



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff,

SB-13-CRM-0120 to 0121
 For: Violation of Section 3(e) of
 R.A. No. 3019

- versus -

Present:

FELIPE P. EVARDONE, ET AL.,
 Accused.

FERNANDEZ, SJ, J.
 Chairperson
MIRANDA, J. and
TRESPESES, J.*

Promulgated:

MAY 21 2018 

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following incidents:

- a) *Motion for Leave of Court to File Demurrer to Evidence*¹ filed by accused Marietta M. De Guzman, Evelyn R. Perlado and Miguel D. Arcadio on March 12, 2018;
- b) *Motion for Leave to File Demurrer to Evidence*² filed by accused Felipe P. Evardone on April 12, 2018;³
- c) *Motion for Leave to File Demurrer to Evidence*⁴ filed by accused Vicente M. Lago, Jr. on April 23, 2018;

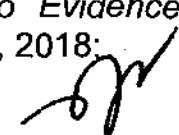
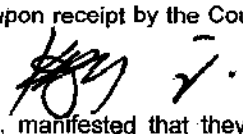
* Per Administrative Order No. 071-2018 dated February 1, 2018, Special Member in view of the vacancy in the Sixth Division. The *Motion* was submitted for resolution upon receipt by the Court of the prosecution's *Consolidated Comment/Opposition* on April 30, 2018.

¹ Dated March 7, 2018

² Dated April 12, 2018

³ Accused De Guzman, Perlado, and Arcadio; and, accused Evardone, manifested that they are adopting the separate *Motions for Leave to File Demurrer to Evidence* they have previously filed as their *Motion for Leave to File Demurrer to Evidence*. [Order dated April 17, 2018, p. 1]

⁴ Dated April 20, 2018

RESOLUTION

People vs. Evardone, et al.
Criminal Cases No. SB-13-CRM-0120 to 0121

Page 2 of 4

X-----X

- d) *Manifestation [Re: Accused Lago's Intention to File Motion for Leave to File Demurrer to Evidence]*⁵ filed by accused Lago on April 11, 2018;

together with the,

- a) *Consolidated Comment/Opposition*⁶ filed by the prosecution on April 30, 2018.

Accused De Guzman, Perlado, Arcadio, Evardone and Lago similarly ask this Court to grant them leave of court to file demurrer to evidence on the following grounds:

- a) The third element of the offense (unwarranted benefit) was not proven by the prosecution;⁷
- b) The prosecution failed to establish by proof beyond reasonable doubt the material allegations stated in the informations;
- c) There is gross insufficiency of evidence to sustain or support the private complainants' allegations;⁸
- d) Based on the prosecution's own evidence, and as elicited from the prosecution's witnesses during the cross examination, it appears that there were sufficient legal bases to cancel the Notice of Award to Bestforms, Inc. and to disqualify Bestforms, Inc. from participating in the bidding, for the following compelling reasons: xxx xxx xxx
- e) Accused Lago is over seventy (70) years old and undergoing medication for various ailments; hence he cannot stand the rigors of trial.⁹

On the other hand, the prosecution contends that sufficient evidence were adduced to prove the presence of the elements of evident bad faith, manifest partiality, and /or gross inexcusable negligence, as well as the element of causing undue injury and/or giving unwarranted benefit and preference. Thus, the denial of the

⁵ Dated April 11, 2018

⁶ Dated April 27, 2018

⁷ Accused De Guzman, et al.'s Motion for Leave of Court to File Demurrer to Evidence dated March 7, 2018, p. 2.

⁸ Accused Evardone's Motion for Leave to File Demurrer to Evidence dated April 12, 2018, p. 1.

⁹ Accused Lago's Motion for Leave to File Demurrer to Evidence dated April 20, 2018, pp. 2 & 4.

RESOLUTION

People vs. Evardone, et al.
Criminal Cases No. SB-13-CRM-0120 to 0121

Page 3 of 4

X-----X

instant *Motions for Leave of Court to File Demurrer to Evidence* is in order.¹⁰

RULING

After a careful study of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to convict the accused. The Court hereby **DENIES** the (i) *Motion for Leave of Court to File Demurrer to Evidence* filed by accused De Guzman, Perlado and Arcadio; (ii) *Motion for Leave to File Demurrer to Evidence* filed by accused Evardone; and, (iii) *Motion for Leave to File Demurrer to Evidence* filed by accused Lago.

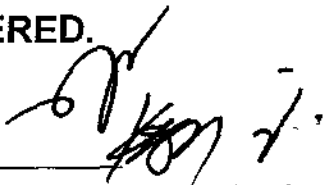
This is without prejudice to the filing by the accused of their *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, they shall waive their right to present evidence and are submitting this case for judgment on the basis of the evidence adduced by the prosecution.

The accused are given a period of five (5) days from receipt of this Resolution within which to file their Manifestation, by personal filing and service or through courier, to inform this Court whether they will file a *Demurrer to Evidence*, without leave of court.

The hearings for the accused to present their evidence tentatively set on May 21, 30, and 31; and, June 4, 20 and 21, 2018, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled, as to accused De Guzman, Perlado, Arcadio, Evardone and Lago, upon receipt by the Court of the *Demurrer to Evidence* of said accused.¹¹

The *Manifestation [Re: Accused Lago's Intention to File Motion for Leave to File Demurrer to Evidence]* filed by accused Lago is merely **NOTED** considering that the same was mooted by the filing of accused' *Motion for Leave to File Demurrer to Evidence*.

SO ORDERED.



¹⁰ Consolidated Comment/Opposition dated April 27, 2018, p. 4.

¹¹ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases

RESOLUTION

People vs. Evardone, et al.

Criminal Cases No. SB-13-CRM-0120 to 0121

Page 4 of 4

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SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL E. MIRANDA
Associate Justice


ZALDY V. TRESPESES
Associate Justice