



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff,

SB-17-CRM-0473
 For: Violation of Section 3(b),
 R.A. No. 3019

- versus -

SB-17-CRM-0474
 For: Violation of Section 7(d),
 R.A. No. 6713

ROSARIO C. URIARTE, ET AL.,
 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 following:

- a) *Motion for Leave to File Demurrer to Evidence*¹ filed by accused Rosario C. Uriarte on June 25, 2018;
- b) *Motion for Leave of Court to File Demurrer to Evidence*² filed by accused Fatima Abad Santos Valdes on June 25, 2018; and,
- c) *Motion for Leave to File Demurrer to Evidence*³ filed by accused Jose R. Taruc on June 25, 2018;

together with the:

- a) *Consolidated Comment/Opposition (Re: Motions for Leave to File Demurrer to Evidence)*⁴ filed by the prosecution on July 2, 2018.

¹ Dated June 25, 2018; Record, Vol. III, pp. 343-348.
² Dated June 25, 2018; Record, Vol. III, pp. 349-355.
³ Dated June 25, 2018; Record, Vol. III, pp. 356-377.
⁴ Dated June 28, 2018; Record, Vol. III, pp. 392-398.

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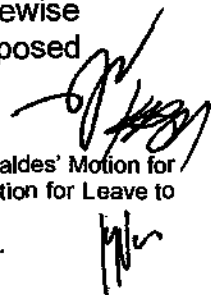
Accused Uriarte, Valdes and Taruc similarly claim that the prosecution failed to establish the elements of the crime charged; the evidence presented by the prosecution is insufficient to convict accused or support a guilty verdict against them:⁵

Accused Uriarte:

- a. The documents submitted by the prosecution have no probative value, at least, with respect to the essential elements of the offenses charged. Moreover, all documents presented were either not properly identified by competent witnesses or are mere photocopies, or certified true copies of mere photocopies.
- b. The prosecution has failed to prove that the subject all-expense paid trip to Australia was, in fact, given to and received by accused Uriarte.
- c. The prosecution's evidence shows:
 - That all acts committed or undertaken by accused Uriarte leading up to and including the approval of the Joint Venture Agreement were above board and in accordance with laws, regulations and duly approved resolutions;
 - That the trip to Australia in February 2010 was taken only after the Joint Venture Agreement had already been approved by the Board. It can no longer be affected by accused Uriarte's intervention on the approval of the agreement; neither were her functions affected by the foregoing trip; and,
 - The invitation to go to Australia was in furtherance of the contractual relationship between the parties in the Joint Venture Agreement. The Office of the Ombudsman made a judicial admission to the effect that it, "finds nothing wrong regarding the purpose of the trip" relevant to the instant case.⁶
- d. There is absolutely no evidence that accused Uriarte personally benefitted from the trip. Section 3(b), R.A. No 3019 is clear that the commission of the offense for which accused Uriarte is charged is possible only with the participation of a recipient and a giver, who shall likewise be penalized. Since the charges against the supposed

⁵ Uriarte's Motion for Leave to File Demurrer to Evidence dated June 25, 2018, p. 2; Valdes' Motion for Leave of Court to File Demurrer to Evidence dated June 25, 2018, p. 1; Taruc's Motion for Leave to File Demurrer to Evidence dated June 25, 2018.

⁶ Uriarte's Motion for Leave to File Demurrer to Evidence dated June 25, 2018, pp. 1-2.



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giver of the gift, Mr. Anthony Karam, were dismissed, there is no "unlawful" giving of gift anymore.⁷

Accused Valdes:

- a. The prosecution has not presented any evidence that will support its allegation that accused Valdes received an all-expense paid trip to Australia sometime in February 2010. There was no single prosecution witness who testified that accused Valdes received any gift or travelled to Australia around February 2010. The documents presented did not likewise support receipt by accused Valdes of said "gift."

There is clear and convincing evidence that will support accused Valdes' defense that she never received any gift nor travelled to Australia.⁸

- b. The prosecution's other witnesses, being mere custodians or keepers of records, only testified on the alleged existence of documents that they do not have personal knowledge on as to execution or the contents.⁹

Accused Taruc:

- a. The prosecution failed to establish and prove the gravamen of the offenses charged.
- b. The testimonies of the witnesses presented are all hearsay, irrelevant, uncorroborated and self-serving. The witnesses merely identified the documents in their charge or safe-keeping.
- c. None of the witnesses had any personal knowledge of the contents of the documents they identified nor were they parties to the documents they identified.
- d. The evidence offered by the prosecution show and prove the innocence of accused Taruc.¹⁰

On the other hand, in its *Consolidated Comment/Opposition*, the prosecution asked for the denial of the *Motions for Leave to File Demurrer to Evidence* filed by accused Uriarte, Valdes and Taruc. It argued:

- a. It was able to prove the existence of all the elements of the crime of violation of Section 3(b) of R.A. No. 3019 and Section 7(d) of R.A. No. 6713.¹¹

⁷ Uriarte's Motion for Leave to File Demurrer to Evidence dated June 25, 2018, pp. 2-3.

⁸ Valdes' Motion for Leave of Court to File Demurrer to Evidence dated June 25, 2018, pp. 2-4.

⁹ Valdes' Motion for Leave of Court to File Demurrer to Evidence dated June 25, 2018, p. 5.

¹⁰ Taruc's Motion for Leave to File Demurrer to Evidence dated June 25, 2018, pp. 2-4.

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- b. All the documents offered are public documents by reason that the same were written acts or records of the PCSO and OGCC, or private documents required to be kept in the records of the PCSO and/or the Ombudsman. As such, they only need to be identified by a witness to be admissible.
- c. Charging the "gift-giver" is not one of the essential elements of violation of Section 3(b), R.A. No. 3019 and Section 7(d), R.A. No. 6713. The fact that Mr. Karam was not charged is immaterial and irrelevant in these cases.¹²

RULING

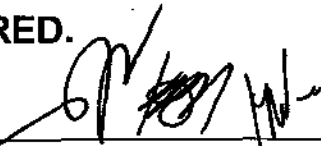
After a careful study of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violation of Section 3(b), R.A. No. 3019 and of Section 7(d), R.A. No. 6713. The Court hereby **DENIES** the *Motions for Leave to File Demurrer to Evidence* separately filed by accused Rosario C. Uriarte, Fatima Abad Santos Valdes, and Jose R. Taruc V.

This is without prejudice to the filing by the accused of their respective *Demurrers 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, by personal filing and service, or through courier, their *Manifestation*, to inform this Court whether they will file a *Demurrer to Evidence*, without leave of court.

The hearing set for the accused to present their evidence on July 18, 2018, at 1:30 in the afternoon, is maintained. The said scheduled date will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of all the accused.¹³

SO ORDERED.



¹¹ Consolidated Comment/Opposition dated June 28, 2018, p. 1.

¹² Consolidated Comment/Opposition dated June 28, 2018, p. 5.

¹³ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases

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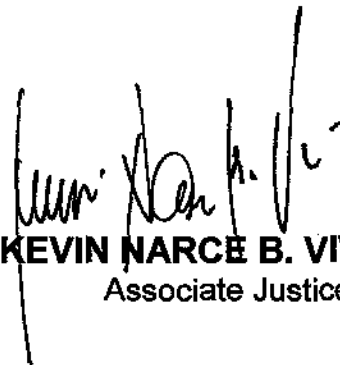
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SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice