenable to setting aside the questioned Resolutions and to grant the prosecution’s motion to discharge accused Generoso Sansaet as state witness, upon authority of the Honorable Supreme Court for the issuance of the proper Resolution to that effect within fifteen (15) days from notice thereof.”

WHEREFORE, the writ of certiorari prayed for is hereby granted SETTING ASIDE the impugned resolutions and ORDERING that the present reliefs sought in these cases by petitioner be allowed and given due course by respondent Sandiganbayan.

SO ORDERED.

Narvasa, C.J., Padilla, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco and Panganiban, JJ., concur.

Hermosisima, Jr. and Torres, Jr., JJ., on leave.

[1] Criminal Cases Nos. 17791-92, Second Division; both penned by Atienza, J. with Escareal and Amores, JJ., concurring; Rollo, 37-41, 42-43.

- [2] Civil Case No. 512, Regional Trial Court, Branch 6, Prosperidad, Agusan del Sur.
- [3] Per Judge Carlo H. Lozada; Rollo, 167-185.
- [4] Rollo, 128.
- [5] Criminal Case No. 1393; Rollo, 195-198.
- [6] First Municipal Circuit Trial Court of San Francisco-Rosario-Bunawan, Agusan del Sur, presided by Judge Ciriaco Ariño.
- [7] Rollo, 204-207.
- * “Sansaet” is being changed to “Paredes”.
- [8] Ibid., 210-219.
- [9] Ibid., 221.
- [10] Criminal Case No. 13800.
- [11] Penned by Garchitorena, P.J., with Hermosisima, Jr. and Del Rosario, JJ., concurring; Rollo, 227-237.
- [12] Rollo, 247-352; Case No. OMB-MIN-90-0053.
- [13] Ibid., 72-74.
- [14] Ibid., 241-248.
- [15] Ibid., 57-85.
- [16] Ibid., 255-258.
- [17] Ibid., 259-260.
- [18] Criminal Cases Nos. 17791, 17792 and 17793.
- [19] Rollo, 40.
- [20] Ibid., 42-43.
- [21] Ibid., 46.
- [22] Section 24(b), Rule 130, Rules of Court.
- [23] In re Carter’s Will, 204 N.Y.S. 393, 122 Misc. 493; State vs. Dawson, 1 S.W. 827, 90 Mo. 149.
- [24] As noted, ante, this was later filed as Criminal Case No. 13800 but ultimately dismissed by the Sandiganbayan.
- [25] 58 Am Jur, Witnesses, Sec. 516, 288-289.
- [26] Ibid., id., Sec. 515, 288; 81 Am Jur, Witnesses, Secs. 393-394, 356-357; see also 125 American Law Reports Annotated, 516-519.
- [27] Underhill, H.C., A Treatise of the Law of Criminal Evidence, Vol. 2, Fifth ed. (1956), Sec. 332, at 836-837.
- [28] Quisumbing et al. vs. Court of Appeals, et al., G.R. No. 60364, June 23, 1983, 122 SCRA 703; Lianga Bay Logging Co., Inc., et al. vs. Court of Appeals, et al., G.R. No. L-37783, January 28, 1988, 157 SCRA 357;

Tejones vs. Gironella, etc., et al., G.R. 305506, March 21, 1988, 159 SCRA 100; Quillian vs. Court of Appeals, et al., G.R. No. 55457, January 20, 1989, 169 SCRA 279.

[29] Citing 8A Words and Phrases 358, on the authority of Kennedy vs. Empire State Underwriters of Watertown, N.Y., 24 S.E. 2d 78, 79, 202 S.C. 38.

[30] Webster's Third New International Dictionary, 1993 ed., 1219.

[31] Sec. 9, Rule 119, Rules of Court.

[32] People vs. Faltado, et al., 84 Phil. 89 (1949); People vs. Bayona, etc., et al., 108 Phil. 104 (1960); People vs. Court of Appeals, et al., G.R. No. 55533, July 31, 1984, 131 SCRA 107.

[33] G.R. Nos. 65345-47, January 31, 1989, 169 SCRA 1989.

[34] G.R. Nos. L-46960-62, January 8, 1987, 147 SCRA 169.

[35] G.R. No. L-42637, March 21, 1990, 183 SCRA 388.

[36] G.R. No. 94555, August 17, 1992, 212 SCRA 646.

[37] Justices Narciso T. Atienza and Augusto M. Amores.

[38] Rollo, 320-322.

[39] Justice Romeo M. Escareal, Chairman, and Justices Minita Chico-Nazario and Roberto M. Lagman, members.

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