EN BANC

G.R. No. 231854 – PEOPLE OF THE PHILIPPINES, *Petitioner v.* **LEILA L. ANG, ROSALINDA DRIZ, JOEY ANG, ANSON ANG, and VLADIMIR NIETO,** *Respondent.*

Promulgated:

October 6, 2020

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CONCURRING OPINION

INTING, *J.*:

I concur with the *ponencia* in ruling that a request for admission under Rule 26 of the Rules of Court is inapplicable to criminal cases; and consequently, declaring as null and void not only the Joint Orders dated March 10, 2016 and September 5, 2016 of Branch 56, Regional Trial Court (RTC), Lucena City, Quezon in Criminal Case Nos. 2005-1046, 2005-1047 and 2005-1048, but also the Joint Orders dated February 12, 2015 and July 24, 2015.

I reiterate in part the *ponencia's* narration of the proceedings in the three criminal cases from which the present petition originated.

Prior to the Joint Orders dated March 10, 2016 and September 5, 2016, Judge Dennis R. Pastrana (Judge Pastrana) of Branch 56, RTC, Lucena City, Quezon rendered the **Joint Order dated February 12, 2015** which granted, among others, Leila Ang's (Ang) motion for partial reconsideration from the denial of her *Amended Accused's Request for Admission by Plaintiff* (Request for Admission) filed in relation to Criminal Case No. 2005-1048. In this Joint Order, Judge Pastrana allowed Ang's Request for Admission and deemed the facts stated therein as impliedly admitted by the People pursuant to Section 2, Rule 26 of the Rules of Court. This was due to the latter's failure to deny or oppose the matters stated in the request within the 15-day period from receipt of documents as required in the Rule.[1]

The Office of the City Prosecutor of Lucena City filed a motion for clarification, but this was denied by Judge Pastrana in the **Joint Order dated July 24, 2015** for being filed out of time. Judge Pastrana

[1] See *ponencia*, p. 3.

also declared that the People was represented by the City Prosecutor and it was only through the public prosecutor that the plaintiff, as party in the present case, can be served or deemed served, with the Request for Admission. Judge Pastrana ruled that the implied admissions are also "judicial admissions by the plaintiff under Section 4, Rule 129 of the Rules of Court."[2]

Thereafter, Ang filed a Manifestation formally adopting in Criminal Case Nos. 2005-1046 and 2005-1047 the People's implied admissions or judicial admissions in Criminal Case No. 2005-1048.[3]

The People also filed Requests for Admission in the three criminal cases, *i.e.*, Criminal Case Nos. 2005-1046, 2005-1047 and 2005-1048, which were served upon Ang and the other accused.[4]

Upon motion of the People, the three criminal cases were consolidated per Order dated May 16, 2016.[5]

In the **Joint Order dated March 10, 2016**, the RTC denied the Requests for Admission filed by the People in the three criminal cases. The RTC reasoned that the judicial admissions of the People can no longer be varied or contradicted by contrary evidence much less by a request for admission directly or indirectly amending such judicial admissions. The RTC took judicial notice of the adoption in Criminal Case Nos. 2005-1046 and 2005-1047 by Ang of the implied admissions declared as judicial admissions in Criminal Case No. 2005-1048.[6]

The People moved for reconsideration but was denied by the RTC in its **Joint Order dated September 5, 2016**. The RTC maintained its ruling that the court's judicial notice made on the People's judicial admissions in Criminal Case No. 2005-1048 were also the People's judicial admissions in the closely related and interwoven Criminal Case Nos. 2005-1046 and 2005-1047, as previously stated in the Joint Order dated March 10, 2016. The RTC further ruled that in consolidated cases, such as the one at bar, the evidence in each case effectively becomes the

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2 *Id.* at 3-4.
3 *Id.* at 4.
4 *Id.*
5 *Id.*
6 *Id.*

evidence of both; thus, there ceased to exist any need for the deciding judge to take judicial notice of the evidence presented in each case.[7]

The People filed a petition for *certiorari* under Rule 65 before the Sandiganbayan assailing the Joint Orders dated March 10, 2016 and September 5, 2016. In the Resolution dated March 1, 2017, the Sandiganbayan affirmed the two Joint Orders. The subsequent Motion for Reconsideration was denied by the Sandiganbayan in the Resolution dated May 15, 2017.[8]

Hence, the People filed a petition for review on *certiorari* before the Court assailing the Sandiganbayan Resolutions.[9]

The *ponencia* resolved to reverse and set aside the assailed Sandiganbayan Resolutions, and declare as void not only the RTC Joint Orders dated March 10, 2016 and September 5, 2016, but also the Joint Orders dated February 12, 2015 and July 24, 2015. The *ponencia* then directed the RTC to resume the proceedings in Criminal Case Nos. 2005-1046, 2005-1047 and 2005-1048 with reasonable dispatch.[10]

In brief, the *ponencia* cited the following reasons: (1) a request for admission may only be done after the issues are joined which applies only in ordinary civil actions; (2) a request for admission cannot be served on the prosecution because it is answerable only by an adverse party to whom such request was served; and (3) criminal proceedings present inherent limitations for the use of Rule 26 as a mode of discovery, *i.e.*, that the prosecution is strictly bound to observe the parameters laid out in the Constitution on the right of the accused—one of which is the right against self-incrimination.[11]

I concur with the disposition of the case as well as the grounds relied upon by the *ponencia*.

Notably, while the People assailed the Joint Orders dated March 10, 2016 and September 5, 2016, it is undisputable that the substance of

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[7] *Id.* at 4-5.
[8] *Id.* at 5.
[9] *Id.* at 5-6.
[10] *Id.* at 25.
[11] *Id.* at 15-18.

these two orders are heavily intertwined with the earlier Joint Orders dated February 12, 2015 and July 24, 2015. To recall, in the Joint Order dated March 10, 2016, the RTC denied the People's Request for Admission as it sought to amend the implied admissions which resulted from the People's failure to deny or oppose Ang's Request for Admission within the given period. However, the validity of the Joint Orders dated March 10, 2016 and September 5, 2016 hinges on whether the RTC, through its Joint Orders dated February 12, 2015 and July 24, 2015, was correct in ruling the following: (1) allowing Ang's Request for Admission; (2) considering as deemed admitted the matters requested therein for failure of the prosecution to deny or oppose within the 15-day period from receipt of documents; and (3) in effect, ruling that request for admission under Rule 26 of the 1997 Rules of Civil Procedure applies to criminal cases.

Thus, in the event of a finding that a request for admission under Rule 26 does not apply to criminal cases, the Court will necessarily declare the Joint Orders dated February 12, 2015 and July 24, 2015 as null and void for being rendered with grave abuse of discretion. This is what the *ponencia* did. Further, while what the People assailed are the Joint Orders dated March 10, 2016 and September 5, 2016, the Court is not precluded from nullifying the Joint Orders dated February 12, 2015 and July 24, 2015 because void judgments do not attain finality and may be collaterally attacked.[12]

I agree with the *ponencia* that Rule 26 does not apply to criminal proceedings.

The entire Rule 26 provides:

RULE 26
Admission by Adverse Party

> Section 1. *Request for admission.* — At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact

[12] *Imperial v. Armes*, 804 Phil. 439 (2017). The Court in *Imperial v. Armes* defined collateral attack as one which is "done through an action which asks for a relief other than the declaration of the nullity of the judgment but requires such a determination if the issues raised are to be definitively settled."

set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (1a)

Section 2. *Implied admission.* — Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.

Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (2a)

Section 3. *Effect of admission.* — Any admission made by a party pursuant to such request is for the purpose of the pending action only and shall not constitute an admission by him for any other purpose nor may the same be used against him in any other proceeding. (3)

Section 4. *Withdrawal.* — The court may allow the party making an admission under the Rule, whether express or implied, to withdraw or amend it upon such terms as may be just. (4)

Section 5. *Effect of failure to file and serve request for admission.* — Unless otherwise allowed by the court for good cause shown and to prevent a failure of justice a party who fails to file and serve a request for admission on the adverse party of material and relevant facts at issue which are, or ought to be, within the personal knowledge of the latter, shall not be permitted to present evidence on such facts. (n)

A request for admission under Rule 26 is a mode of discovery which may be availed of in civil proceedings. As explained by the *ponencia*, it is intended to expedite the trial and to relieve the parties of the costs of proving facts which will not be disputed on trial and the truth of which can be ascertained by reasonable inquiry.[13] This mode of discovery serves to avoid the unnecessary inconvenience to the parties in

[13] See *ponencia*, p. 17, citing *Development Bank of the Philippines v. Court of Appeals*, 507 Phil. 312 (2005).

going through the rigors of proof.[14] Consequently, under Section 1, Rule 26, a party may serve a request for admission on the other party and request the latter to: (a) admit the genuineness of any material and relevant document described in and exhibited with the request; or (b) admit the truth of any material and relevant matter of fact set forth in the request.[15]

Under Section 2, Rule 26, the failure of the other party to either specifically deny the matters of which an admission is requested therein or to set forth in detail the reasons why he cannot truthfully either admit or deny those matters shall result in the deemed or implied admission of the matters stated in the request for admissions.

The applicability of Rule 26 in the present case must be examined in the light of the nature of criminal cases and the rights of the accused particularly the right against self-incrimination.

In criminal cases, the parties are the State and the accused. The case is prosecuted in the name of the People and not the private complainant who is merely a witness.[16] Thus, if Rule 26 is applied in criminal proceedings, the party to whom the accused may serve his request for admissions is the People who is represented by the public prosecutor. It is the public prosecutor who will be requested to admit the genuineness of any material and relevant document described in and exhibited with the request or the truth of any material and relevant fact set forth in the request. It is the public prosecutor who must execute a sworn statement specifically denying the matters on which an admission is requested or setting forth in detail the reasons as to why he cannot truthfully either admit or deny those matters.

However, as aptly pointed out by Associate Justice Estela M. Perlas-Bernabe in her Concurring Opinion, a cursory reading of Section 5, Rule 26 presupposes that the party upon whom the request for admission is served has personal knowledge of the matters stated in the request for admission.[17] Undoubtedly, a public prosecutor cannot be considered as either having personal knowledge of the facts in the request for admission or being privy to a document subject of the

[14] Riano, Civil Procedure Vol. 1, p. 470 (2011).
[15] *Id.*
[16] *Montelibano v. Yap*, G.R. No. 197475, December 6, 2017.
[17] See Concurring Opinion of Associate Justice Estela M. Perlas-Bernabe, p. 7.

request. Thus, any statement made by the public prosecutor in the sworn statement either admitting or specifically denying the matters sought to be admitted in the request for admissions would be mere hearsay and thus, lack probative value.

Further, to apply Rule 26 to criminal cases would go against the constitutional right of the accused against self-incrimination. This right is enshrined in Section 17, Article III of the 1987 Constitution which provides that "[n]o person shall be compelled to be a witness against himself." As the Court explained in *Rosete v. Lim*,[18] the right against self-incrimination is accorded to every person who gives evidence, whether voluntary or under compulsion of subpoena in any civil, criminal or administrative proceeding. However, unlike in civil cases, the right against self-incrimination is wider in scope when it comes to the accused in criminal cases. The Court explained:

> x x x The right is not to be compelled to be a witness against himself. It secures to a witness, whether he be a party or not, the right to refuse to answer any particular incriminatory question, *i.e.*, one the answer to which has a tendency to incriminate him for some crime. However, the right can be claimed only when the specific question, incriminatory in character, is actually put to the witness. It cannot be claimed at any other time. It does not give a witness the right to disregard a subpoena, decline to appear before the court at the time appointed, or to refuse to testify altogether. The witness receiving a subpoena must obey it, appear as required, take the stand, be sworn and answer questions. It is only when a particular question is addressed to which may incriminate himself for some offense that he may refuse to answer on the strength of the constitutional guaranty.
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> As to an accused in a criminal case, it is settled that he can refuse outright to take the stand as a witness. In *People v. Ayson,* this Court clarified the rights of an accused in the matter of giving testimony or refusing to do so. We said:
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> > An accused "occupies a different tier of protection from an ordinary witness." Under the Rules of Court, in all criminal prosecutions the defendant is entitled among others—
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> > 1) to be exempt from being a witness against himself, and
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> > 2) to testify as witness in his own behalf; but if he offers himself as a witness he may be cross-examined as any other witness; however, his neglect or refusal to be a witness shall not in any manner prejudice or be used against him.

[18] 523 Phil. 498 (2006).

> The right of the defendant in a criminal case "to be exempt from being a witness against himself" signifies that he cannot be compelled to testify or produce evidence in the criminal case in which he is the accused, or one of the accused. He cannot be compelled to do so even by *subpoena* or other process or order of the Court. He cannot be required to be a witness either for the prosecution, or for a co-accused, or even for himself. In other words — unlike an ordinary witness (or a party in a civil action) who may be compelled to testify by *subpoena*, having only the right to refuse to answer a particular incriminatory question at the time it is put to him — the defendant in a criminal action can refuse to testify altogether. He can refuse to take the witness stand, be sworn, answer any question. . . . (Underscoring supplied.)
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> It is clear, therefore, that only an accused in a criminal case can refuse to take the witness stand. The right to refuse to take the stand does not generally apply to parties in administrative cases or proceedings. The parties thereto can only refuse to answer if incriminating questions are propounded. This Court applied the exception — a party who is not an accused in a criminal case is allowed not to take the witness stand — in administrative cases/proceedings that partook of the nature of a criminal proceeding or analogous to a criminal proceeding. It is likewise the opinion of the Court that said exception applies to parties in civil actions which are criminal in nature. As long as the suit is criminal in nature, the party thereto can altogether decline to take the witness stand. It is not the character of the suit involved but the nature of the proceedings that controls.[19]

Thus, in criminal cases, the constitutional right against self-incrimination of the accused is taken to mean the right to be exempt from being a witness against himself. Unlike an ordinary witness in a criminal case or a party in a civil action who may be compelled to testify by subpoena, having only the right to refuse to answer a particular incriminatory question at the time it is put to him, the accused in a criminal action can refuse to testify altogether or take the witness stand.

Consequently, as aptly pointed out by the *ponencia* and Associate Justice Estela M. Perlas-Bernabe, to serve a request for admission on the accused would in effect require him to take the stand and testify against himself.[20] Such runs counter to the right of the accused against self-incrimination, including the right to refuse to take the witness stand.

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[19] *Id.* at 511-513.

[20] See *ponencia*, p. 16 and Concurring Opinion of Associate Justice Estela M. Perlas-Bernabe, p. 5.

Equally important, as similarly espoused by Associate Justice Estela M. Perlas-Bernabe, I find that to apply Rule 26 to criminal proceedings so that the prosecution may serve a request for admission on the accused would only be an exercise in futility and lead to unnecessary delays as the accused may just simply invoke his right against self-incrimination; or he may ignore a request for admission served on him since to do so would not have any prejudicial effect on his defenses.[21]

Besides, Rule 118 of the Rules of Court provides for pre-trial where the admissions of the accused may be taken. This is already a sufficient measure to achieve the objective of simplifying the trial by doing away with matters which are not disputed by the parties. Section 1 of Rule 118 states that the trial court shall order a pre-trial conference to consider plea bargaining, stipulation of facts, and marking for identification of evidence, among others. Further, Sections 2 and 4 provide the manner by which the admissions of the accused during the pre-trial may be used against him as well as the effect of these admissions on the trial. The pertinent Sections of Rule 118 of the Rules of Court read, as follows:

> Section 1. *Pre-trial; mandatory in criminal cases.* — In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:
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> (a) plea bargaining;
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> (b) stipulation of facts;
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> (c) marking for identification of evidence of the parties;
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> (d) waiver of objections to admissibility of evidence;
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> (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
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> (f) such other matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. (secs. 2 and 3, cir. 38-98)
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> Section 2. *Pre-trial agreement.* — **All agreements or admissions made or entered during the pre-trial conference shall**

[21] Concurring Opinion of Associate Justice Estela M. Perlas-Bernabe, p. 5.

> **be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused.** The agreements covering the matters referred to in section 1 of this Rule shall be approved by the court.
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> Section 4. *Pre-trial order.* — After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. **Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.** (Emphasis supplied.)

This view is consistent with American jurisprudence. While American jurisprudence is merely persuasive in our jurisdiction, it must be noted that, as pointed out by Associate Justice Rodil V. Zalameda in his Separate Concurring Opinion, the definition and purpose of a request for admission in our jurisprudence can be traced or quoted from American sources.[22] Hence, reference to American rules, laws, and policies may serve as proper guides in resolving the present case.

Thus, the Court can rely on the ruling of the Supreme Court of Indiana in *State ex rel. Grammer v. Tippecanoe Circuit Court*[23] which is instructive.

In the case, the defendant wanted to use written interrogatories and requests for admission to prepare for his second-degree murder case. However, the trial court denied the request for admission as it was not applicable to criminal cases. It also issued the state a protective order. Subsequently, the defendant filed an action for a writ of prohibition and writ of mandate concerning criminal discovery techniques.

The Supreme Court of Indiana denied the defendant's action for a writ of prohibition and writ of mandate. As to the applicability of requests for admission in criminal cases, the Supreme Court of Indiana ruled that the requests were unnecessary because the Indiana Code provided the vehicle for admissions through an omnibus hearing and pre-trial. The Supreme Court of Indiana ruled:

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[22] See Separate Concurring Opinion of Associate Justice Rodil V. Zalameda, p. 1, citing *Briboneria v. Court of Appeals*, 290-A Phil. 396 (1992); *Po v. Court of Appeals*, 247 Phil. 637 (1988); *Uy Chao v. De la Rama Steamship Co. Inc.*, 116 Phil. 392 (1962).

[23] *State ex rel. Grammer v. Tippecanoe Circuit Court*, 268 Ind. 650, 377 N.E.2d 1359 (1978).

> The second error alleged by the defendant is the denial of his Request for Admissions. **The request for admissions is used in civil cases as a device to get uncontested facts out of the way. It is unnecessary to use this device in criminal cases as there is already a mechanism established for this purpose.** Ind. Code § 35-4.1-3-1 (Burns 1975) provides for an omnibus hearing and pretrial conference. At the time of this hearing, the statute provides:
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> > "**[T]he court, upon motion of any party or upon its own motion, may order one or more conferences * * * to consider any matters related to the disposition of the proceeding including the simplification of the issues to be tried at trial and the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.**"
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> Ind. Code § 35-4.1-3-1(b).
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> Furthermore, the prosecutor is under the constitutional duty to disclose any exculpatory evidence to the defense. United States v. Agurs, (1976) 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342; Brady v. Maryland, (1963) 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215. There was no abuse of discretion in the denial of the request for admissions.[24]

Similarly, given the availability of pre-trial as provided under Rule 118 of the Rules of Court, I find that the request for admission in criminal cases, as in the present case, only invites delays and is unnecessary in the conduct of the proceedings.

ACCORDINGLY, I vote to **GRANT** the petition and declare as null and void not only the Joint Orders dated March 10, 2016 and September 5, 2016, but also the Joint Orders dated February 12, 2015 and July 24, 2015 of Branch 56, Regional Trial Court, Lucena City, Quezon.

HENRI JEAN PAUL B. INTING
Associate Justice

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[24] *Id.*