



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0531 to 0536

- versus -

**For: Violation of Section 3 (e) of R.A.
No. 3019**

JUANITO A. RUBIO, et al.,
Accused.

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

Promulgated:

July 17, 2017 *led*

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RESOLUTION

LAGOS, J.:

For resolution of this Court is the Manifestation and Motion to Adopt accused Angeline A. Rojas' Motion for Leave to File Demurrer to Evidence dated June 13, 2017 filed by accused Raoul Villarete¹.

In the instant motion, accused-movant states that, albeit he did not file a Motion for Leave to File Demurrer to Evidence, he seeks to adopt accused Angelina Rojas's Motion for Leave to File Demurrer to Evidence filed on May 18, 2017.

The prosecution orally entered its objection to the motion stating that the same was filed out of time. With that oral objection, the matter was submitted for resolution.

* Sitting as Special Member per Administrative Order No. 025-2017, dated February 1, 2017.

¹ Records, Vol. III, p. 38.

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DISCUSSION and RULING

Rule 119, Section 23 states that:

Section 23. Demurrer to evidence. — After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. (15a)

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

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The prosecution submitted its Formal Offer to Evidence on March 28, 2017. This Court admitted the same on May 8, 2017.

On May 17, 2017, accused Rojas received this Court's May 8, 2017 Resolution. Accused Rojas then filed her Motion for Leave to File Demurrer on May 18, 2017.

On May 19, 2017, accused Villarete received his copy of the May 8, 2017 Resolution. On June 13, 2017, he filed the subject motion to adopt Rojas's motion to file demurrer on June 13, 2017.

Based on the above-quoted rule on the filing of a leave to file demurrer, Villarete only had five days from receipt of his copy of this Court's May 8, 2017 Resolution to file his motion for leave to file demurrer. Considering that he received the Resolution on May 19, 2017, he only had


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until May 24, 2017 to file the same. Since he only filed his motion to adopt Rojas's motion for leave on June 13, 2017, the prosecution is correct in stating that the same is barred for having been filed out of time.

This bar, however, does not apply to the matter of jurisdiction, which was brought up by accused Rojas in her Motion for Leave, and, consequently, by accused Villarete through his Motion to Adopt. Nevertheless, since We have denied Rojas's jurisdictional ground in Our June 15, 2017 Resolution for being without merit, accused Villarete's motion must likewise fail.

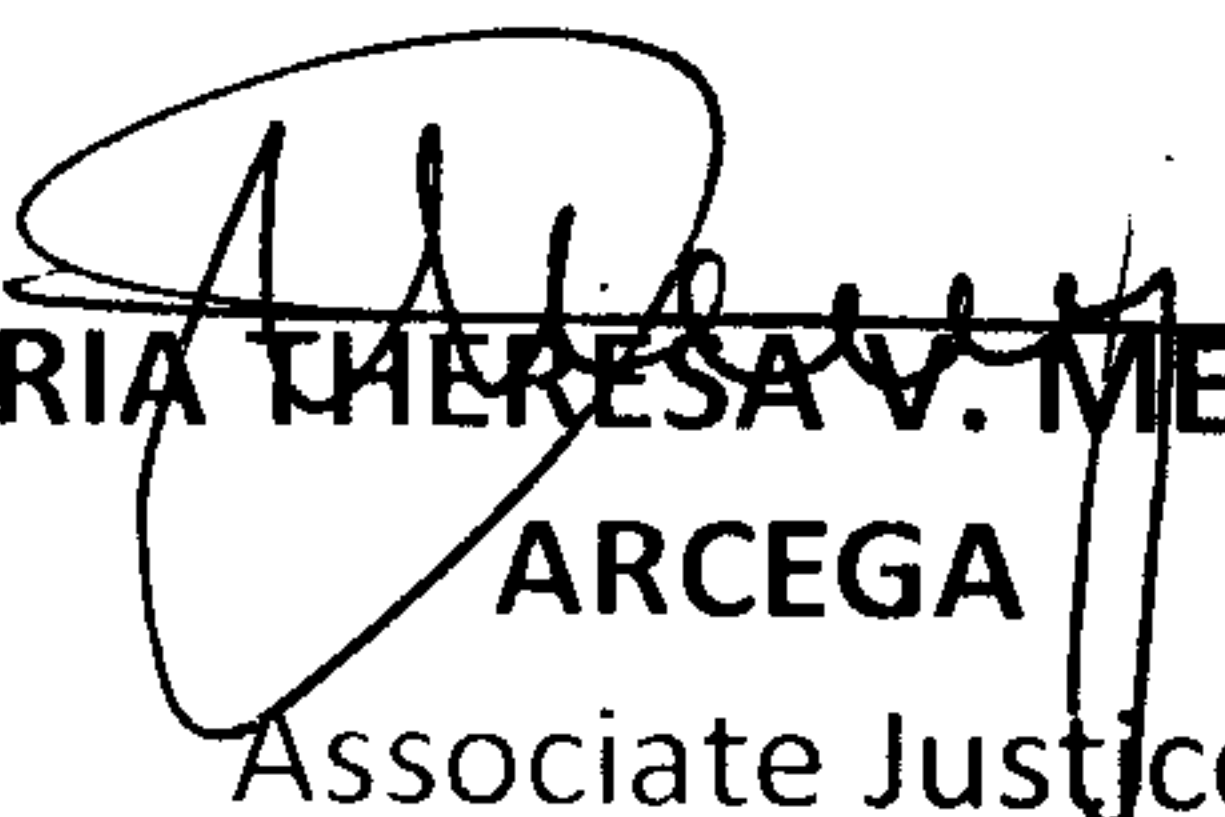
WHEREFORE, premises considered, accused Raoul Villarete's Manifestation and Motion to Adopt accused Angeline A. Rojas' Motion for Leave to File Demurrer to Evidence is DENIED for lack of merit.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


REYNALDO P. CRUZ
Associate Justice


**MARIA THERESA V. MENDOZA-
ARCEGA**
Associate Justice