

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

SB-12-CRM-0108

- versus -

FOR: Violation of Sec. 3(h),  
R.A. No. 3019

HERMELO B. LATOJA, ET AL.,  
*Accused,*

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PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

SB-12-CRM-0109

- versus -

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

MIGUEL D. ESCOBAR, ET AL.,  
*Accused.*

*Present:*  
**LAGOS, J., Chairperson,**  
**MENDOZA-ARCEGA, and**  
**MAÑALAC, JJ.**

*Promulgated:*  
September 03, 2018 *Jal*

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RESOLUTION

**LAGOS, J.:**

For the Court's consideration are accused Miguel D. Escobar and Vivencia S. Telesforo's *Joint Motion for Leave of Court to File Demurrer to Evidence*<sup>1</sup> dated August 19, 2018, filed pursuant to Sec. 23, Rule 119 of the Rules of Court, and the prosecution's *Comment/Opposition*<sup>2</sup> thereto, dated August 28, 2018. Among other accused, Escobar is charged with violation of Sections 3(e) and (h) of R.A. 3019 in dockets No. SB-12-CRM- 0109 and 0108, respectively, while Telesforo is charged with violation of Sec. 3(e) in SB-12-CRM-0109 only.

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<sup>1</sup> Records, Vol. 8, p. 283.

<sup>2</sup> *Id.*, p. 290.

*Jal*  
*22*

**RESOLUTION**

**People vs. Latoja, et al.**

**SB-12-CRM-0108 and 0109**

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Sec. 23, Rule 119, provides:

Sec. 23. *Demurrer to evidence.* – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of the 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.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his/[her] defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

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) after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. [Emphasis supplied.]

Relatedly, on August 8, 2018, the Court resolved to admit the exhibits offered by the prosecution, following the “formal offer”<sup>3</sup> thereof and notwithstanding the “comment and/or objection”<sup>4</sup> of herein accused.<sup>5</sup>

Accused-movants assert that “[t]he evidence against them is weak, the documentary evidence offered merely pointed the findings of the special audit/investigation conducted in the purchase of fifteen ((15,000) thousand pieces of pre-school textbooks by way of emergency purchase and there was no recommendation from the Committee on Awards for the mode of procurement made by accused Latoja. The prosecution failed to prove beyond doubt the guilt of Escobar and Telesforo.”<sup>6</sup> Lamenting on the alleged “**delay**” in the preliminary investigation of these cases,<sup>7</sup> movants further claim that “after long arduous years of being made to go through the pain and tribulation of a public trial, the prosecution has not proven anything for (sic) Escobar whose only participation is **his signature**, which is ministerial...On the part of Telesforo, the prosecution’s dearth of evidence is shown by the fact that all throughout the proceedings her name and/or

<sup>3</sup> *Id.*, Prosecution’s Formal Offer of Documentary Evidence, p. 6.

<sup>4</sup> *Id.*, Accused’s Comment to the Formal Offer of Evidence of the Prosecution, p.264.

<sup>5</sup> *Id.*, Minutes of the Proceedings held on August 8,2018,p. 273.

<sup>6</sup> *Supra*, Note 1, par. 4, p. 285; underscoring/emphasis supplied.

<sup>7</sup> *Ibid.*, par. 5.


x-----x  
participation was not mentioned, she was in lieu of the provincial accountant...Her presence in the meeting is even dispensable, as it was a simple meeting, her participation was not to award the contract to supply pre[-]school textbooks.”<sup>8</sup>

The prosecution in its *Comment/Opposition* maintains that Sec. 23, Rule 119 of the Rules of Court requires that a motion for leave to file demurrer to evidence must contain specific grounds and, quoting from the accused’s motion itself, not simply “a general statement that the *evidence against them is weak, and the prosecution failed to prove beyond reasonable doubt the guilt of the accused;*”<sup>9</sup> They contend that “[d]emurrants cannot simply impose upon the Honorable Court that the evidence is weak without the countervailing evidence to be adduced by them;” and “[i]ronically, in filing the subject Motion, accused-demurrants had unwittingly invoked the necessity of a trial, thus, the Honorable Court may appreciate both sides of the coin.”<sup>10</sup> On the alleged “**delay**” during preliminary investigation, the prosecution claims movants had “erroneously harped and lengthily raised the issue of inordinate delay to support their motion, which makes their ground legally untenable, as the ground is improper in a demurrer to evidence.”<sup>11</sup>

Judicial action to grant prior leave to file demurrer to evidence is discretionary upon the trial court.<sup>12</sup> An over-all review of the prosecution’s testimonial and documentary evidence shows that there is sufficient and competent evidence to sustain a guilty verdict against the accused-movants, should these remain unrebutted. Contrary to accused-movants’ contentions, their signatures appear on several documents proffered by the prosecution and their participation in the questioned transactions were established by competent evidence.

**WHEREFORE**, in view of the foregoing, the accused’s *Joint Motion for Leave to File Demurrer to Evidence* is **DENIED** for lack of merit.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

WE CONCUR:

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

  
**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice

<sup>8</sup> *Id.*, par. 6; emphasis supplied.

<sup>9</sup> *Supra*, Note 2, par. 4, p. 292; emphasis/italics in the original.

<sup>10</sup> *Id.*, par. 6.

<sup>11</sup> *Id.*, par. 7.

<sup>12</sup> *Bernardo vs. CA, et al.*, G.R. No. 119010, September 5, 1997.