



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0153 to 0156

- versus -

For: Violation of Sec. 3 (e),
R.A. 3019

JEJOMAR C. BINAY, SR., ET AL.,

Accused.

Present:

LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
MAÑALAC, JJ.

Promulgated:

June 07, 2018 *Jal*

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RESOLUTION

LAGOS, J.:

For the Court's consideration are accused-movant **Leonila de Guzman Querijero's Motion to Quash Information**¹ dated April 24, 2018, and the prosecution's *Comment (On the Motion to Quash Information)*² dated April 27, 2018.

The present cases involve four (4) separate informations/cases for alleged violation of Sec. 3 (e) of R.A. No. 3019, known as the Anti-Graft and Corrupt Practices Act. The accused-movant prays for the quashal of these informations on the following grounds:

GROUND FOR THE QUASHAL OF THE INFORMATION

¹ Records, Vol. 1, pp. 421-434. Incorporated therein is accused counsel's *Formal Entry of Appearance*.

² *Id.*, Vol. 2, pp. 60-69

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- (1) The information do not conform substantially to the prescribed form;
- (2) The facts charged do not constitute a violation of Sec. 3 (e) of RA 3019; and
- (3) The information[s] clearly show no conspiracy on the part of the Accused.

It must be stressed at the outset that under the *Revised Guidelines for Continuous Trial of Criminal Cases* (A.M. No. 15-06-10-SC), which took effect on September 1, 2017, a “[m]otion to quash information when the ground is **not** one of those stated in Section, Rule 117” of the Rules of Court is a **prohibited motion**.³ Section 2 (c), sub-par. v, of the *Revised Guidelines* explicitly provides that for a motion to quash information to be considered a “**meritorious motion**,” the same must be based on the following grounds: “that the facts charged do not constitute an offense, lack of jurisdiction, extinction of criminal action or liability, or double jeopardy under Section 3, par. (a), (b), (g), and (i), Rule 117.”⁴ And per the *Revised Guidelines*, the accused-movant’s purported grounds that “the information do not conform substantially to the prescribed form” and that “the information clearly show no conspiracy of the part of the Accused”, ought to be **denied outright**, to wit: “**Section 2, par. (b) Prohibited Motions – Prohibited motions shall be denied outright...without the need of comment and/or opposition.**” Although the first ground invoked by accused-movant is listed under Section 3, par. (e), Rule 117, the same does not fall as one of the exceptions above noted under Section 2, par. (c), sub-par. v of the guidelines. The accused-movant’s third ground regarding conspiracy is not mentioned as a ground under the rules.

We must now draw our attention to the second ground in that allegedly, “[t]he facts charged do not constitute a violation of Sec. 3 (e) of RA 3019.” The said provision of the Anti-Graft and Corrupt Practices Act states:

SECTION 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the

³ A.M. No. A.M. No. 15-06-10-SC, Section 2 (b) iv

⁴ Rule 117, Motion to Quash, provides: “SEC. 3. *Grounds.* – The accused may move to quash the complaint or information on any of the of the following grounds: (a) **That the facts charged do not constitute an offense;** (b) **That the court trying the case has no jurisdiction over the offense charged;** (c) That the court has no jurisdiction over the person of the accused; (d) That the officer who filed the information had no authority to do so; (e) That it does not conform substantially to the prescribed form; (f) That more than one offense is charged except when a single punishment for the various offenses is prescribed by law; (g) **That the criminal action or liability has been extinguished;** (h) That it contains averments which, if true, should constitute a legal excuse or justification; and (i) **That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent. (3a)**” Emphasis supplied.

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following shall constitute corrupt practices of any public officer and are hereby declared unlawful:

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(e) **Causing undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.** This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions. (Emphasis supplied.)

The test for the correctness of the ground “that the facts charged do not constitute an offense” is the sufficiency of the averments in the information, that is, if hypothetically admitted, constitutes the elements of the offense.⁵ The elements that constitute violation of Section 3 (e) of R.A. 3019 are as follows:

- (1) The accused must be a public officer discharging administrative, judicial or official functions;
- (2) He [or she] must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- (3) That his [or her] action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his [or her] functions.⁶

As to the first element, accused-movant is invariably properly identified in the subject four (4) informations as a public officer being then “City Accountant” of Makati, performing “administrative and/or official functions.” Hence, the first element is present.

As to the second element, accused-movant, together the other accused/co-conspirators, is amply charged as well with “acting with manifest partiality, evident bad faith, and/or gross excusable negligence”, while in the performance of her official functions – a required second element.

As to the third element, it is sufficiently charged that the alleged willful, unlawful, and criminal acts of accused-movant, together with the rest of her co-accused, “cause[d] undue injury to the government of the City of Makati,” involving the transactions or contracts covered in each information, thus, satisfying the requisite third element.

⁵ Florenz D. Regalado, Remedial Law Compendium, Vol. II (2008 ed.), p. 581, citing People vs. Supnad, L-18747, Mar. 30, 1963.

⁶ Noel G. Villaroman, Laws and Jurisprudence on Graft and Corruption (3rd ed.), p. 146, emphasis in the original; citations omitted.

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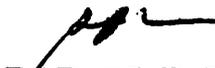
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According to the accused, “[t]he act attributed to the Accused in the Information is **vague and fails to constitute an offense**. Such is **predicated on Accused’s signatures** on different disbursement vouchers.”⁷ Further, “[t]he mere act of signing, without more, is not a crime. In the Information, there is no allegation that the accused signed the documents with knowledge of any irregularity.”⁸ The Court cannot dwell on alleged extenuating circumstances, acts or omissions, of the accused regarding the covered transactions. They are evidentiary matters and must be borne by proper evidence, to be duly presented and offered during trial. The accused’s motion must be measured and considered based on the face and a close reading of the four (4) subject informations. Among other things, as pointed out by the prosecution, “[t]he Information[s] filed contains specific facts and circumstances necessary to constitute a violation of Section 3 (e) of the Anti-Graft and Corrupt Practices Act (R.A. 3019. Upon a cursory reading of the Information[s], accused-movants are readily apprised of the acts and/or omissions imputed.”⁹ The Court is not supposed to pass judgment as to the guilt or innocence of the accused at this stage of the proceedings in these cases. It’s trite, but although accused is still presumed innocent – the guilt of the accused-movant still has to be proven by the prosecution, not on mere say so in the Information, but by evidence of proof beyond reasonable doubt.

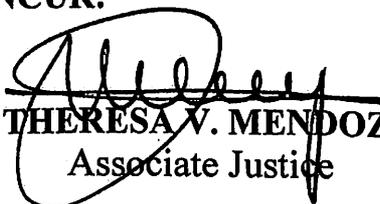
On a final note, it is rudimentary, and movant’s counsel owes it to the Court, to give the citation of the cases it chooses to bring to the Court’s attention, namely: **U.S. v. Dichao, Consigna v. People of the Philippines, Arias v. Sandigabayan, Albert v. Gangan, Sistoza v. Desierto, People v. Dizon, et al., and Sabiano v. Court of Appeals.**

WHEREFORE, in view of the foregoing, accused Leonila de Guzman Querijero’s *Motion to Quash* is **DENIED** for lack of merit.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice

⁷ *Motion to Quash*, par. 14, p. 5; emphasis in the original.

⁸ *Id.*, par. 15

⁹ *Comment*, p. 1