



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SPECIAL SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

SB-13-CRM-0792 to 0794  
For: Violation of Sec. 3(e)  
of R.A. No. 3019, as amended

Present

- versus -

LUIS RAYMUND F. VILLAFUERTE,  
JR., ET AL.,

Accused.

FERNANDEZ, SJ, J.,  
Chairperson  
MIRANDA, J.  
VIVERO, J.  
CRUZ, J.\* and  
JACINTO, J.\*

Promulgated:

SEP 25 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Luis Raymund F. Villafuerte, Jr.'s *Motion for Reconsideration [Re: Resolution dated 28 August 2018]*,<sup>1</sup> and accused Jeffrey Lo's *Motion for Reconsideration Re: Denial of Motion for Leave to File Demurrer*.<sup>2</sup>

In his *Motion for Reconsideration*, accused Villafuerte prays that this Court reconsider the Resolution dated August 28, 2018<sup>3</sup> and grant him leave to file his Demurrer to Evidence. He contends:

1. The assailed Resolution failed to state the factual and legal bases of the ruling. It did not state how the prosecution's evidence proved the allegations in the Informations beyond reasonable doubt.

\* J. Cruz and J. Jacinto participated in the assailed Resolution (Per Administrative Order No. 10-C-2018 dated August 6, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule IX, Sec. 2[a])

<sup>1</sup> Dated September 3, 2018; Record, Vol. 8, pp. 29-66

<sup>2</sup> Dated August 31, 2018; Record, Vol. 8, pp. 25-27

<sup>3</sup> Record, Vol. 7, pp. 555-563

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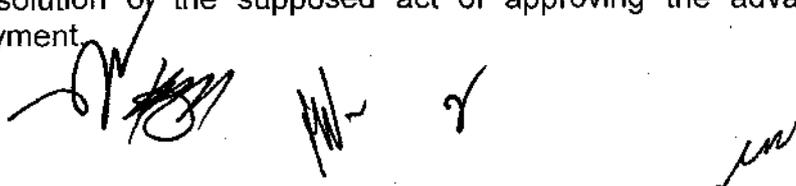
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2. Because of the lack of particularity in the assailed Resolution, matters outside the scope of the allegations in the Informations may have been considered.
3. The Court essentially prejudged his Demurrer to Evidence, which he has yet to file.
4. The Court overstepped its discretion when it determined the sufficiency of the prosecution's evidence without giving him the opportunity to fully show that the same is insufficient to sustain a conviction.
5. The Court, in resolving a motion for leave to file a demurrer, only determines if the accused is merely stalling the proceedings.
6. His *Motion for Leave* was not dilatory. Although he did not exhaustively discuss therein the flaws in the prosecution's evidence, it sufficiently pointed out its shortcomings.
7. The purpose of a demurrer to evidence is to secure the accused from the rigors of trial when the prosecution has clearly failed to discharge its burden of proof.
8. He should have been given the opportunity to explain his side, considering that his *Motion for Leave* was not filed for delay.
9. The prosecution's evidence failed to prove beyond reasonable doubt that he committed violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019).
10. The Court premised its denial of his *Motion for Leave* only on the alleged lack of public bidding. It was held that such act constitutes gross inexcusable negligence, without any mention of the prosecution's allegation of manifest partiality or evident bad faith.
11. The prosecution failed to prove his supposed manifest partiality or evident bad faith. If the prosecution's evidence pertaining to matters beyond the information is ignored, it is clear that there is reasonable doubt.
12. The Informations allege that he caused the issuance and approval of the Disbursement Vouchers for fuel purchases without public bidding, and approved the advance payment thereof. However, there was no mention in the assailed Resolution of the supposed act of approving the advance payment.



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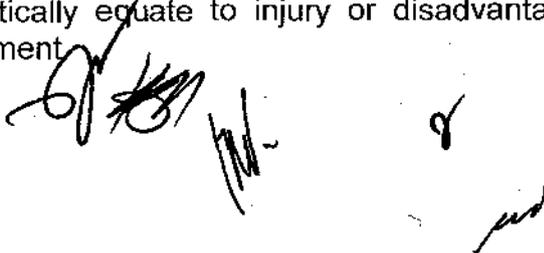
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13. The prosecution's evidence cannot possibly lead to the conclusion that he committed gross inexcusable negligence.
  - a. The prosecution's evidence shows that there was no public bidding because the Provincial Government had a long-standing practice of purchasing fuel only from Petron without the conduct of public bidding.
  - b. Such practice was justified by the Province's reliance on government issuances directing the Province to procure fuel only in such manner.
  - c. The prosecution adopted as its own evidence the Province's response to the Audit Highlights of the COA Special Audit Team. This shows that he merely relied in good faith on the Province's long-standing practice.
  - d. Assuming there was negligence, the same cannot be considered gross and inexcusable.
14. The prosecution's evidence, which shows that the Province entered into a deposit account arrangement with Petron Naga for the bulk purchase of fuel, negates the claim of advance payment.
  - a. Advance payment is payment made before the receipt of goods or services.
  - b. There is no advance payment because the fuel purchased was already owned by the Province. Said fuel remained to be in the possession of Petron Naga as depository. The Province could have withdrawn such fuel anytime upon presentation of Fuel Deposit Withdrawal Slips.
15. The prosecution's evidence also cannot possibly lead to the conclusion that he gave unwarranted benefit to accused Lo, or caused undue injury to the Province. The prosecution's own evidence proves that bulk fuel purchases at locked-in prices coupled with the waiver of storage fees actually resulted in savings for the Province.
16. The allegation of undue injury is based on speculation.
  - a. The absence of public bidding, by itself, does not automatically equate to injury or disadvantage to the government.



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- b. The loss of the interest that could have been earned if the "advance payment" was deposited in a bank is a matter of speculation.
  - c. The deposit arrangement with Petron Naga was beneficial to the Provincial Government because Petron Naga did not charge the Province for storage fees, and because the unit price of fuel remained the same regardless of time withdrawn.
17. The prosecution likewise failed to prove that accused Lo was given unwarranted benefit, advantage or preference.
- a. Accused Lo did not enjoy an improved position because the Provincial Government had already been procuring fuel products long before he assumed office as Governor.
  - b. The benefit and advantage from the subject transactions redounded to the Provincial Government rather than to Petron Naga or accused Lo.

In his *Motion for Reconsideration*, accused Lo similarly prays that the Resolution dated August 28, 2018 be reversed and set aside, and another one granting him leave to file his demurrer to evidence be issued. He avers:

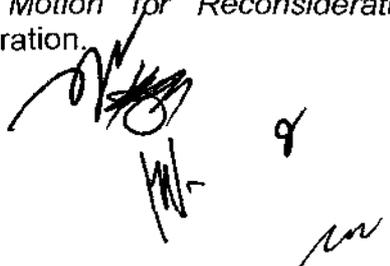
1. There is no proof of conspiracy between him and accused Villafuerte.
2. He cannot defend himself because there is nothing to disprove.
3. The filing of his *Motion for Leave* was not intended to delay.

In its *Consolidated Comment/Opposition (Re: Motions for Reconsideration of the Honorable Court's Resolution Dated 28 August 2018 Filed by Accused Luis Raymund F. Villafuerte, Jr. and Jeffrey Lo)*,<sup>4</sup> the prosecution counters:

1. Accused Lo's argument in his *Motion for Reconsideration* is a reiteration or rehash of his argument in his *Motion for Leave*. There is no basis for reversing the denial thereof.
2. Accused Villafuerte's *Motion for Reconsideration* equally deserves scant consideration.

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<sup>4</sup> Dated and filed on September 7, 2018



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3. The power to grant leave to the accused to file a demurrer is addressed to the Court's discretion for the purpose of determining whether the accused, in filing a demurrer, is merely stalling the proceedings.
4. It was not shown how the assailed Resolution was unjust, capricious and whimsical. On the contrary, the Court passed upon the parties' specific averments in ruling on the accused' motions.
5. Its evidence sufficiently established the guilt of the accused for violation of Sec. 3(e) of R.A. No. 3019.
  - a. First element
    - i. The parties stipulated that accused Villafuerte was a public officer at the time material to the present cases, then being the Provincial Governor of Camarines Sur.
    - ii. Accused Villafuerte signed and approved various Disbursement Vouchers in connection with the Provincial Government's procurement of fuel products from Petron Naga, owned by accused Lo.
  - b. Second element
    - i. Its evidence established that accused Villafuerte dispensed with the conduct of public bidding in the procurement of petroleum products from Petron Naga, contrary to the mandate of Republic Act No. 9184 (R.A. No. 9184), resulting in the suppression of competition, and showing manifest partiality towards Petron Naga.
    - ii. There was no compliance with the requirements for the resort to the alternative methods of procurement.
    - iii. Accused Villafuerte cannot rely on the "long-standing practice" of the Provincial Government. As a public officer, accused Villafuerte was expected to know the proper procedure to be followed in the bidding and award of supply contracts. Furthermore, he is duty-bound to follow said procedure. His failure to discharge this duty constitutes gross and inexcusable negligence.

*[Handwritten signatures and initials]*

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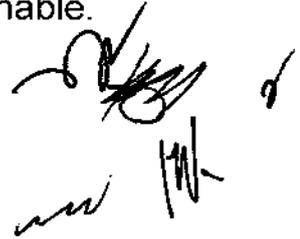
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- iv. Documents showing clear violations of COA rules and regulations prove accused Villafuerte's evident bad faith.
  - v. Accused Villafuerte acted in conspiracy with accused Lo when he caused the procurement of petroleum products from Petron Naga without the conduct of public bidding, as required under R.A. No. 9184.
- c. Third element
- i. Violation of Sec. 3(e) of R.A. No. 3019 may be committed either by causing undue injury to any party, including the government, or by giving any private party unwarranted benefits, advantage, or preference in the discharge of functions.
  - ii. Petron Naga was given unwarranted benefit, advantage or preference when it was placed in a favorable position over and above other suppliers without the benefit of a fair system to determine the best possible price for the government.
  - iii. The Province of Camarines Sur suffered undue injury in the amount equivalent to the amount paid to Petron Naga without the benefit of competitive public bidding.
  - iv. Accused Villafuerte's assertion that the Provincial Government was able to save a significant amount from the transactions is mere speculation.

### THE COURT'S RULING

The Court finds no reason to overturn its ruling in the assailed Resolution. Hence, accused Villafuerte and Lo's respective Motions for Reconsideration should be denied.

*First.* Accused Villafuerte contends that he was deprived of his right to due process because the assailed Resolution did not state the factual and legal bases of the ruling, and because it did not show how the prosecution's evidence proved the allegations in the Informations beyond reasonable doubt. His contention is untenable.



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To support his contention, accused Villafuerte cites Art. VIII, Sec. 14 of the Constitution. The provision reads:

**Sec. 14.** No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

(underscoring supplied)

From a reading of the aforequoted provision, it is clear that it applies only to decisions or judgments on the merits which completely dispose of the case. Resolutions of motions need only state clearly and distinctly the reasons therefor.<sup>5</sup>

The assailed Resolution is not a judgment on the merits, and hence, there is no need to state the facts and law on which it is based, or to show how the prosecution's evidence proved the accused' guilt beyond reasonable doubt. The statement of the reason for the denial of accused Villafuerte's *Motion for Leave* sufficiently complies with the requirement.

*Second.* Accused Villafuerte argues that this Court prejudged his demurrer to evidence when it determined the sufficiency of the prosecution's evidence without giving him the opportunity to fully show that such evidence is insufficient to sustain a conviction. He further argues that the purpose of giving the Court the discretion to grant leave to the accused to file a demurrer is merely to determine if the accused is stalling the proceedings.

Although accused Villafuerte correctly argues that the Court is given the discretion to grant leave to file a demurrer to evidence for the purpose of determining whether the accused is merely stalling the proceedings, his claim that this Court prejudged his demurrer to evidence is unfounded.

Indeed, in *Bernardo v. Court of Appeals*,<sup>6</sup> the Supreme Court held that the power to grant leave to the accused to file a demurrer is

<sup>5</sup> *Rules of Court. Rule 16, Sec. 3. Resolution of motion.* - x x x in every case, the resolution shall state clearly and distinctly the reasons therefor.

<sup>6</sup> G.R. No. 119010, September 5, 1997

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addressed to the sound discretion of the trial court for the purpose of determining whether the accused is merely stalling the proceedings. In that case, the then new rule on demurrer to evidence was explained as follows:

Chief Justice Andres R. Narvasa, Chairman of the Committee, suggested that –

x x x there may be instances where it is very plain that the evidence is insufficient, but there are also instances where the court is in doubt x x x x it is the court that will now determine whether a demurrer should be filed or not after getting the opinion of both sides x x x x If the accused asks for leave of court and the court supports it, it is good; but x x x if it finds the motion dilatory, then it denies it. But x x x there should be no waiver if the demurrer is with leave of court, because there may be a situation where the court itself may want to dismiss the case x x x x If leave is denied, and the accused still files the demurrer, then there is waiver.

x x x

In fine, under the new rule on demurrer to evidence the accused has the right to file a demurrer to evidence after the prosecution has rested its case. If the accused obtained prior leave of court before filing his demurrer, he can still present evidence if his demurrer is denied. However, if he demurs without prior leave of court, or after his motion for leave is denied, he waives his right to present evidence and submits the case for decision on the basis of the evidence for the prosecution. This power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court. The purpose is to determine whether the accused in filing his demurrer is merely stalling the proceedings.

Whether the accused should be granted leave to file a demurrer to evidence is left to the Court's discretion. Repeatedly requesting for, and being granted, extensions of time to file a demurrer to evidence is an indication that the accused is merely stalling the proceedings.<sup>7</sup> However, this is not the only indication that a motion for leave to file a demurrer to evidence, or the demurrer itself, is dilatory. The Court may determine, from the prosecution's evidence and from the arguments of the parties, whether or not granting leave to the accused to file a demurrer to evidence will only delay the proceedings.<sup>8</sup>

This Court, in the assailed Resolution, reviewed the respective Motions for Leave of accused Villafuerte and Lo, as well as the prosecution's evidence, and concluded therefrom that allowing them to

<sup>7</sup> Please see *People v. Crespo*, G.R. No. 180500, September 11, 2008

<sup>8</sup> Please see *Bernardo v. Court of Appeals*, *supra*. Note 6

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file their respective demurrers to evidence will only delay the proceedings. The Court did not prematurely rule on their respective demurrers to evidence, but only made an initial assessment of the prosecution's evidence for the purpose of determining if the accused should be granted leave to file their respective demurrers.

The accused were not deprived of their right to due process when they were not granted leave to file their respective demurrers to evidence. As this Court held in the assailed Resolution, under Rule 119, Sec. 23 of the Rules of Court, in the event that the Court denies their respective motions for leave to file a demurrer, the accused may, if they insist, still file their respective demurrers without leave of court, or they may present their evidence. viz.:

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

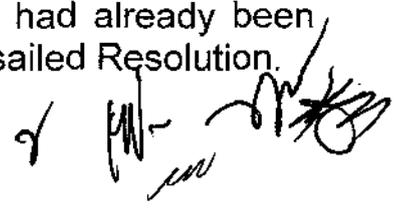
The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

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.

(underscoring supplied)

The other arguments of accused Villafuerte and those of accused Lo are a mere reiteration or rehash of those in their respective Motions for Leave to file a demurrer to evidence. These had already been considered and found to be without merit in the assailed Resolution.



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In *Komatsu Industries (Phils.) Inc. v. Court of Appeals*,<sup>9</sup> it was held:

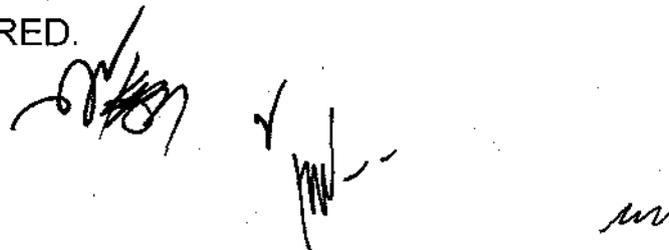
In the same manner, we readily found that, despite the lengthy and repetitious submissions of petitioner in its pleadings filed with this Court as earlier enumerated, all the arguments therein are also mere rehashed versions of what it posited before respondent court. We have patiently given petitioner's postulates the corresponding thorough and objective review but, on the real and proper issues so completely and competently discussed and resolved by respondent court, petitioner's obvious convolutions of the same arguments are evidently unavailing. x x x

**WHEREFORE**, the Court rules as follows:

1. Accused Villafuerte's *Motion for Reconsideration* is hereby DENIED.
2. Accused Lo's *Motion for Reconsideration* is hereby DENIED.

The accused are given five (5) days from receipt of this Resolution to file their respective manifestations, by personal service or through courier, to inform this Court whether they are filing their demurrer to evidence without leave of Court. The hearing dates set for the presentation of the accused' evidence are maintained. The scheduled hearings will be considered cancelled upon receipt by this Court of the accused' respective demurrers to evidence without leave of court.

SO ORDERED.



<sup>9</sup> G.R. No. 127682, April 24, 1998

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

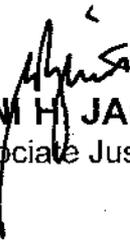
We Concur:

  
**KARL B. MIRANDA**  
Associate Justice

*With due respect I maintain  
my dissent from the majority ruling  
and reiterates my arguments  
advanced in my dissenting  
opinion earlier  
submitted.*  
HNV

**KEVIN NARCE B. VIVERO**  
Associate Justice

  
**REYNALDO P. CRUZ**  
Associate Justice

  
**BAYAM H. JACINTO**  
Associate Justice