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Department of Environment and Natural Resources
Provincial Environment and Natural Resources Office
Boac, Marinduque

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REGIONAL TRIAL COURT
Branch 38

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REPUBLIC OF THE PHILIPPINES
represented by the Regional Director
of the Department of Environment
and Natural Resources (DENR)
MIMAROPA Region,

Plaintiff,

Civil Case No. 18-11

**For: Cancellation of Title and
Reversion**

- versus -

**MARCOPPER MINING
CORPORATION AND THE
REGISTER OF DEEDS OF
MARINDUQUE,**

Defendants.

X-----X

RESOLUTION

Before the Court is the Motion for Reconsideration filed by Defendant Marcopper Mining Corporation ("Marcopper") assailing the Resolution dated June 30, 2022 ("Assailed Resolution"), denying the admission of several documentary evidence in its Formal Offer of Evidence, *to wit:*

"Acting on the Formal Offer of Evidence filed by Defendant Marcopper through counsel, taking into account the Comment/Opposition from the Plaintiff, Exhibits "7", "7-A", "12" and "12-A" are **ADMITTED** as part of the evidence for Defendant. Exhibits "13", "14", "15", "16", "17", "18", "19", "20" and "21" are **NOT ADMITTED** as the same were not identified nor marked during pre-trial and were likewise not specifically reserved by Defendant Marcopper in its Pre-Trial Brief, in violation of Rule 18, Section 2, paragraph g of A.M. No. 19-10-20-SC.

SO ORDERED."

Marcopper argues that the Court erred when it denied the admission of Exhibits "13" to "21" for not being identified nor marked during pre-trial and were not reserved in its Pre-Trial Brief. Movant insists that the Court ought to have admitted the same as said exhibits are marked in the judicial affidavit of its witness Markon V. Advincula and have already formed part of the latter's direct testimony when he was presented which the Court supposedly admitted without any opposition from the Plaintiff. Finally, Marcopper prays that the rules should have been relaxed and applied liberally in its favor.

In its Opposition, Plaintiff through the Office of the Solicitor General ("OSG") counters that the liberality principle is applicable only if there are compelling and persuasive reasons which would warrant the relaxation of the Rules, but the same are not present in the instant case. Plaintiff further pointed out that it never waived its objection to the introduction of the said exhibits contrary to Marcopper's claim.

The Court denies the Motion for Reconsideration.

The Court agrees with Plaintiff that the relaxation of the Rules are applicable only in meritorious cases, i.e. when there are compelling and persuasive reasons to do so.

It is well settled that "[t]he bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. "Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed." The Court reiterates that rules of procedure . . . "have oft been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business.... The reason for rules of this nature is because the dispatch of business by courts would be impossible, and intolerable delays would result, without rules governing practice. . . . Such rules are a necessary incident to the proper, efficient and orderly discharge of judicial functions." Indeed, in no uncertain terms, the Court held that the said rules may be relaxed only in "exceptionally meritorious cases."¹

¹ *Maltel et al. v. Baltazar*, G.R. No. 208224, November 22, 2017, citing *Valderrama v. People*, G.R. No. 220054, March 27, 2017.

The 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. No. 19-10-20-SC) is clear that during pre-trial, the parties are required to mark their respective evidence, or if the same are not readily available, to have them reserved in the manner provided for under the Amended Rules.

Rule 18, Section 2, par. (g) states:

“(g) the requirement for the parties to:

1. Mark their respective evidence if not yet marked in the judicial affidavits of their witness;

X X X

4. Reserve evidence not available at the pre-trial, but only in the following manner:

X X X

- ii. For documentary evidence and other evidence, by giving a particular description of the evidence.

No reservation shall be allowed if not made in the manner described above.”

Here, Marcopper does not deny that the pieces of evidence which were not admitted by the Court were not part of its Pre-Trial Brief and were not marked during Pre-Trial. Neither were they specifically reserved. And while Marcopper bids for the relaxation of the rules, it failed to offer any explanation or justification for the non-inclusion of said documents in its Pre-Trial Brief. It must be noted that these documents were not even mentioned by Marcopper during Pre-Trial. As such, Marcopper failed to persuade the Court to apply the rules liberally in its favor.

While Marcopper tried to make it appear that Plaintiff has waived its objection to the introduction of said exhibits, the records of the proceedings show that no such waiver was made. As pointed out by Plaintiff, it was Defendant who stated that the objection raised by Plaintiff regarding the admission of such documents are not proper during said proceedings:

“Atty. Turqueza: x x x

Your Honor, we object to the annexes in the Judicial Affidavit of Mr. Marlon Advincula, Exhibits "13", "14", "15", "16", "17", "18", "19", "20" and "21" for not being mentioned in the Pre-Trial Brief of the Defendant and also not identified during the Pre-Trial of this case, and also not mentioned in the Pre-Trial Order of this case, Your Honor.

Court: Any Comment, Attorney Chua?

Atty. Chua: Your Honor, that can't be done. That is not proper for today's proceedings. Your Honor, it is during the formal offer."²

Hence, contrary to movant's declaration, at the very instance such exhibits were proffered by Marcopper, Plaintiff has already manifested its opposition thereto. It must also be remembered that the objection to the identification and marking of the evidence is different from the objection made during the formal offer of a party's evidence.

In *Magstno v. Magstno*,³ the Supreme Court stated that:

"Objection to the identification and marking of the document is not equivalent to objection to the document when it is formally offered in evidence. What really matters is the objection to the document at the time it is formally offered as an exhibit. However, while objection was prematurely made, this does not mean that petitioner had waived any objection to the admission of the same in evidence. Petitioner can still reiterate its former objections, this time seasonably, when the formal offer of exhibits was made."⁴

Hence, Marcopper cannot claim that there was waiver on the part of the Plaintiff insofar as the said documents are concerned when Plaintiff has objected to the same not only during trial but more importantly, in Marcopper's Formal Offer of Evidence.

In sum, the Court finds no reversible error in the Assailed Resolution.

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED**.

² TSN dated
³ G.R. No. 205333, February 18, 2019.
⁴ *Id.*

SO ORDERED.

Boac, Marinduque, October 10, 2022.

ORIGINAL SEAL

EMMANUEL R. RECALDE
Presiding Judge