



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-0736

For: Violation of Section 3(e),
Republic Act No. 3019

- versus -

PROCESO L. MALIGALIG,
Accused.


SB-17-CRM-0737

For: Violation of Article 217, in relation to
Articles 48 and 171, Par. 4, of the
Revised Penal Code (Malversation
through Falsification)

Present:

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

Promulgated:

October 23, 2018 

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Leave of Court to File Demurrer to Evidence*¹ filed on September 10, 2018 by accused Proceso L. Maligalig, together with the *Comment/Opposition*² filed on October 15, 2018 by the prosecution.

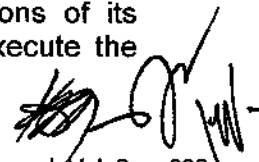
Accused Maligalig claims that the prosecution was not able to establish all of the elements of the crimes charged to support his conviction.³ He argues:

- a. The prosecution relied heavily on the bare allegations of its witnesses that: (i) accused was not authorized to execute the

¹ Dated September 10, 2018; Record, Vol. 2, p. 284.

² (Re: *Motion for Leave to File Demurrer to Evidence*) dated October 12, 2018; Record, Vol. 2, p. 322.

³ Motion for Leave dated September 10, 2018, p. 1.



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Release, Waiver, and Quitclaim, and, (ii) Bataan Shipyard & Engineering Co., Inc. (BASECO) did not receive the amount of PhP3,554,000.00 from Northstar Transport Facilities, Inc. (Northstar).

- b. Bare allegations are not evidence per se. There was no proof that accused Maligalig misappropriated the amount of PhP3,554,000.00. Neither was there proof that accused Maligalig made an untruthful statement in the *Release, Waiver, and Quitclaim*. The positive allegation of the accused that Northstar remitted the subject amount prevails; the same is more credible than the negative allegations of the prosecution witnesses.
- c. The instant motion is filed in good faith and not for the purpose of delaying the proceedings in this case.⁴

On the other hand, the prosecution contends that it was able to prove all the elements of violation of Section 3(e) of Republic Act No. 3019, and, of Article 217 in relation to Articles 48 and 171, Par. 4, of the Revised Penal Code.⁵ Thus:

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

- a. Accused Maligalig was a public officer⁶ discharging administrative and official functions at the time he executed the *Release, Waiver, and Quitclaim* on March 29, 2010 in favor of Northstar (Exhibit "I"). In fact, he executed said document as "the duly appointed President of BASECO."
- b. He acted with evident bad faith or gross inexcusable negligence because he executed the *Release, Waiver, and Quitclaim* without any authority from the BASECO Board of Directors in the form a Board Resolution (Exhibits "J" and "J-1"), contrary to the statement in the *Release, Waiver, and Quitclaim* that accused Maligalig executed the same "to implement the resolutions of the Board of Directors of the Corporation promulgated and approved on March 24, 2010 in its special board meeting."
- c. His action caused injury to the Government in the total amount of PhP4,819,198.13 that was due from Northstar as rental arrearages by executing a *Release, Waiver, and Quitclaim* in favor of the latter. Further, the amount of PhP3,554,000.00 received by accused Maligalig as settlement did not enter the coffers of BASECO.
- d. The amount of PhP4,819,198.13 appears to have been computed based on the terms of the Contract of Lease (Exhibit "H") for May 2009 to February 2010 rental.

⁴ Motion for Leave dated September 10, 2018, p. 2.
⁵ Comment/Opposition dated October 12, 2018, p. 1.
⁶ Pre-trial Order dated April 3, 2018.

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- e. BASECO's Finance Officers categorically testified and issued Certifications (Exhibits "K" and "O") that BASECO has no record of receipt of the amount of Php3,554,000.00 as stated in the waiver.
- f. Accused Maligalig's actions gave Northstar unwarranted benefits and advantage, since the *Release, Waiver, and Quitclaim* appears to have released Northstar from all its liability for the period May 2009 to February 2010 in exchange for the settlement amount of Php3,554,000.00, without the authority of the BASECO Board of Directors.⁷

Violation of Article 217 in relation to Article 48 and Article 171, Paragraph 4, RPC

- a. In the *Release, Waiver, and Quitclaim*, accused Maligalig made the untruthful statement that he executed said document in order to implement the resolution approved on March 24, 2010 by the BASECO Board of Directors, when in truth and in fact, said statement is absolutely false because no such resolution was issued.
- b. He has the legal obligation to disclose the truth about the absence of such resolution considering that he was the President of BASECO at that time. Clearly, by falsifying the *Release, Waiver, and Quitclaim*, he took advantage of his official position.
- c. In the *Release, Waiver, and Quitclaim*, accused Maligalig admitted that he received the amount of Php3,554,000.00 as settlement for the arrearages of Northstar, yet BASECO's records are bereft of any information regarding its receipt of said amount.
- d. The amount received by Maligalig should be held in trust for the exclusive benefit of BASECO. The declaration of non-receipt thereof by BASECO, as established through the testimony of its Finance Officers as well as the records, gives rise to the presumption in law that accused Maligalig appropriated, took or misappropriated the settlement amount of Php3,554,000.00, which was under his custody and control at the time of receipt thereof by reason of the execution of the *Release, Waiver, and Quitclaim*, and for which amount accused was accountable.
- e. Under the foregoing circumstances, it is clear that the falsification of the *Release, Waiver, and Quitclaim* was a necessary means to commit the crime of *Malversation*, as provided under Article 48, RPC. Accused Maligalig was able to obtain custody and control of the settlement amount, and thereafter, was able to malverse the same, precisely because he falsified the *Release, Waiver, and Quitclaim* in favor of Northstar.
- f. The allegation in the *motion* that "The positive allegation of the accused that Northstar remitted the subject amount prevails and is more credible than the negative allegations of the prosecution witnesses" is evidentiary in nature. Thus, requiring a full-blown trial.⁸

⁷ Comment/Opposition dated October 12, 2018, pp. 2-3.

⁸ Comment/Opposition dated October 12, 2018, pp. 4-5.

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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: (i) violation of Section 3(e), Republic Act No. 3019; and, (ii) Article 217 in relation to Articles 48 and 171, Paragraph 4, Revised Penal Code. The Court hereby **DENIES** the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Maligalig.

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 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.

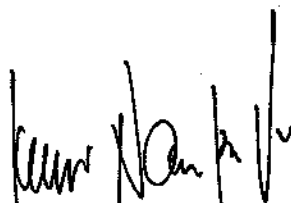
The hearings set for the accused to present his evidence on October 23, 24, and 29, 2018, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.⁹

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

⁹ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases