



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-0059 to 0062
For: Violations of Article 183 of
the Revised Penal Code

- versus -

ELDRED PALADA TUMBOCON,
Accused.

Present:

FERNANDEZ, SJ, J.
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

JUL 20 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Leave of Court to File Demurrer to Evidence*¹ filed by accused Eldred Palada Tumbocon on June 28, 2018; together with the *Motion to Admit Comment/Opposition*² filed by the prosecution on July 6, 2018.

Accused Tumbocon asks this Court to grant him leave of court to file demurrer to evidence on the ground that the evidence of the prosecution is insufficient to establish the guilt of accused beyond reasonable doubt and to prove the elements of Article 183 of the Revised Penal Code.³

Accused Tumbocon claims that there is no proof that the non-inclusion of specific properties, *i.e.*, TCT 47310, Honda Civic with plate no. CRR 657, and, UCTV business interest, etc., in his SALN, was done deliberately; the non-inclusion was neither willful nor corrupt, thus:



¹ Dated June 27, 2018; Record, Vol. II, pp. 391-399.

² Dated July 5, 2018, with attached *Comment/Opposition (Re: Motion for Leave to File Demurrer to Evidence)* dated July 5, 2018; Record, Vol. II, pp. 400-406.

³ Motion for Leave of Court to File Demurrer to Evidence dated June 27, 2018, p. 1.

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- a. While the existence of Honda Civic, with plate no. CRR 657, and the UCTV shares in the name of accused' spouse are admitted, the same is insufficient to prove that accused committed perjury; and,
- b. While accused omitted or failed to declare a property covered by TCT 47310, said title was cancelled in 1996.⁴

The prosecution claims that it was able to prove all the elements of violation of Article 183, RPC (perjury). Hence, the denial of accused Tumbocon's *Motion for Leave of Court to File Demurrer to Evidence* is in order.⁵

RULING

The *Motion to Admit Comment/Opposition* filed by the prosecution is GRANTED. The *Comment/Opposition* dated July 5, 2018 is ADMITTED.

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 support a verdict of guilt for violations of Article 183 of the Revised Penal Code. The Court hereby **DENIES** the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Eldred Palada Tumbocon.

This is without prejudice to the filing by the accused of a *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, he shall waive his right to present evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

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

The hearings set for the accused to present his evidence on July 23 and August 8, 2018, both at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered

⁴ Motion for Leave of Court to File Demurrer to Evidence dated June 27, 2018, pp. 7-8.

⁵ Comment/Opposition (Re: Motion for Leave to File Demurrer to Evidence) dated July 5, 2018, p. 1.

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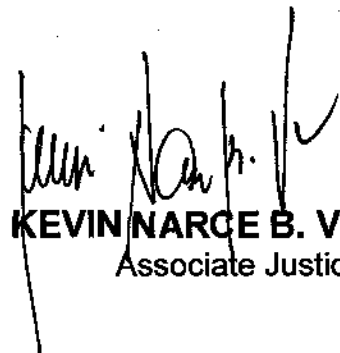
automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.⁶

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

⁶ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases