



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,
vs.

SB-12-CRM-0108

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

HERMELO B. LATOJA, ET AL.,
Accused,

PEOPLE OF THE PHILIPPINES,
Plaintiff,
vs.

SB-12-CRM-0109

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

MIGUEL D. ESCOBAR, ET AL.,
Accused.

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

Promulgated:

October 15, 2018 *Jal*

X-----X

RESOLUTION

MENDOZA-ARCEGA, J.:

For consideration of the Court are the Motion for Leave of Court to File Demurrer to Evidence¹, filed by accused SITTIEHAWA MAROHOMSALIC (Morohomsalic) and WAHID DIAMA (Diama), through counsel, on September 6, 2018 and the Comment/Opposition (re: Motion for Leave of Court to file Demurrer to Evidence), filed by the prosecution, through the Office of the Special Prosecutor, on September 17, 2018.

¹Record, Vol. 8, pp. 307- 320.

Accused Morohamsalic and Diama based their motion on the following grounds: 1) failure of the prosecution to prove the elements of the crime alleged in Section 3 (e) of R.A. 3019; 2) failure of the prosecution to prove the alleged conspiracy in the Amended Information dated May 5, 2014. In elaborating their position, the accused allege that they did not exercise any official functions in the purchase of the ABC My Practice Book II and that the documentary evidence presented by the prosecution are all bereft of merit to pin them down, as none of the said documents point to the accused as principal in violating Sec 3 (e) of R.A. 3019.

The prosecution, by way of Comment/Opposition², capitalized on the procedural infirmity of the subject motion for failure to comply with Sec. 5, Rule 14 of the Rules of Court regarding notice of hearing. Specifically, the prosecution claims that the subject motion of the accused was set for hearing more than ten (10) days from the time of its filing on August 30, 2018. Moreover, the prosecution refuted that the factual circumstances of the case remained undisputed and that the issues raised by the accused were mere assertions without basis.

Hence, this resolution.

Section 23, Rule 119 of the Rules of Court, provides:

Section 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. (15a)

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. (**Emphasis supplied**)

As correctly pointed out by the prosecution, the grounds raised by the accused are not specific grounds contemplated under the rules. While the accused claim that

²Record, Vol. 8, pp. 324-331.

the totality of evidence presented by the prosecution is insufficient for failure to prove the elements of the crime charged and for failure to establish conspiracy, they (accused) likewise failed to assign specific grounds on which the demurrer is based.

In the case of *Hermanos v. Yap Tico, et al.*³ the Supreme Court explained in detail the intendment of the law for requiring specificity of the grounds in support of a demurrer, to wit:

The demurrer must distinctly specify the grounds upon which any of the objections to the complaint, or to any of the causes of action therein stated, are taken.

When a demurrer is made to a complaint, whether upon one ground or another, it should set out distinctly the grounds upon which the objection is based. It cannot be couched simply in the language of the code. It must set forth distinctly the grounds upon which that language is founded. The reason for this is plain. It is not fair to the plaintiff to interpose to a complaint the simple objection that it does not state facts sufficient to constitute a cause of action. Neither is it fair to the court. Neither the plaintiff nor the court should be left to make, possibly, a long and tiresome examination and investigation and then, perhaps, finally be compelled to guess. The grounds of the objection should be pointed out so that all may see. **A demurrer was not invented to make useless work for a court, or to deceive or delude a plaintiff. Its purpose was to clarify all ambiguities; to make certain all indefinite assertions; to bring the plaintiff to a clear and clean expression of the precise grievance which he has against the defendant; to aid in arriving at a real issue between the parties; to promote understanding and prevent surprise. To that end, a demurrer should specify, for the benefit of the plaintiff and the court as well, the very weakness which the demurrant believes he sees in the complaint.** It should be so presented and handled as to bring to a quick determination the question whether the plaintiff has, at bottom, a legal claim against the defendant. To attain this object, the demurrer should be clear, specific, definite, and certain as to the precise weakness of the complaint. Being an instrument to cure imperfections, it should not itself be imperfect.

To the complaint before us a demurrer was interposed, stating merely that the complaint did not allege facts sufficient to constitute a cause of action. No particular ground was specified. No specific failure was asserted or named. No precise weakness was pointed out. The order overruling the demurrer does not indicate that the court was informed as to the specific grounds upon which it was based. Certainly, so far as the record goes, the plaintiffs never knew until after the demurrer was decided precisely what the defendant was driving at when he presented it.

Under such conditions, we do not feel that we should use our discretion to indulge presumptions in favor of the demurrant in determining whether or not the allegations of the complaint are sufficient. We do not feel like going out of the beaten path, even if we could, to search for defects in the complaint when neither the plaintiff nor the court was precisely informed of the alleged defects until it was too late to be use to either. We do not feel

³G.R. No. L-6791, March 27, 1913.

like favoring a demurrer which is as full of defects as the pleading against which it is launched. The order of the court overruling the demurrer should be sustained if there is any legal ground upon which it can be, although such ground was not presented by the court below as one of the reasons for its decision. The fact that the demurrer was worthless as a pleading is one of the strongest reasons for overruling it.

It has been urged that our decision, requiring that in all demurrers the *specific grounds* of the *particular objection* should be set out distinctly, is against the weight of authority. We do not think so. But if it were, we should still be forced, in conscience, to stand upon the proposition as we have stated it, as it seems to us to be fundamentally right and to be fully supported by reason and logic. (**Emphasis supplied**)

Moreover, a perusal of the records show that the present motion was set for hearing on September 19, 2018, which is thirteen (13) days from the time of its filing on September 6, 2018.

Section 5, Rule 15 of the Rules of Courts states:

Section 5. Notice of hearing. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

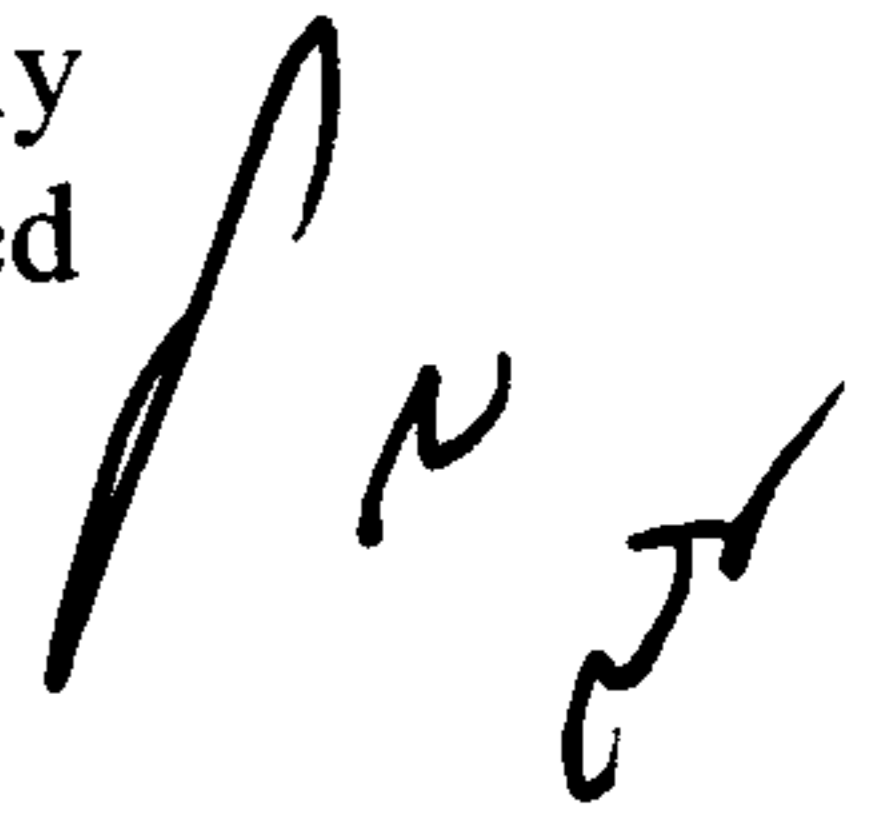
The above rule provides that the date of the hearing should be set within ten (10) days after the filing of the motion, however, the accused failed to comply with the same.

The Supreme Court has in countless jurisprudence held that every motion must contain the mandatory requirements of notice and hearing as provided under the Rules of Court and that a motion which fails to comply with such requirements is considered a worthless piece of paper which should not be acted upon.

As early as 1998, the Supreme Court in the case of *Hon. Fortich v. Hon. Corona*⁴ expounded the importance of adherence to the rules as a tool to the orderly administration of court proceedings, to wit:

Procedural rules, we must stress, should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. **The requirement is in pursuance to the bill of rights inscribed in the Constitution which guarantees that all persons shall have a right to the speedy disposition of their cases before all judicial, quasi-judicial and administrative bodies.** The adjudicatory bodies and the parties to a case are thus enjoined to abide strictly by the rules. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed

⁴ 359 Phil. 210, 220 (1998).



procedure to ensure an orderly and speedy administration of justice. There have been some instances wherein this Court allowed a relaxation in the application of the rules, but this flexibility was never intended to forge a bastion for erring litigants to violate the rules with impunity. A liberal interpretation and application of the rules of procedure can be resorted to only in proper cases and under justifiable causes and circumstances. **(Emphasis supplied)**

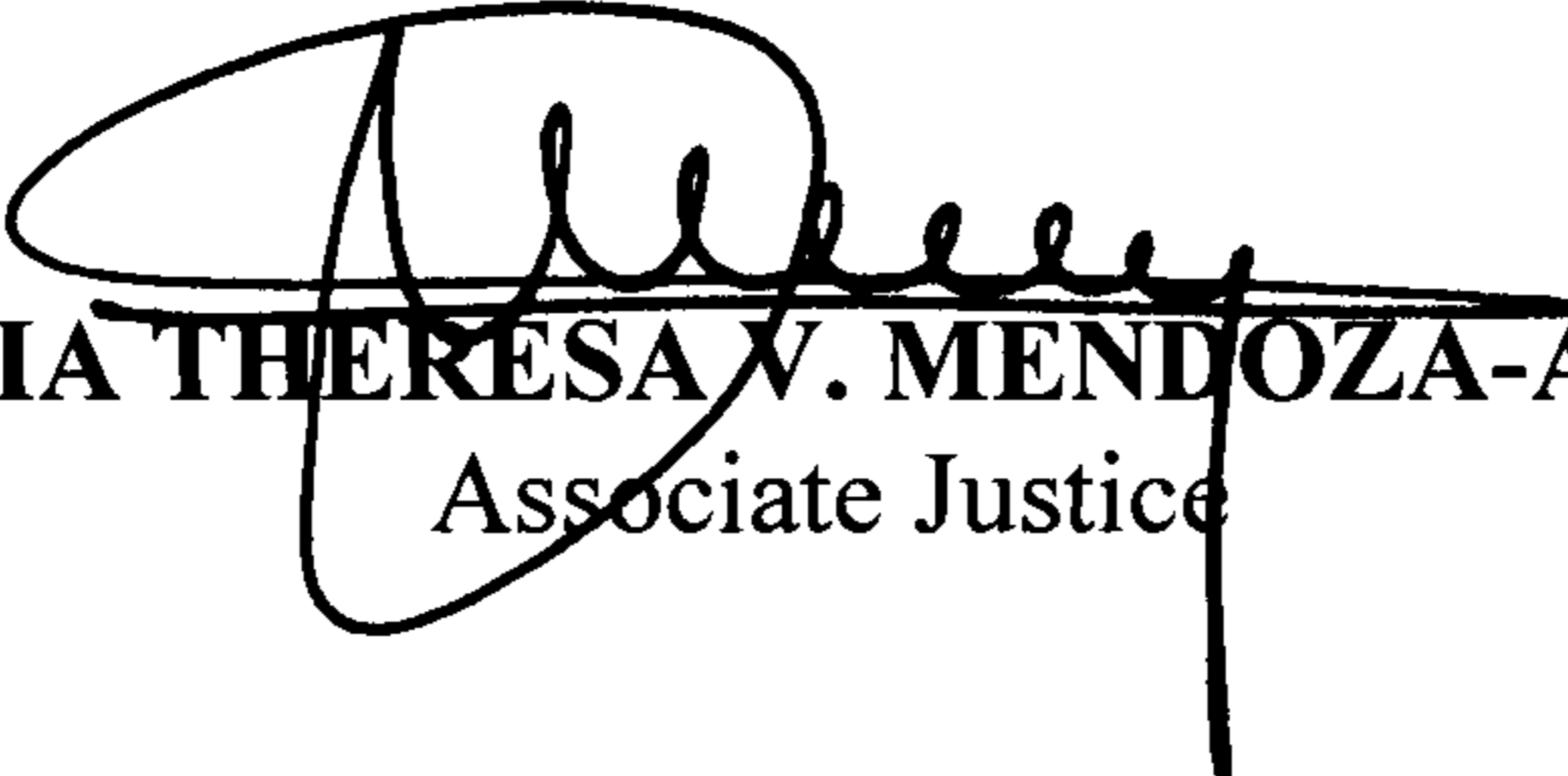
The accused, having offered no justifiable causes or circumstances for non-compliance with the rules, this Court has no recourse but to apply the same for being a vital component of the rights of the parties to a speedy disposition of cases and orderly administration of justice.

For failure to raise specific grounds in its motion and for its failure to comply with the requirements of the rules, the present motion of the accused should necessarily fail.

WHEREFORE, in view of the foregoing, the Motion for Leave of Court to File Demurrer to Evidence by accused Morohamsalic and Diama is **DENIED**.


Accused, is nevertheless not precluded from filing their Demurrer to Evidence without leave of court within a non-extendible period of ten (10) days from receipt hereof, pursuant to Section 23, Rule 119 of the Revised Rules of Criminal Procedure and subject to the condition provided under paragraph 2 thereof.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice