



Republic of the Philippines
Supreme Court
Manila

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 240053

Present:

LEONEN,
Chairperson,
HERNANDO,
INTING,
LOPEZ, J., and
DIMAAMPAO, JJ.

- versus -

MARIA CRISTINA P. SERGIO
and JULIUS L. LACANILAO,
Respondents.

Promulgated:

March 21, 2022

Misa DC Bant

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RESOLUTION

HERNANDO, J.:

Recall that Mary Jane Veloso (Mary Jane) was arrested upon her arrival at Adisucipto International Airport in Yogyakarta, Indonesia for carrying 2.6 kilograms of heroin in her travel luggage. She was tried and later convicted for drug trafficking under Indonesian jurisdiction and sentenced to death by firing squad. Mary Jane traveled to Indonesia upon Maria Cristina Sergio (Cristina) and Julius Lacanilao's (Julius) false promise of work abroad.

Cristina and Julius were eventually charged before a Philippine court with Qualified Trafficking in Persons under Republic Act No. (RA) 9208, Illegal Recruitment under RA 8042, and *Estafa* under the Revised Penal Code. Believing Mary Jane to be an essential witness, the Philippine prosecutors

made a daring move — they requested the Indonesian government to suspend the execution of Mary Jane's sentence in order to take her testimony in Cristina and Julius' Qualified Trafficking in Persons case. The move succeeded. Indonesia, however, required that Mary Jane remain within the confines of their territory, and that the questions to be propounded to her be put in writing.

Faced with these conditions, the prosecution resorted to deposition by written interrogatories. The Regional Trial Court, Branch 88 of Sto. Domingo, Nueva Ecija approved the use of this mode of discovery in the following manner:

IN VIEW OF THE FOREGOING REASONS, leave of court is hereby GRANTED to the Prosecution to take the testimony of Mary Jane Veloso by way of deposition upon written interrogatories in accordance with Rules 23 and 25 of the Revised Rules of Court under the following terms and conditions:

1. Considering that the Prosecution has already submitted their proposed questions in the written interrogatories, the accused, through counsel, is given a period of ten (10) days from receipt of this Resolution to submit their comment to the proposed questions on the deposition upon written interrogatories for the witness Mary Jane Veloso. Upon receipt of the Comment, the Court shall promptly rule on the objections;

2. The Court shall schedule the taking of the deposition in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the deposition (after ruling on the Defense objections), shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the deponent of the written interrogatories shall be taken verbatim **by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;**

3. The transcribed copy of the answers of the deponent shall be furnished the accused, through counsel, who shall thereafter submit their proposed cross interrogatory questions to the Prosecution within ten (10) days from receipt;

4. The Prosecution is given the same period of ten (10) days from receipt of the proposed cross interrogatory questions of the Defense stating the ground for the objections. Upon receipt of the comment, the Court shall promptly rule on the objections;

5. The Court shall schedule the conduct of the cross interrogatory questions for the deposition of Mary Jane Veloso in Yogyakarta, Indonesia, which shall be presided by the undersigned trial judge. The final questions for the written cross interrogatories (after ruling on the Prosecution's objections), shall be propounded by the Consul of the Philippines in the Republic of Indonesia or his designated representative. The answers of the

deponent to the written cross interrogatories shall be taken verbatim **by a competent staff in the Office of the Philippine Consulate in the Republic of Indonesia;**

6. Unless the Prosecution opts to conduct re-direct written interrogatories, the testimony of Mary Jane Veloso by way of deposition upon written interrogatories shall be deemed terminated. In case the Prosecution propounds re-direct written interrogatories on the deponent, the above-mentioned procedure for the conduct of direct and cross interrogatories shall be observed.

SO ORDERED.¹ (Emphasis supplied)

Cristina and Julius opposed the trial court's ruling. They raised the matter *via* a petition for *certiorari* before the Court of Appeals (CA).

The appellate court favored Cristina and Julius and reversed the trial court, finding the latter to have gravely abused its discretion in granting the remedy sought by the prosecution.² The prosecution appealed the CA Decision to this Court.

On October 9, 2019, the Court affirmed the trial court and rendered a Decision³ allowing the taking of Mary Jane's testimony by deposition upon written interrogatories –

WHEREFORE, the Court GRANTS the instant petition. The December 13, 2017 Decision of the Court of Appeals in CA-G.R. SP No. 149002 is REVERSED and SET ASIDE. The August 16, 2016 Resolution of the Regional Trial Court, Branch 88 of Sto. Domingo, Nueva Ecija is REINSTATED and AFFIRMED with MODIFICATION **that the deposition will be taken before our Consular Office and officials in Indonesia pursuant to the Rules of Court and principles of jurisdiction.**

The recommendation by the Office of the Solicitor General for this Court to promulgate a set of rules for the guidance of the Bench and the Bar in transnational cases that may arise in the future, where a prosecution's vital witness in a criminal proceeding is unavailable for reasons other than those listed in Section 15, Rule 119 of the Rules of Criminal Procedure vis-a-vis the enforcement of the accused's constitutional right to confront witnesses face-to-face is NOTED and REFERRED to this Court's Committee on Revision of the Rules for appropriate action.

SO ORDERED.⁴ (Emphasis supplied.)

¹ *Rollo*, pp. 128-129. Penned by Presiding Judge Anarica J. Castillo-Reyes.

² *Id.* at 90-107; penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Manuel M. Barrios and Renato C. Francisco.

³ *Id.* at 844-895; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Diosdado M. Peralta, Marvic M. V. F. Leonen, and Andres B. Reyes.

⁴ *Id.* at 893.

The October 9, 2019 Decision attained finality on March 4, 2020.⁵

However, the People of the Philippines, through the Office of the Solicitor General (OSG), now brings before the Court an *Urgent Omnibus Motion*⁶ (Motion), seeking to supplement the October 9, 2019 Decision with specific instructions as to the conduct of the taking of depositions by Mary Jane by written interrogatories. The OSG manifests that the dispositions of the trial court in its August 16, 2016 Resolution and of this Court in its October 9, 2019 Decision emphasized above conflicted with the conditions imposed by the Government of Indonesia per its letter dated December 4, 2020, to wit:

- a) The deposition taking will be **conducted by the Indonesian Attorney General or official/officials appointed by the Attorney General**. The [Ministry of Law of Human Rights of the Republic of Indonesia] said that **the presence of the consular officer of the Philippine Embassy in Jakarta and the Presiding Judge during the deposition taking is possible**;
- b) The deposition taking will be **conducted in the prison facility in Wirogunan, Indonesia, where [Mary Jane] is currently detained**.⁷ (Emphasis supplied.)

The Court resolves to note the Motion without action.

In general, final and executory judgments are immutable, unalterable in any respect, and irreversible even if correctible.⁸ “The orderly administration of justice requires that, at the risk of occasional errors, [judgments or resolutions] of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to [a] dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations.”⁹ Established exceptions to this rule are (a) correction of clerical errors; (b) judgments *nunc pro tunc*; and (c) void judgments.¹⁰

The Motion cannot be treated as an exception to the general rule.

What the OSG requests is a formulation of guidelines in the conduct of the taking of Mary Jane’s deposition to adapt to the conditions set by

⁵ Id. at 1341-1342.

⁶ Fully titled as Omnibus Motion with Leave of Court, id. at 1352-1360.

⁷ Id. at 1361.

⁸ *One Shipping Corp. v. Peñafiel*, 751 Phil. 204, 211 (2015), citing *Mocorro v. Ramirez*, 582 Phil. 357, 366 (2008).

⁹ Id.

¹⁰ Id.

Indonesia. This task is not at all a mere correction of clerical error but an amendment of the October 9, 2019 Decision. There is also no move to nullify this Decision, much less is the Court inclined to strike the same as void.

Neither can it be addressed with a judgment *nunc pro tunc*. *Briones-Vasquez v. Court of Appeals*¹¹ described judgments and entries *nunc pro tunc*, viz.:

The office of a judgment *nunc pro tunc* is to record some act of the court done at a former time which was not then carried into the record, and **the power of a court to make such entries is restricted to placing upon the record evidence of judicial action which has been actually taken. It may be used to make the record speak the truth, but not to make it speak what it did not speak but ought to have spoken.** If the court has not rendered a judgment that it might or should have rendered, or if it has rendered an imperfect or improper judgment, it has no power to remedy these errors or omissions by ordering the entry *nunc pro tunc* of a proper judgment. **Hence a court in entering a judgment *nunc pro tunc* has no power to construe what the judgment means, but only to enter of record such judgment as had been formerly rendered, but which had not been entered of record as rendered.** In all cases the exercise of the power to enter judgments *nunc pro tunc* presupposes the actual rendition of a judgment, and a mere right to a judgment will not furnish the basis for such an entry. (15 R. C. L., pp. 622-623.)

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The object of a judgment *nunc pro tunc* is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply non action by the court, however erroneous the judgment may have been. (*Wilmerding vs. Corbin Banking Co.*, 28 South, 640, 641; 126 Ala., 268.)

A *nunc pro tunc* entry in practice is an entry made now of something which was actually previously done, to have effect as of the former date. **Its office is not to supply omitted action by the court, but to supply an omission in the record of action really had, but omitted through inadvertence or mistake.**¹² (*Perkins vs. Haywood*, 31 N. E., 670, 672.) (Emphasis supplied.)

There was no inadvertent omission. The Decision was issued upon full consideration of all the documents submitted. From the trial court, through the

¹¹ 491 Phil. 81, 91-93 (2005), citing *Lichauco v. Tan Pho*, 51 Phil. 862, 879-881 (1923).

¹² *Id.* at 91-93.

CA, and up to this Court, records state in consistent terms that the only conditions set by the Indonesian authorities were that (1) Mary Jane shall remain in detention in Yogyakarta, Indonesia; (2) no cameras may be used in the taking of her testimony; (3) none of the lawyers in the case shall be present during the taking of her testimony; and (4) the questions to be propounded must be in writing. These conditions were the ones prevailing before the Court upheld them in the October 9, 2019 Decision. It was only now in the *Urgent Omnibus Motion* that it was made known to this Court, or daresay to all the parties here, that the Indonesian government sent a letter on December 4, 2020 making new and specific proposals as to the conduct of Mary Jane's deposition.


The Court, even being the highest court of the land, cannot alter what is already rendered absolute. The case has already been completely put to rest — Mary Jane is allowed by our law to give her testimony in Cristina and Julius' case by deposition through written interrogatories under Rules 23 and 25 of our country's Rules of Court.

The Court finds this moment opportune to remark that the executive department need not obtain the assent of the judiciary in accepting, rejecting, or modifying the conditions set by Indonesia. The executive department has already done so before when, through the ardent efforts of the Department of Justice, it magnificently secured this legal miracle for Mary Jane, that she may air her side of the story despite her incarceration and conviction in a foreign country.

It remains entirely within the prerogative of the executive department to handle matters and fill in the details of foreign policy and negotiations. If it would be of any relevance, the Court only disposed that the deposition *will* be taken before our consular office and officials stationed in Indonesia. Although it denotes the same futurity as the word *will*, *shall* expresses a heavier inevitability and mandatoriness, but was not used in the dispositive portion. The Court leaves it up to the Department of Justice and the involved executive department agencies to discuss the technicalities of implementation with the Indonesian authorities and yield to their sound demands, bearing in mind the spirit of the October 9, 2019 Decision, the applicable international treaties, the real circumstances of Mary Jane's detention, and the fact that we are the requesting state, and Indonesia is the requested state.


WHEREFORE, the *Urgent Omnibus Motion* is **NOTED WITHOUT ACTION**.

SG ORDERED.

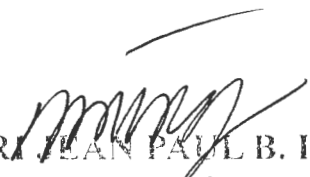


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:



MARVIC M. V. F. LEONEN
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



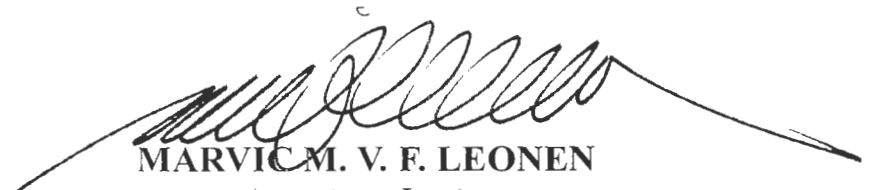
JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

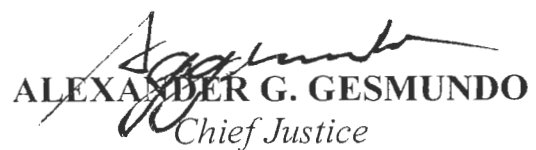
I attest that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice