



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0413

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

- versus -

Present:

CELESTINO A. MARTINEZ, ET AL.,
Accused.

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

Promulgated:

JAN 25 2019

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Celestino A. Martinez' *Motion for Leave to File Demurrer to Evidence*,¹ received by this Court through registered mail on November 14, 2018; together with the *Comment and/or Opposition*² filed by the prosecution.

Accused Martinez claims that the prosecution failed to prove beyond reasonable doubt the charge against him.³ Accused Martinez argues:

- a. The prosecution failed to sufficiently prove the existence of all the elements of violation of Section 3(e) of Republic Act No. 3019. There is no dispute as to the existence of the first

¹ Dated November 5, 2018; Record, Vol. III, pp. 4-11. The resolution on accused Martinez's *Motion for Leave*, which was originally received by this Court through registered mail on November 6, 2018, was deferred pending the Court's resolution on the prosecution's *Motion for Partial Reconsideration (of the Resolution dated 18 October 2018)*.

² *To the Motion for Leave to File Demurrer to Evidence* filed by accused Martinez dated January 11, 2019; filed on January 14, 2018; Record, Vol. III, pp. 69-75.

³ *Motion for Leave* dated November 5, 2018, pp. 1-2.

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element. But, the existence of the second and third elements is highly doubtful.

- b. Accused Martinez did not act with manifest partiality, evident bad faith or gross inexcusable negligence, nor did he give unwarranted benefits, privilege and advantage to Sikap Yaman.⁴
- c. The prosecution failed to present evidence to show that accused Martinez was the one responsible for "choosing" Sikap Yaman; determining the latter's qualifications. These responsibilities do not fall upon him, but upon the Sanggunian.⁵
- d. The prosecution failed to prove undue injury. None of the witnesses categorically claimed that the project did not push through or that the funds did not go to its intended recipients.⁶
- e. The prosecution failed to sufficiently prove that the accused conspired to commit acts in violation of Section 3(e), R.A. No. 3019. Accused was merely performing his functions when he affixed his signature on the relevant documents.⁷

On the other hand, the prosecution contends that it presented adequate evidence to prove the presence of all the elements of violation of Section 3(e), R.A. No. 3019.⁸ Thus:

- a. The prosecution sufficiently showed how accused acted with manifest partiality, bad faith, or inexcusable negligence and how accused gave unwarranted benefit, privilege, and advantage to Sikap Yaman.⁹
- b. The Memorandum of Agreement, Disbursement Vouchers, and bank checks show that accused Martinez authorized the release of funds to Sikap Yaman despite irregularities, *i.e.*, Sikap Yaman failed to submit the requirements under COA Circular No. 96-003, attending the subject transaction.

The Disbursement Voucher (Exhibit K and K-1) clearly indicates that there were lacking supporting documents at the time of presentation thereof. Further, the Disbursement Voucher, Allotment and Obligation Slip (Exhibit L), and Certification as to Availability of Funds (Exhibit M), were undated.

⁴ Motion for Leave dated November 5, 2018, p. 2.
⁵ Motion for Leave dated November 5, 2018, p. 3.
⁶ Motion for Leave dated November 5, 2018, pp. 3-4.
⁷ Motion for Leave dated November 5, 2018, pp. 4-5.
⁸ Comment/Opposition dated January 11, 2019, p. 1.
⁹ Comment/Opposition dated January 11, 2019, p. 2.

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- c. The fact that accused authorized the release of funds despite the irregularities on the face of the documents shows bad faith and manifest partiality in favor of Sikap Yaman.
- d. The ruling of the Supreme Court in *Arias vs. Sandiganbayan* that there should be "other grounds than the mere signature or approval appearing on a voucher to sustain a conspiracy charge," is not applicable to the instant case.¹⁰
- e. The fourth element is present. The Government suffered undue injury in the amount of PhP6,000,000.00. Prosecution witness Ms. Lamparas testified that said amount remain unliquidated up to the present.¹¹
- f. Aside from the allegation of undue injury to the government, accused was also charged of giving unwarranted benefit, advantage or preference, to Sikap Yaman. Under the second mode, damage is not required.

The fact that accused allowed Sikap Yaman to implement the *Farm Input and Farm Implements Program* without the required qualifications clearly shows an unjustified favor, preference and unwarranted benefit. Further, Sikap Yaman was given the full amount of the contract even before the delivery of its obligation.

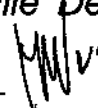
- g. The chronological timeline of the transactions shows a concurrence between the accused to achieve a common purpose. The facts show the unity of criminal design and execution.¹²
- h. Entering into a *Memorandum of Agreement* with Sikap Yaman is not a ministerial act. Accused Martinez, as Municipal Mayor, is duty-bound to ensure that the Government transacts with qualified individuals and that prior to the release of the funds, the appropriate guidelines are followed.¹³

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 against accused Celestino A. Martinez III for violation of Section 3(e) of Republic Act No. 3019. The Court hereby **DENIES** the *Motion for Leave to File Demurrer to Evidence* filed by accused Martinez.



¹⁰ Comment/Opposition dated January 11, 2019, p. 3.


¹¹ Comment/Opposition dated January 11, 2019, p. 4.

¹² Comment/Opposition dated January 11, 2019, pp. 4-5.

¹³ Comment/Opposition dated January 11, 2019, p. 6.

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This is without prejudice to the filing by accused Martinez 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.

Accused Martinez is given 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.

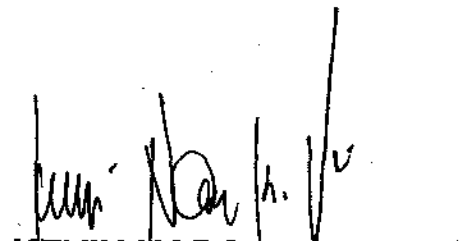
The hearings set for the accused to present their evidence on February 12 and 13; March 12, 13, 26, and 27, 2019; and, April 2 and 3, 2019, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of accused Martinez.¹⁴

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

¹⁴ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases