



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff,

SB-15-CRM-0320 to 0340
 For: Violations of Section 3(e) of
 R.A. No. 3019

- versus -

LORENZO M. CEREZO, ET AL.,
 Accused.

Present:

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

Promulgated:

SEP 10 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Reconsideration*¹ filed by accused Lorenzo M. Cerezo, together with the *Opposition*² filed by the prosecution.

Accused Cerezo asks this Court to reconsider its Resolution dated June 20, 2018,³ denying his *Motion for Leave of Court to File Demurrer to Evidence*, and, to grant him leave of court to file Demurrer to Evidence.⁴

Accused Cerezo argues that this Court committed grave error when:

1. It failed to consider that the prosecution never offered to prove the contents of the following documents:

¹ [Re: Resolution dated 20 June 2018] dated July 9, 2018; received through mail by the Court on July 11, 2018.
² (Re: Motion for Reconsideration dated 9 July 2018) dated and filed on July 18, 2018.
³ Record, Vol. IV, pp. 494-498.
⁴ Motion for Reconsideration dated July 9, 2018, p. 4.

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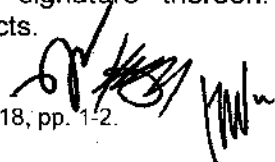
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- a) The purported contracts of service;
 - b) Disbursement vouchers;
 - c) Obligation slips;
 - d) The checks.
2. It failed to rule that even the prosecution's scarce testimonial evidence are not competent to prove the contents of the above documents under the Best Evidence Rule;
 3. And in thus failing to rule that the documentary and testimonial evidence presented by the prosecution are insufficient to sustain the conviction of the accused, and that the leave sought has good and valid reasons to be granted.⁵

The prosecution claims that there is no reason to disturb the June 20, 2018 Resolution, and, that the denial of accused Cerezo's *Motion for Reconsideration* is in order. The prosecution contends:

1. The prosecution formally offered as documentary evidence the various contracts, checks, disbursement vouchers, obligation slips, and MTAC's Merchandising official receipts relevant to these cases.
2. All the evidence offered in the *Prosecution's Formal Offer* – the abovementioned public documents, are offered as proof of their contents, as these are all documentary evidence.
3. The documentary evidence involved in these cases are all public documents. These documents were authenticated by the prosecution witnesses who were either signatory to the documents or custodians thereof, as follows:
 - a) Former Assistant Municipal Treasurer Josephine Anchiboy identified some of the checks and disbursement vouchers and her signature thereon. She also identified the signatures of Municipal Accountant Gertrudes Reyes and Municipal Mayor accused Cerezo in the disbursement vouchers. Ms. Anchiboy stated that the signatures in behalf of MTAC's Merchandising appearing in the disbursement vouchers meant that payments had been received by the latter;
 - b) Former Municipal Budget Officer Jeffrey Delos Angeles identified some of the obligation slips and his signature thereon;
 - c) Former Municipal Administrator Dr. Cecilio Terrado identified some of the checks and disbursement vouchers and her signature thereon. He likewise identified the contracts.

⁵ Motion for Reconsideration dated July 9, 2018, pp. 1-2.



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- d) Former Municipal Treasurer Erlinda Erguiza identified some of the checks and disbursement vouchers and her signature thereon. She also identified the signatures of Municipal Accountant Reyes and Municipal Mayor accused Cerezo in the disbursement vouchers. She stated that the signatures in behalf of MTAC's Merchandising appearing in the disbursement vouchers meant that payments had been received by the latter.
- e) Municipal Accountant Gertrudes C. Reyes identified some of the disbursement vouchers and her signature thereon as well as the signatures of accused Cerezo and prosecution witness Erlinda Erguiza. She also identified the contracts and the obligation slips, which she used as bases for certifying the disbursement vouchers.
- f) Former Officer-in-Charge Municipal Accountant Antonio S. Royeca identified the certified true copies of the checks based on the originals in his custody, which he issued when he was still OIC-Municipal Accountant.
- g) State Auditor IV, LGS, Audit Group D, Pangasinan I, Lydia P. Baysic identified the certified true copies of the disbursement vouchers and its attachments based on the originals in her custody which she issued as State Auditor IV. Auditor Baysic issued the certified true copies of the documentary evidence relevant to these cases.

During the presentation of Auditor Baysic as witness, the accused already stipulated that the former can "identify and authenticate" the exhibits mentioned in her Judicial Affidavit. The accused also stipulated that these exhibits are faithful reproductions of the originals brought by the witness. Such stipulation that the documents were faithful reproductions also translates to stipulation on the documents' due execution.

- 4. Given that the documentary evidence of the prosecution are all public documents, together with the stipulation of the accused and the authentication of the witnesses, the public documents offered by the prosecution are sufficient proof of their contents.
- 5. The *Prosecution's Formal Offer* contains a tabular form of all the contracts, which detailed the particulars of each contract, i.e., date, equipment rental cost/hour, amount of transaction, period covered. The exhibits were also offered per case, and each contract was described in each case with particularity.⁶

⁶ Opposition dated July 18, 2018, pp. 2-4.



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RULING

The *Motion for Reconsideration* filed by accused Lorenzo M. Cerezo is bereft of merit.

The *Revised Rules on Evidence* defines object and documentary evidence as follows:

Rule 130

A. OBJECT (REAL) EVIDENCE

SECTION 1. *Object as evidence.* – Objects as evidence are those addressed to the senses of the court. When an object is relevant to the fact in issue, it may be exhibited to, examined or viewed by the court.

B. DOCUMENTARY EVIDENCE

SECTION 2. *Documentary evidence.* – Documents as evidence consist of writings or any material containing letters, words, numbers, figures, symbols or other modes of written expression offered as proof of their contents.

A perusal of the Prosecution's *Formal Offer of Evidence*,⁷ judicial affidavits and transcript of stenographic notes, clearly show that the Contracts of Service,⁸ Disbursement Vouchers,⁹ Obligation Slips,¹⁰ and LandBank checks,¹¹ were offered by the prosecution as documentary evidence, even when the words "offered as proof of their contents" were not expressly utilized by the prosecution in its *Formal Offer of Evidence*. The purposes for which the documents were offered call for an evaluation of the contents of the documents, and, not the mere physical or sensory examination of the exhibits.

Notably, the documentary exhibits presented by the prosecution were identified and authenticated by the prosecution witnesses.

Finally, after a careful restudy of the documentary and testimonial evidence submitted by the prosecution, the Court finds

⁷ Record, Vol. IV, pp. 316-334.

⁸ C-111-A, C-109, CC-114, C-117, C-120, C-123, D-65-B, D-78, D-80, E-4, E-6, E-10-B, E-9, E-16, E-14, E-25, E-27, E-32, E-30, E-37, and, E-33.

⁹ C-110, C-107, C-112, C-115, C-118, C-121, D-65, D-77, D-79, E-3, E-5, E-8, E-10, E-15, E-13, E-24, E-26, E-29, E-36, and, E-34.

¹⁰ C-111, C-108, C-113, C-116, C-119, C-122, D-65-A, D-77-A, D-79-A, E-3-A, E-8-A, E-10-A, E-15-A, E-13-A, E-24-B, E-26-B, E-29-A, E-36-A, and E-34-A.

¹¹ C-106, D-63, D-76, E-2, E-7, E-12, E-23, E-32, E-30, and, E-33.

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that, if un rebutted, the same is sufficient to convict the accused. The Court hereby **DENIES** the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Cerezo.

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

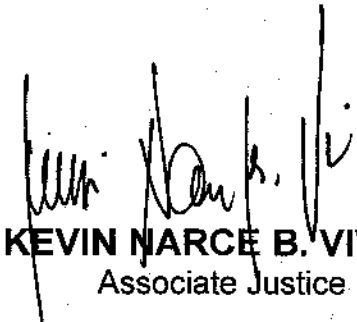
The hearings set for accused Cerezo to present his evidence on November 14, 21 and 28, 2018; and, January 8, 9, 14, 15, 21 and, 22; and, February 4, 11, and 12, 2019, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of his *Demurrer to Evidence*.¹²

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

¹² Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases