



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

**SB-17-CRM-0130 to 0142**  
For: Violations of Section 3(e),  
R.A. No. 3019

- versus -

**EDILBERTO M. PANCHO,**  
Accused.

**SB-17-CRM-0143 to 0155**  
For: Violations of Section 52(g) in  
relation to Section 6(b), R.A. No.  
8291

*Present:*

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

*Promulgated:*

**AUG 07 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Leave to File Demurrer to Evidence*<sup>1</sup> filed by accused Edilberto M. Pancho on July 10, 2018; together with the *Comment/Opposition*<sup>2</sup> filed by the prosecution on July 16, 2018.

Accused Pancho asks this Court to grant him leave of Court to file demurrer to evidence on the ground that the prosecution failed to establish a *prima facie* case against him, and, to overcome the presumption of innocence in favor of said accused:<sup>3</sup>

- a. For violation of Section 3(e), 3019, the prosecution failed to prove the elements that—

<sup>1</sup> Dated July 9, 2018

<sup>2</sup> (Re: Accused's Motion for Leave of Court to File Demurrer to Evidence) dated July 16, 2018

<sup>3</sup> Motion for Leave to File Demurrer to Evidence dated July 9, 2018, p. 2.

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The accused must have acted with manifest partiality; evident bad faith or inexcusable negligence; and,

His action caused any undue injury to any party, including the government, or, giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

- b. For violation of R.A. No. 8291, the prosecution failed to establish all the required elements constituting the offense of violation of R.A. No. 8291.

Accused Pancho also argues that a closer review of the testimonies of the prosecution witnesses will, in fact, support the innocence of the accused and negate the accusation against him.<sup>4</sup>

On the other hand, the prosecution claims that it was able to prove the guilt of the accused beyond reasonable doubt, and argued, thus:

Violation of Section 3(e), R.A. No. 3019:

- a. The first element is not disputed and was in fact admitted by the accused as shown in the Pre-trial Order:

The prosecution and the accused stipulated on the following:

xxx    xxx    xxx

2. At the time material to the allegation in the Informations, accused was a high-ranking public officer, being then the Provincial Treasurer of the Provincial Government of Nueva Ecija.

- b. On the second element, the witnesses of the prosecution were able to testify that accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence when accused Pancho, as then Provincial Treasurer, failed and/or delayed to remit the GSIS premium contributions of the Provincial Government of Nueva Ecija employees and the latter's loan amortizations for the period August 2005 to August 2006.

In fact, prosecution witness Armando EJ Veron categorically stated that he saw the disbursement vouchers prepared by the Provincial Accounting Office for the payment of the liabilities due to the GSIS at the Provincial Treasurer's Office during the conduct of his team's regular audit for the year 2004 to 2007. And another prosecution witness, Arellano

<sup>4</sup> Motion for Leave to File Demurrer to Evidence dated July 9, 2018, pp. 4-5.

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Grospe of the Nueva Ecija Provincial Accounting Office, testified that the disbursement vouchers pertaining to the payment of the GSIS premium contributions of the Provincial Government of Nueva Ecija, its employees and the latter's loan amortizations for the period August 2005 to August 2006, have been transmitted to the Office of the Provincial Treasurer of Nueva Ecija, and that the Office of the Provincial Treasurer of Nueva Ecija headed by then accused Pancho, failed to transmit back to the Provincial Accounting Office the signed disbursement vouchers with the corresponding checks.

- c. Lastly, the third element was likewise sufficiently proven. By accused Pancho's failure and/or delay in the remittance of the said GSIS trust liabilities, the Provincial Government of Nueva Ecija and its employees incurred penalty interests. The same was clearly testified on by GSIS Branch Manager Mabel De Guzman, together with the documents showing the penalty interests and surcharges incurred by the Provincial Government of Nueva Ecija.<sup>5</sup>

Violation of Section 52(g), R.A. No. 8291

- a. With regard to the charge of violation of Section 52(g) of Republic Act No. 8291, the said section is hereby reproduced for easy reference, to wit:

xxx            xxx            xxx

- b. Accused, being then the Provincial Treasurer of the Provincial Government of Nueva Ecija, is the accountable public officer for the timely remittance of the GSIS contributions, loan amortizations and other GSIS accounts to the GSIS.<sup>6</sup>

**RULING**

After a careful study of the documentary and testimonial evidence presented by the prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for violations of Section 3(e), Republic Act No. 3019; and, Section 52(g) in relation to Section 6(b), Republic Act No. 8291. The Court hereby **DENIES** the *Motion for Leave to File Demurrer to Evidence* filed by accused Edilberto M. Pancho.

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

<sup>5</sup> Comment/Opposition dated July 16, 2018, pp. 2-3.

<sup>6</sup> Comment/Opposition dated July 16, 2018, p. 3.

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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.

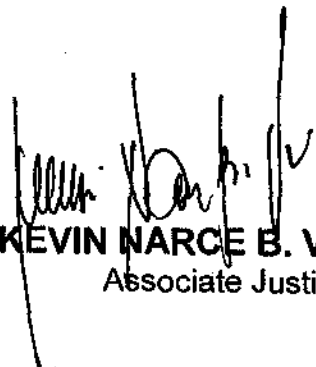
The hearings set for the accused to present his evidence on August 20 and 28; and, September 4 and 5, 2018, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.<sup>7</sup>

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

<sup>7</sup> Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases