



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on April 12, 2018.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPESES ----- Associate Justice
BAYANI H. JACINTO* ----- Associate Justice

The following resolution was adopted:

Criminal Case Nos. SB-11-CRM-0265 to 0270 – People v. Fidel E. Garcia, et al.

This resolves the following:

1. Accused Alicia Guday and P/Insp. Benny C. Esparagoza's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE" dated November 20, 2017;¹
2. Accused Dionesio E. Paduganan, Arcadio R. Sacol, Felipe R. Tale, and Warren C. Dultra's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE WITH ATTACHED DEMURRER TO EVIDENCE" dated November 24, 2017;²
3. Accused Fidel E. Garcia and Jerome Pagaragan's "MOTION FOR LEAVE TO FILE AND TO ADMIT ATTACHED DEMURRER TO EVIDENCE" dated November 29, 2017;³ and
4. Prosecution's "CONSOLIDATED COMMENT/OPPOSITION (TO THE MOTION FOR LEAVE TO FILE DEMURRER TO EVIDENCE FILED BY ALL THE ACCUSED)" dated February 13, 2018.⁴

The following accused separately filed *Motions for Leave of Court to File Demurrer to Evidence*:

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* Per Administrative Order No. 284-2017 dated August 18, 2017

¹ Records, Vol. 4, pp. 89-93; with attached Demurrer to Evidence (Records, Vol. 4, pp. 94-100)

² *Id.* at 147-149; with attached Demurrer to Evidence (Records, Vol. 4, pp. 150-161)

³ *Id.* at 105-109; with attached Demurrer to Evidence (Records, Vol. 4, pp. 110-135)

⁴ *Id.* at 188-194

Names of Accused	Pleadings Filed
Alicia Guday P/Insp. Benny C. Esparagoza	<i>Motion for Leave of Court to File Demurrer to Evidence</i>
SFO3 Dionesio E. Paduganan FO3 Felipe R. Tale FO1 Arcadio R. Sacol PO3 Warren C. Dultra	<i>Motion for Leave of Court to File Demurrer to Evidence with Attached Demurrer to Evidence</i>
Fidel E. Garcia P/SSupt. Jerome Pagaragan	<i>Motion for Leave to File and to Admit Attached Demurrer to Evidence</i>

While all the accused essentially argued that the evidence presented by the prosecution is insufficient to prove their respective guilt beyond reasonable doubt, the grounds relied upon the accused are, viz:

A. In the motion of accused **Guday** and **Esparagoza**, they alleged that mere presence is not tantamount to commission of the crimes charged. None of the prosecution witnesses identified accused Guday as one who interrupted or dissolved the meeting or assembly. Neither did any of said witnesses pinpoint accused Esparagoza as the commander who gave the order to unleash the water cannon and to disperse the rallyists. Moreover, accused Guday and Esparagoza emphasized that the dispersal of the meeting was justified. There was barricade assembled which completely prevented the use of the road by people or vehicles. The venue of the assembly was also held on a public place, which thus required a permit under Section 4 of *Batas Pambansa Blg. 880* ("**B.P. 880**"). Also, maximum tolerance was observed by the law enforcers prior to the dispersal.

B. In the motion of accused **Paduganan**, **Sacol**, **Tale**, and **Dultra**, it was merely alleged that the prosecution evidence is insufficient to prove the guilt of the accused.

C. In the *Motion* filed by accused **Garcia** and **Pagaragan**, they cited the elements constituting violation of Section 3 (e) of *Republic Act No. 3019* ("**R.A. 3019**"). Said accused also averred that the venue of the meeting or assembly was held on a public road, which obstructed the flow of human commerce. Since the venue was on a public area and the rallyists had no permit, the latter violated the no prior permit rule required under *B.P. 880*. Additionally, the prosecution was not able to prove the existence of conspiracy.

The accused thus pray that they be granted leave of court to file the demurrer to evidence.

In its *Consolidated Comment/Opposition*, the prosecution countered that motions for leave to file demurrer to evidence filed by the accused failed to specifically state their grounds, which is a mandatory requirement under

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the *Rules on Criminal Procedure*. As to the motion for leave filed by accused Paduganan, Sacol, Tale, and Dultra, the same neglected to cite the grounds relied upon. On the other hand, the motion of accused Garcia and Pagaragan, the same was “completely out of sync” with the very subject matter of the cases. Accused Garcia and Pagaragan harped on the alleged failure of the prosecution to prove their guilt for violation of Section 3 (e) of *R.A. 3019*. In truth, the charges against said accused are violations of the following: Prohibition, Interruption and Dissolution of Peaceful Meetings under Article 131 par. 3 of the *Revised Penal Code*; Violation of Public Assembly Act under Section 10 (c) of *B.P. 880*; Slight Physical Injuries under Article 266 of the *Revised Penal Code*; and Grave Coercion under Article 286 of the *Revised Penal Code*. Regarding the motion of accused Guday and Esparagoza, they only stated general averments and denials. There was no discussion as to what specific elements on the particular charges against them were not proven by the prosecution.

The prosecution further contended that the totality of the evidence presented proves the guilt of all the accused beyond reasonable doubt. Specifically, that on August 6, 2006, in Barangay La Fraternidad, Tubay, Agusan del Norte, there was a peaceful meeting to address grievances about mining operations held in the area. During this meeting, several policemen arrived showing a signed dispersal order to the participants of the meeting. There were no acts of violence committed, nor indication of threat of such violence to be committed against persons or property, but the dispersal was nonetheless carried out by the use of a payloader and a firetruck with a water cannon.

The prosecution thus prays for the denial of the motions for leave to file demurrer to evidence.

Our Ruling

The power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court.⁵ The filing of a demurrer to evidence is governed by Section 23, Rule 119 of the *Revised Rules of Criminal Procedure*, viz:

SEC. 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.

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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

⁵ *People v. Crespo y Cruz*, G.R. No. 180500, September 11, 2008

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may oppose the motion within a non-extendible period of five (5) days from its receipt. (Emphasis supplied)

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After examining the grounds and arguments of accused **Guday** and **Esparagoza**, this Court finds that their *Motion for Leave of Court to File Demurrer to Evidence* should be given due course. Leave of Court is thus granted to accused **Guday** and **Esparagoza** in the filing of their *Demurrer to Evidence*.

However, We find no cogent reason to grant the *Motions for Leave of Court to File Demurrer to Evidence* filed by accused **Paduganan**, **Sacol**, **Tale**, **Dultra**, **Garcia**, and **Pagaragan** for failing to specifically state the grounds relied upon.

On one hand, two-paged *Motion* of accused **Paduganan**, **Sacol**, **Tale**, and **Dultra** vaguely theorizes, in a single paragraph, that “the evidence, both oral and documentary, submitted by the Prosecution to prove the allegations in the Information[s,] are insufficient to prove the guilt of the accused beyond reasonable doubt[,]” but without any further elaboration which would support their premise.

On the other hand, the *Motion* of accused **Garcia** and **Pagaragan** merely stated their own conclusions sans the factual basis as to how they arrived at the same. Additionally, accused **Garcia** and **Pagaragan** briefly discussed the essential elements of violation of Section 3 (e) of *R.A. 3019*. But this finds no relevance to the present Informations, which involve the following charges: Prohibition, Interruption and Dissolution of Peaceful Meetings;⁶ Violation of Public Assembly Act;⁷ Slight Physical Injuries;⁸ and Grave Coercion.⁹

The insufficiency of the respective *Motions* submitted by accused **Paduganan**, **Sacol**, **Tale**, **Dultra**, **Garcia**, and **Pagaragan** cannot be cured by their attached *Demurrers to Evidence*, which were appended to their separate *Motions*, since leave of court has not yet been granted for the same to be considered for resolution. As a result, the *Motions* of said accused fall short of the specificity requirement under Section 23, Rule 119 of the *Revised Rules of Criminal Procedure*.

The pronouncement of the Supreme Court in the vintage case of *Hermanos v. Yap Tico* is instructive:¹⁰

To the complaint before us a demurrer was interposed, stating merely that the complaint did not allege facts sufficient to constitute a cause of action. No particular ground was specified. No specific failure was asserted or named. No precise weakness was pointed out. The order overruling the demurrer does not indicate that the court was informed as to

⁶ Article 131 par. 3 of the *Revised Penal Code*

⁷ Section 10 (c) of *B.P. 880*

⁸ Article 266 of the *Revised Penal Code*

⁹ *Id.*, Article 286

¹⁰ *Vide*: G.R. No. 6791, March 27, 1913

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the specific grounds upon which it was based. Certainly, so far as the records goes, the plaintiffs never knew until after the demurrer was decided precisely what the defendant was driving at when he presented it.

Under such conditions, we do not feel that we should use our discretion to indulge presumptions in favor of the demurrant in determining whether or not the allegations of the complaint are sufficient. We do not feel like going out of the beaten path, even if we could, to search for defects in the complaint when neither the plaintiff nor the court was precisely informed of the alleged defects until it was too late to be use to either. We do not feel like favoring a demurrer which is as full of defects as the court overruling the demurrer should be sustained if there is any legal ground upon which it can be, although such ground was not presented by the court below as one of the reasons for its decision. The fact that the demurrer was worthless as a pleading is one of the strongest reasons for overruling.

It has been urged that our decision requiring that in all demurrers the specific grounds of the particular objection should be set out distinctly, is against the weight of authority. We do not think so. But if it were, we should still be forced, in conscience, to stand upon the proposition as we have stated it, as it seems to us to be fundamentally right and to be fully supported by reason and logic.

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A pleading is not an instrument of deception. It is not something to get parties into trouble. It is not to be used to dig pitfalls or to lay traps or snares. It is not to be used to deceive but to inform; not to befog but to clarify; not to cause trouble but to obviate it; not to make expense but to save it. **A demurrer, for example, should not leave the court and the party against whose pleading it is aimed as ignorant of the defect in the offending pleading as before the demurrer is filed.** Many times the objection that the complaint does not state facts sufficient to constitute a cause of action means very little. There are occasions, of course, when it is sufficient. But is certain that no injury can ever result from naming the precise reason why the complaint does not state facts sufficient to constitute a cause of action; and, in the great majority of cases, great good will come of it. Take this very case. **Much of the real difficulty and uncertainty would have been avoided if the demurrer had pointed out the precise defect which it was claimed was found in the complaint.** If the demurrer had specified and stated that the complaint was defective, if it were really so defective, in that it alleged that the defendant had levied simply upon the interest of Mendezona in the premises known as the right to repurchase, something which he had a right to do and upon which no cause of action could be predicated, then the plaintiff would have been given a fair opportunity to meet the objection, either by amending his complaint and alleging a levy by the defendant upon the corpus of the property, or by standing upon the complaint and submitting to the court the question of law whether the defendant had a right to levy upon the right of repurchase. If the plaintiff had amended by alleging a levy upon the corpus, then the demurrer and all the questions relating thereto, now vexing the parties, would have been out of the case. If the plaintiff really intended to allege just what the demurrant now claims that he did allege, then the question of law above referred to would have been clearly presented and the case entirely resolved by the decision of that question. Indeed, it is more than probable that the plaintiff, if his complaint was really defective, would have

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withdrawn it after full consideration of the objection urged against it.
 (Emphasis supplied)

Moreover, jurisprudence has it that the purpose of a motion for leave to file demurrer to evidence is to determine whether the accused in filing his demurrer is merely stalling the proceedings.¹¹ Considering the inexplicit *Motions* filed by accused Paduganan, Sacol, Tale, Dultra, Garcia, and Pagaragan, this Court has no basis to determine whether or not the same were merely interposed for delay.

In any event, the prosecution presented sufficient evidence which points to accused Paduganan, Sacol, Tale, Dultra, Garcia, and Pagaragan as liable for the crimes charged.

The elements of the crimes charged and the corresponding evidence thereto show, as follows:

SB-11-CRM-0265

Prohibition, Interruption, and Dissolution of Peaceful Meetings (Article 131, par. 3 of the RPC)	
Elements	Evidence
1. That the offender is a public officer or employee; and	Subject of the parties' stipulations as per Amended Pre-Trial Order dated August 14, 2012. ¹²
2. That he or she prohibits or hinders any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.	Exhibits "A", "A-5", "A-8", "A-10", "A-12", "A-14", "A-15", "A-16", "E", "U", "DD"

SB-11-CRM-0267 to 0269

Slight Physical Injuries (Article 266 of the RPC)	
Elements	Evidence
1. That the offender has done any of the following acts:	Exhibits "A-8", "A-9", "A-10", "A-11", "A-12", "A-13"
(a) inflicted physical injuries which incapacitated the offended party for labor from one (1) to nine (9) days, or required medical attendance during the same period;	
(b) caused physical injuries which did not prevent the offended party from engaging in his or her habitual work nor require medical assistance; or	
(c) ill-treatment of another by deed without causing any injury.	

¹¹ *People v. Crespo y Cruz*, G.R. No. 180500, September 11, 2008

¹² Records, Vol. 2, pp. 156-177

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SB-11-CRM-0270

Grave Coercion (Article 286 of the RPC)	
Elements ¹³	Evidence
1. that a person is prevented by another from doing something not prohibited by law, or compelled to do something against his will, be it right or wrong;	Exhibits "A", "A-5", "A-8", "A-10", "A-12", "A-14", "A-15", "A-16", "E", "U", "DD"
2. that the prevention or compulsion is effected by violence, threats or intimidation; and	Exhibits "A-8", "A-9", "A-10", "A-11", "A-12", "A-13", "A-15", "A-16",
3. that the person who restrains the will and liberty of another has no right to do so, or in other words, that the restraint is not made under authority of law or in the exercise of any lawful right.	Exhibits "A", "A-7", "Q", "U", "Y", "Z", "AA", "BB", "CC", "DD"

SB-11-CRM-0266

Violation of Section 10 (c) of B.P. 880	
Elements	Evidence
1. The public assembly is not attended by actual violence or serious threats of violence, or deliberate destruction of property; and	Exhibits "A", "A-5", "A-8", "A-10", "A-12", "A-14", "A-15", "A-16", "B", "C", "D", "E", "G", "H", "I", "J", "K", "L", "N", "U", "DD"
2. The member of the law enforcement contingent who dealt with the demonstrators used tear gas, smoke grenades, water cannons, or any similar anti-riot device.	

Based on the foregoing, accused Paduganan, Sacol, Tale, Dultra, Garcia, and Pagaragan should refute the prosecution's evidence by submitting their own proof in support of their defenses.

WHEREFORE, this Court resolves as follows:

(1) *The Motion for Leave of Court to File Demurrer to Evidence* of accused Guday and Esparagoza is **GRANTED** and the attached *Demurrer to Evidence* is **ADMITTED**. Since the prosecution was already furnished a copy of the *Demurrer*, which was attached to the *Motion*, a non-extendible period of ten (10) days from receipt hereof is given for it to comment on the same.

¹³ *Alejandro v. Bernas*, G.R. No. 179243, September 7, 2011

(2) The *Motion for Leave of Court to File Demurrer to Evidence with Attached Demurrer to Evidence* filed by accused Paduganan, Tale, Sacol, and Dultra, and the *Motion for Leave to File and to Admit Attached Demurrer to Evidence* filed by accused Garcia and Pagaragan, are **DENIED**. As the *Demurrers* of accused Paduganan, Tale, Sacol, Dultra, Garcia and Pagaragan were attached to their separate *Motions*, said accused are directed to manifest within three (3) days from receipt hereof whether or not the *Demurrers* should be considered by this Court as filed without leave.

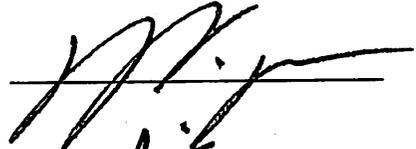
Let the initial presentation of defense evidence proceed, as scheduled, on May 28 and 29, 2018 at 8:30 in the morning.

SO ORDERED.

GOMEZ-ESTOESTA, J., Chairperson



TRESPESES, J.



JACINTO, J.

