



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 5 September 2017.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice BAYANI H. JACINTO¹ ----- Member

The following resolution was adopted:

Crim. Case No. SB-16-CRM-0052 - People vs. ALEX RULLON JAJALLA,

This resolves the following:

1. Accused Alex Rullon Jajalla's "MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE AND ADMIT ATTACHED DEMURRER TO EVIDENCE" dated 19 July 2017;²

2. Prosecution's "OPPOSITION (to the Motion for Leave to File Demurrer to Evidence and to Admit Attached Demurrer to Evidence dated July 19, 2017)" dated 31 July 2017;³ and

3. Accused's "REJOINDER TO THE OPPOSITION TO THE ACCUSED'S MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE and ADMIT attached DEMURRER TO EVIDENCE" dated 30 August 2017.⁴

Before the Court is accused Alex Rullon Jajalla's (accused) motion for leave to file demurrer to evidence.

In his two-page motion, accused avers that the evidence presented by the prosecution is insufficient to prove all the material elements for violation of Section 3(e) of Republic Act No. 3019, as allegedly argued in the demurrer to evidence attached thereto.

Meanwhile, in its opposition, the prosecution argues that accused's motion for leave to file demurrer should be denied for failing to comply with

¹ Per Administrative Order No. 277-2017 dated 15 August 2017.

² *Rollo*, Vol. 2, pp. 215-236.

³ *Id.* at 211-214.

⁴ *Id.* at 241-344.

/ j. h.

the mandatory procedural and substantive requisites for its filing. It alleged that the motion failed to state any ground to merit its grant.

Finally, in his Rejoinder, accused claims that the ground for his motion was specified and averred when he referred to the discussion thereof in the Demurrer to Evidence attached to his motion. Accused argues in favor of a more liberal interpretation, in keeping with substantial justice.

We deny the motion for lack of merit.

As correctly observed by the prosecution, the accused failed to specifically allege the grounds for the demurrer in his motion for leave of court to file the same. This is contrary to the explicit mandate of Section 23, Rule 119 of the Revised Rules of Criminal Procedure, which plainly states that "(t)he motion for leave of court to file demurrer to evidence shall specifically state its grounds xxx."

In *Lizarraga Hermanos v. Yap Tico*,⁵ the Supreme Court explained the rationale for this rule:

The reason for this is plain. It is not fair to the plaintiff to interpose to a complaint the simple objection that it does not state facts sufficient to constitute a cause of action. Neither is it fair to the court. Neither the plaintiff nor the court should be left to make, possibly, a long and tiresome examination and investigation and then, perhaps, finally be compelled to guess. The grounds of the objection should be pointed out so that all may see. A demurrer was not invented to make useless work for a court, or to deceive or delude a plaintiff. Its purpose was to clarify all ambiguities; to make certain all indefinite assertions; to bring the plaintiff to a clear and clean expression of the precise grievance which he has against the defendant; to aid in arriving at a real issue between the parties; to promote understanding and prevent surprise. To that end, a demurrer should specify, for the benefit of the plaintiff and the court as well, the very weakness which the demurrant believes he sees in the complaint. It should be so presented and handled as to bring to a quick determination the question whether the plaintiff has, at bottom, a legal claim against the defendant. To attain this object, the demurrer should be clear, specific, definite, and certain as to the precise weakness of the complaint. Being an instrument to cure imperfections, it should not itself be imperfect.

There is likewise no merit to accused's argument that the basis for his motion for leave to file a demurrer is discussed in the demurrer to evidence which he attached to his motion lacks merit.

The Court cannot simply take cognizance of the demurrer to evidence that accused hastily attached to his motion. For us to take into consideration accused's attached demurrer to evidence at the first instance and prior to the grant of his motion for leave to file the same is akin to the latter's filing of a

⁵ 24 Phil. 504 (1913).

1
d. M

demurrer to evidence without leave of court. It would only negate any benefit which the Rules may grant to accused with respect to the filing of the motion for leave to file a demurrer.

Moreover, Section 23 of Rule 119 of the Revised Rules on Criminal Procedure mandates that accused must first file a motion for leave to file his demurrer to evidence. It is only when the Court grants such leave that he files his demurrer. In the instant case, accused acted in haste by attaching his demurrer while asking for leave. This is procedurally infirm and circumvents the rules that are in place for an orderly proceeding in court.

Having failed to comply with the requirement to specify the grounds upon which the motion for leave to file a demurrer is based, accused's motion must be denied.

After reviewing the evidence presented by the prosecution vis-à-vis the Information filed, the Court is of the opinion that a full-blown trial should be conducted to enable the accused to present any defenses he may have against the charge.

Considering that the demurrer sought to be filed is already attached to the motion for leave, accused-movant is hereby ordered to manifest within a **non-extendible period of three (3) days** from receipt of this Resolution whether or not the attached demurrer will be considered by this Court as one filed without leave.

WHEREFORE, in view of the foregoing, the accused's motion for leave to file demurrer to evidence is **DENIED** for lack of merit.

SO ORDERED.

Approved:

GOMEZ-ESTOESTA, J., Chairperson

TRESPESES, J.

JACINTO, J.

