



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on May 9, 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 No. SB-16-CRM-0456

PEOPLE v. ALEXANDER TY PIMENTEL

This resolves the following:

1. Accused Alexander T. Pimentel's "**MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE**" dated April 16, 2018;¹ and
2. The Prosecution's "**COMMENT/OPPOSITION**" dated April 22, 2018. ²

This resolves accused's *Motion for Leave of Court to File Demurrer to Evidence* which alludes to insufficiency of evidence presented by the prosecution in proving the elements of the crime charged. In support thereof, accused alleges, viz:

XXX XXX XXX XXX.

2. It is the respectful submission of the accused that **the evidence of the prosecution in its aggregate is insufficient to prove the elements of Section 3 (e) of RA 3019** under which accused is being charged and thus, likewise insufficient to establish the guilt of the accused beyond reasonable doubt;

XXX XXX XXX XXX.

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

¹ Records, Volume 2, pp.23-24

² Ibid., pp. 31-35

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5. With due respect, the above-quoted ruling of the Supreme Court squarely applies to the instant case of accused Pimentel where the prosecution failed to establish and prove the third and fourth elements of the crime, that is, he caused undue injury to Mario Cuartero by acting with manifest partiality, evident bad faith or gross inexcusable negligence;

6. xxx xxx xxx xxx;

7. Records will show that the evidence of the prosecution as presented and admitted by the Honorable Court and even those which has become the subject of stipulation by the parties failed to establish the crime as charged against accused Pimentel. Moreover, and with the exclusion of the complaint affidavit of Mario Cuartero (Annex "A") on the ground of being hearsay, as well as the non-presentation by the prosecution of his testimony to establish and prove the alleged undue injury sustained by Mr. Cuartero, it is the respectful submission of the accused that the instant case for supposed violation of Section 3 (e) of RA 3019 by causing undue injury to Mr. Cuartero was not proven beyond reasonable doubt and must perforce be dismissed;

8. xxx xxx xxx xxx;

9. In sum, it is the respectful submission of accused Alexander Ty Pimentel that for failure on the part of the prosecution to establish and prove beyond reasonable doubt undue injury sustained by Mario G. Cuartero which was allegedly committed by accused Pimentel through evident bad faith, manifest partiality or gross inexcusable negligence, the prosecution clearly failed to prove their case, and thus, accused prays for leave of court to file his demurrer to evidence.

[Emphasis supplied]

The *Motion* itself barely complies with the basic requirement of Section 23, Rule 119 of the Revised Rules of Criminal Procedure which require a specificity of grounds. To quote:

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.

xxx xxx xxx xxx.

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. [Emphasis supplied]

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The *Motion* alluded to the evidence as merely being “*insufficient*” or that it has “*failed to establish and prove the third and fourth elements of the crime.*” An examination thereof still leaves this Court to speculate why such a deduction was made when accused failed to attribute a *specific ground* for his demurrer.

The vacuum in accused’s *Motion* was highlighted by the Prosecution in its *Comment/Opposition* when it pointed to the grounds stated in accused’s *Motion* as mere “*general statements*” which do not satisfy the requirements of Section 23, Rule 119 of the Revised Rules of Criminal Procedure. As the Prosecution further asseverated, the *Motion* “*failed to lay the bases from which accused relied in arriving at said conclusion of facts or law that the ‘prosecution failed to prove that his act was done through evident bad faith or gross inexcusable negligence, or that his acts caused undue injury to private complainant Cuartero.’*”

Clearly, accused has not provided the roadmap on which his *Demurrer* is based, and hence, cannot be indulged by examining the evidence in detail why such conclusion was made.

The vintage case of *Hermanos v. Yap Tico, et al.*³ is here quoted as it clearly and succinctly ruminated the sentiment of the Court tasked to resolve a *Demurrer*, albeit in a civil case, looming in its own scarcity, *viz:*

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 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.

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³ G.R. No. 6791, March 27, 1913

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 it 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 demurrer 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 withdrawn it after full consideration of the objection urged against it. [Emphasis supplied]

For its procedural flaw, therefore, it is inevitable that the *Motion* be struck outright.

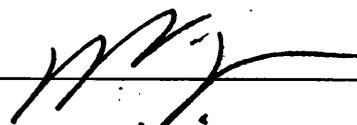
WHEREFORE, the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Alexander Ty Pimentel is **DENIED**. Let the presentation of defense evidence proceed, as scheduled, on **June 13 and 14, 2018, both at 8:30 in the morning** at the Fourth Division Courtroom.

SO ORDERED.

GOMEZ-ESTOESTA, J., *Chairperson*



TRESPESES, J.



JACINTO, J.

