

**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-0197

-vs-

GENITO B. GUARDO,
Accused.

Present:
LAGOS, J., Chairperson,
MENDOZA-ARCEGA, J.,
and CRUZ*, J.

Promulgated:

May 11, 2017 *jad*

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution is an Urgent Motion for Bill of Particulars with Prayer for Deferment of Scheduled Arraignment of Accused, filed by accused Genito B. Guardo, through counsel, on March 30, 2017, wherein he alleges that upon perusal of the records of the instant case, the Information attached to the records pertains to Tomasa L. Guardo, mother of herein accused. As a matter of fact, the Information as attached to the records of the instant case refers to another docket number, hence in order to properly prepare for his defense, he would like the prosecution to shed light on the following: 1. Whether or not the Information as attached to the records of the case really pertains to the accusations against herein accused for violation of Section 3 (e) of R.A. 3019; 2. In case the answer is in the affirmative, to specify the material dates when the alleged crime was committed as the specified date in the Information is vague; and 3.) to indicate with particularity the amount allegedly expended by the herein accused which caused injury to the government. Finally, the

* Sitting as special member pursuant to Administrative Order No. 025-2017 dated 1 February 2017.

accused pleads for the deferment of his arraignment scheduled on April 4, 2017, until the matters above-mentioned are clarified by the prosecution.

In response, the prosecution on April 18, 2017 filed its Comment, stating that a simple perusal of the Information would show that SB-17-CRM-0196 is entitled *People of the Philippines vs. Tomasa Guardo y Luga*, while SB-17-CRM-0197 is entitled *People of the Philippines vs. Genito Guardo y Baradillo*. As to the request of the accused to the prosecution to specify the material dates when the crime was allegedly committed, the prosecution said that stating the precise date of the commission of the offense is only essential when it is an ingredient of the offense charged. As to the particularity of the amount allegedly expended by the accused which caused injury to the government, the prosecution claims that it is a matter of evidence, which need not be averred in the Information. To sum it all up, the prosecution stressed that the details sought are neither defects nor factual or informational gaps that should be fleshed out in the Information, because they are evidentiary matters. To demand more details would be asking for more information on evidentiary facts which is necessary to prove essential or ultimate facts.

The matter was brought to the attention of the Court and was submitted for resolution on April 18, 2017.

Under the Constitution, a person who stands charged of a criminal offense has the right to be informed of the nature and cause of the accusation against him.¹ This right has long been established in English law, and is the same right expressly guaranteed in our 1987 Constitution. This right requires that the offense charged be stated with clarity and with certainty to inform the accused of the crime he is facing in sufficient detail to enable him to prepare his defense.²

An Information is an accusation in writing charging a person with an offense, signed by the prosecutor and filed with the court.³ The Revised Rules of Criminal Procedure, in implementing the constitutional right of the accused to be informed of the nature and cause of the accusation against him, specifically require certain matters to be stated in the Information for its sufficiency. The requirement aims to enable the accused to properly prepare for his defense since he is presumed to have no independent knowledge of the facts constituting the offense charged.⁴

To be considered as sufficient and valid, an information must state the name of the accused; the designation of the offense given by the statute; the acts or omissions constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.⁵

¹ Section 14 (2), Article III, 1987 Constitution; see *Go v. Bangko Sentral n Pilipinad*, G.R. Np. 178429, October 23, 2009, 604 SCRA 322, 329.

² See *Disseminating Opinion of Justice (ret.) Dante O. Tinga in Teves v. Sandiganbayan*, 488 Phil. 311, 340 (2004), citing 21 AM JUR 2d, 325.

³ Section 4, Rule 110, Revised Rules of Criminal Procedure.

⁴ *People v. Ching*, 563 Phil. 433, 443-444 (2007).

⁵ *Id.* At 443.

As to the first issue raised by the accused, it is clear that SB-17-CRM-0196 is entitled *People of the Philippines vs. Tomasa Guardo y Luga* while SB-17-CRM-0196 is entitled *People of the Philippines vs. Genito B. Guardo* and both cases are for violation of Section 3 (e) of Republic Act No. 3019.

Second, the accused would like the prosecution to specify the material dates when the alleged crime was committed as the Information is vague as to the matter.

As held by the Supreme Court, the Rules do not require the Information to exactly allege the date and place of the commission of the offense, unless the date and the place are material ingredients or essential elements of the offense, or are necessary for its identification. A reading of the Information tells that the offense charged was allegedly committed sometime in 2004 to 2010, or sometime prior thereto. To say that such date is vague, we must determine if the date is an essential element of the offense charged.

The elements of Section 3 (e) are as follows:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

A reading of the elements would tell that the date of the commission of the offense is not a material element of the offense charged, therefore, the approximate time of sometime in 2004 to 2010, or sometime prior or subsequent thereto is sufficient. Moreover, the crime charged is in connection with the alleged failure to follow up and compel the contractor to complete the Mini Hydro Power Plant project despite the lapse of the period for the completion of the project, including the approved extensions of time. The act of the accused which constituted the violation was not committed in a single day but within the duration of his incumbency as Municipal Mayor of Cantilan, Surigao del Sur, which renders it impossible to determine the approximate date; also the act complained of is the failure to follow up, an omission or failure to perform a duty as opposed to committing an act in violation of the law. Although the length of time involved is six years, the offense pertains only to one project; it does not involve numerous transactions which could render the accused susceptible to surprises.

The same applies to the amount allegedly expended by the accused. It is likewise not an element of the offense charged.

The purpose of a bill of particulars is to clarify allegations in the Information that are indefinite, vague or are conclusions of law to enable the accused to properly

plead and prepare for trial. Applying the same to the instant case, the Court believes that indeed the allegations contained in the Information are sufficient to inform the accused of the charge against him and to prepare his defense for trial.

To emphasize, the general function of a bill of particulars, whether civil or criminal proceedings, is to guard against surprises during trial. It is not the function of the bill to furnish the accused with the evidence of the prosecution. Thus, the prosecutor shall not be required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any factual information included in the bill of particulars.⁶

To require more details would be equivalent to asking for information that would be presented by the prosecution during trial. The prosecution would be at a disadvantage if it will be compelled to prematurely divulge the evidence it will present during the course of the trial in support of the indictment.

Finally, the clarification and information sought by the accused are evidentiary matters which need not be stated in the Information and are best ventilated during the course of the trial.

WHEREFORE, in the light of the foregoing, the Court resolves to **DENY** the Urgent Motion for Bill of Particulars with Prayer for Deferment of Scheduled Arraignment of Accused for lack of merit.

However, since the arraignment was previously scheduled on April 27, 2017, the same is re-scheduled on May 23, 2017 at 8:30 o'clock in the morning.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson


REYNALDO P. CRUZ
Associate Justice

⁶ US v. Kelly, 92 F. Supp. 672, 673 (W.D. Mo. 1950).