

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,
Plaintiff,

Crim. Case No. SB-11-CRM-0048 to
SB-11-CRM-0049

For: Violation of Section 52(g) of
R.A. No. 8291

-versus-

Present:
Herrera, Jr., J. *Chairperson*
Musngi, J. &
Pahimna, J.

Lilia D. De Jesus,
Accused.

Promulgated:
June 6, 2017

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RESOLUTION

HERRERA, JR., J:

For resolution is a ***Demurrer To Evidence***¹ dated June 13, 2016, filed by accused Lilia D. De Jesus (Accused De Jesus for short), through counsel, to which the plaintiff *People of the Philippines*, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Comment/Opposition (To accused Lilia D. De Jesus' Demurrer to Evidence dated 13 June 2016)***² dated January 6, 2017.

In Criminal Case No. SB-11-CRM-0048, accused De Jesus is charged with ***Violation of Section 52(g) of Republic Act (R.A., No. 8291***, otherwise known as the ***Government Service Insurance System Act of 1997***, under an ***Information***³ dated January 19, 2011, the accusatory portion of which reads:

"That for the months of July to September 2005, and sometime prior or subsequent thereto, in Brgy. Singala, Palayan City, Nueva Ecija, Philippines and within the

¹ Record of Crim. Case No. SB-11-CRM-0048, pp. 282-292

² Id, pp. 293-294

³ Id, pp. 1-3

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jurisdiction of this Honorable Court, the above-named accused **LILIA D. DE JESUS**, being the Acting Provincial Treasurer of the Province of Nueva Ecija and involved in the collection of premium contributions due to the Government Service Insurance System (GSIS), while in the performance of her official duty, committing the offense in relation to her office, did then and there, willfully, unlawfully and criminally fail, refuse or delay the payment, turnover, remittance or delivery of the premium contributions (personnel and government share) of the employees of the Provincial Government of Nueva Ecija in the total amount of **FIVE MILLION NINE HUNDRED SIXTY NINE THOUSAND TWENTY SIX PESOS AND NINETY EIGHT CENTAVOS (P5,969,026.98)** which accused is required by law to remit or deliver to the GSIS within thirty (30) days from the time that the same shall have been due and demandable, to the damage and prejudice of the employees of the Provincial Government of Nueva Ecija.

CONTRARY TO LAW.”

In Criminal Case No. SB-11-CRM-0049, accused De Jesus is charged with **Violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended**, also known as the **Anti-Graft and Corrupt Practices Act**, under an **Information**⁴ also dated January 19, 2011, the accusatory portion of which reads:

“That for the months of July to September 2005, and sometime prior or subsequent thereto, in Brgy. Singalit, Palayan City, Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above-named accused **LILIA D. DE JESUS**, being the Acting Provincial Treasurer of the Province of Nueva Ecija and involved in the collection of premium contributions due to the Government Service Insurance System (GSIS), while in the performance of her administrative or official function, committing the offense in relation to her office, through evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally fail, refuse or delay the payment, turnover, remittance or delivery of the premium contributions (personnel and government share) of the employees of the Provincial Government of Nueva Ecija in the total amount of **FIVE MILLION NINE HUNDRED SIXTY NINE THOUSAND TWENTY SIX PESOS AND NINETY EIGHT CENTAVOS (P5,969,026.98)**, more or less, which accused is required by law to remit or deliver to the GSIS within thirty (30) days from the time that the same shall have been due and demandable, thereby cause undue injury to the Provincial Government of Nueva Ecija in the amount

⁴ Record of Crim. Case No. SB-11-CRM-0049, pp. 1-3



of ONE MILLION EIGHT HUNDRED SIXTY EIGHT THOUSAND TWO HUNDRED TWENTY THREE AND SIXTY SIX CENTAVOS (P1,868,223.66), more or less, representing the interest due to the GSIS by reason of the non remittance of the said GSIS contributions, to the damage and prejudice of the Provincial Government of Nueva Ecija in the aforesaid amount.

CONTRARY TO LAW.”

Record shows that the prosecution filed its *Formal Offer Of Exhibits*⁵ dated March 18, 2016 on March 22, 2016. In a *Resolution*⁶ dated May 6, 2016, the Court admitted all prosecution exhibits.

A demurrer to evidence is a motion filed by the accused, on the ground that the evidence adduced by the prosecution is insufficient for conviction. It is filed by the accused after the prosecution rests its case.⁷

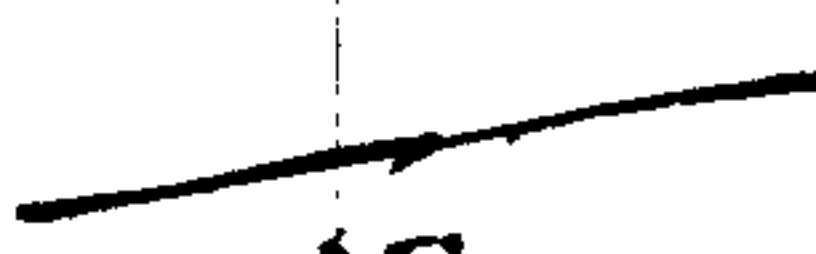
In her *Demurrer To Evidence*, accused De Jesus contends that the evidence of the prosecution failed to prove all the elements of *Section 3(e) of R.A. 3019* and of *Violation of Section 52(g) of R.A. 8291*. With respect to the charge of *Violation of Section 3(e) of R.A. 3019*, she claims that the prosecution failed to prove the following: 1) the actual amount of premiums which she allegedly did not remit to the GSIS; 2) that the failure to remit, or the delay in the remittance of, the GSIS premium contributions was done through manifest partiality, evident bad faith or gross inexcusable negligence; and 3) undue injury to the Province of Nueva Ecija. Anent *Section 52(g) of R.A. 8291*, accused De Jesus asserts that the prosecution failed to prove that: 1) she failed, refused or delayed the payment, turnover or remittance or delivery of premium contributions; and 2) the time when the unremitted premium contributions became due and demandable.

The Court finds no merit in the *Demurrer To Evidence* of accused De Jesus.

⁵ Record of Crim. Case No. SB-11-CRM-0048, pp. 231-256

⁶ Id, p. 267

⁷ Section 23, Rule 119, Rules of Criminal Procedure



To prove the charges against accused De Jesus, the prosecution presented as witnesses Dr. Raymund G. Sarmiento, the OIC Chief Provincial Cooperative and Enterprise Development Office, Province of Nueva Ecija, and Teresita delos Reyes, one of the private complainants. The testimony of Mabel De Guzman, Head of the GSIS Cabanatuan City Branch, was dispensed with after a stipulation⁸ with the accused, through counsel, regarding the genuineness and due execution of the **Memorandum of Agreement** between the GSIS and the Provincial Government of Nueva Ecija marked as prosecution Exhibit "C". The prosecution also submitted as evidence documents marked Exhibits "A", "B", "C" and "F", with submarkings.

After a careful study, the Court finds that the aforementioned evidence adduced by the prosecution, testimonial and documentary, appear to be *prima facie* sufficient to sustain a conviction, unless successfully rebutted by countervailing evidence.

WHEREFORE, premises considered, the **Demurrer To Evidence** dated June 13, 2016, filed by accused Lilian D. De Jesus, through counsel, is hereby denied.

The presentation of defense evidence is hereby set on July 12 and 13, 2017 at 1:30 in the afternoon.

SO ORDERED.


OSCAR C. HERRERA, JR.
Chairperson

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice

⁸ see Order dated February 29, 2016, Record of Crim. Case No. SB-11-CRM-0048, p. 214