



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
Quezon City

Seventh Division

MINUTES of the proceedings held on January 28, 2019

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--Chairperson

Justice ZALDY V. TRESPESES -----Member

Justice GEORGINA D. HIDALGO-----Member

The following resolution was adopted:

Crim Case No. SB-17-CRM-2094 – People of the Philippines vs. Geronimo Buenaventura P. Treñas

This resolves the following:

1. Accused Geronimo Buenaventura P. Treñas “MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE” dated January 14, 2019¹; and
2. Prosecution’s “OPPOSITON [To Motion for Leave to File Demurrer to Evidence dated January 14, 2019]²”

HIDALGO, J.

Submitted for resolution are the Motion for Leave of Court to File Demurrer to Evidence (“Motion”) filed by accused Geronimo Buenaventura P. Treñas (accused Treñas) and the Opposition thereto filed by the prosecution.

Arguments offered in support of the Motion

In his Motion, accused Treñas in essence, raised the following arguments:

1. The second and third elements required for the successful prosecution of the crime of violation of Section 3 (e) of Republic Act No. 3019, *i.e.* manifest partiality, evident bad faith or gross inexcusable negligence, and undue injury to the Government, respectively, are absent.

¹ Record, vol.2, pp. 383 to 418

² Record, Vol. 2, pp. 423 to 446

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2. His guilt beyond reasonable doubt was not established.

Specific arguments offered in support of the Motion

Anent the absence of the elements of manifest partiality, evident bad faith or gross inexcusable negligence

Specifically, accused Treñas argued that the prosecution utterly failed to adduce evidence that he manifestly favored Iloilo Press Club (IPC) over any other beneficiary since it was Senator Loren Legarda (Sen. Legarda) who selected the project and who has a hand in selecting the beneficiary of the project. He further insisted that Sen. Legarda has the sole discretion how her Priority Development Assistance Fund (PDAF) will be utilized as shown by **Exhibit "G"** (Special Allotment Release Order No. VI-2003-028 dated June 3, 2003).

Accused Treñas likewise maintained that the amount of Five Hundred Thousand Pesos (₱ 500,000.00) covered by SARO No. VI-2003-028 is only in the nature of a financial assistance, the amount of which is not enough to construct the IPC Building

More, accused Treñas theorized that the admission of the prosecution during the stipulation of facts that the selection of IPC as the beneficiary of the financial assistance constitutes as an indubitable proof that he has no participation in the selection of IPC as the beneficiary of the project.

In order to convince this Court to grant his demurrer to evidence, accused Treñas likewise relied on the idea that the release of the funds was made to IPC and not to a non-existent beneficiary nor was it given on a whim.

Additionally, accused Treñas reasoned out that the requirement of accreditation provided under COA Circular No. 96-003 applies only to an implementing agency and not to IPC because as admitted by the parties during the stipulation of facts, IPC is a beneficiary. Therefore, the bond requirement applies to it. He similarly claimed that the City of Iloilo complied with the requirements of Sec. 3.3 of COA Circular No. 96-003 because it issued Disbursement Voucher No. 300-03-12-614 dated December 30, 2003.

In order to convince this Court that he did not act with gross inexcusable negligence, accused Treñas raised the following defenses:

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1. The prosecution's reliance that the City Engineering Office was apprised of the construction of the IPC Building and that the project was endorsed and a building permit was secured, are erroneous factual conclusions because these circumstances happened after the release of the financial assistance of IPC pursuant to the SARO. In sum, these are allegations that are entirely immaterial and irrelevant to the issue of unwarranted benefit.
2. The Memorandum of Agreement signed by the accused does not contain an obligation on his part to endorse the construction of IPC Building.
3. The existence or non-existence of a building permit is irrelevant and immaterial to the release of the financial assistance of the PDAF of Sen. Legarda.
4. Finally, under the Memorandum of Agreement, it is the IPC as the beneficiary and not the City of Iloilo which is required to make the liquidation.

Anent the absence of the element of undue injury to the Government or any private party

In support of this argument, accused Treñas argued that undue injury to the government or any private party was not established and that the prosecution failed to adduce evidence that he gave any unwarranted benefit, advantage or preference to anyone.

Specifically, he argued that the prosecution primarily relied on Audit Memorandum No. 2005-001 dated February 3, 2005 although that its own witness Alerta categorically admitted that an audit observation memorandum is not a final determination of the allegations.

Following this argument, accused Treñas raised the following points:

1. An "audit query" is not final and consequently, does not amount to proof of moral certainty.
2. As testified by witness Marañon, a Notice of Disallowance is issued by the Commission on Audit (COA) if the transaction is illegal, irregular, unnecessary and extravagant but she is not aware of any Notice of Disallowance issued by COA against the City Government of Iloilo.

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In sum, he asserted that, there being no Notice of Disallowance, there is no basis to say that the issuance of financial assistance from the PDAF of Sen. Legarda is a transaction that can be described as illegal, irregular, unnecessary and extravagant.

Anent the absence of the element of unwarranted benefit, advantage or preference was given to anyone

Accused Treñas claimed that the belated submission by the Prosecution of the purported intra-corporate dispute between the IPC and the entity represented by witness Jalbuna is irrelevant in the determination of his liability under Section, 3(e) of RA 3019 since the press club which asked for financial assistance from Sen. Legarda is different from the press club represented by said witness. In short, there are two press clubs involved in this case.

In going further, accused Treñas asserts the fact that the entity represented by witness Jalbuna did not [raise] a complaint against Sen. Legarda to demand that his group be the proper recipient of the PDAF disbursement militates against the theory of the prosecution that the financial assistance was released to the wrong party. There being a dispute between two entities who should be the proper recipient of the PDAF proceeds, the same is within the jurisdiction of the Regional Trial Court and not within the Sandiganbayan.

Anent the failure of the prosecution to prove the guilt beyond reasonable doubt of accused Treñas

Accused Treñas in his attempt to show that his guilt was not proven beyond reasonable doubt, raised these two arguments:

1. The act of signing a MOA is not enough to establish guilt beyond reasonable doubt as required by Section 3(e) of RA 3019.
2. The purported failure to monitor the construction of the project is not enough reason to establish the quantum of proof for conviction under RA 3019.
3. The witnesses presented by the prosecution are incompetent witnesses and their testimonies are manifestly insufficient to sustain his guilt.

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In its **OPPOSITION**, the prosecution maintained that the arguments raised by accused Treñas are evidentiary matters that are not yet proven. In fact, the prosecution alleged that the matters raised by accused Treñas require separate evidentiary matters that relate to the defense of the accused. Thus, prosecution prayed that the Motion for Leave to File Demurrer to Evidence should be denied for lack of merit.

Particularly, the prosecution states that accused Treñas is requiring this Court to assess whether the accused may incur criminal liability outside the SARO and implicates the liability of Sen. Legarda who allegedly chose the IPC as beneficiary.

These two arguments, according to the prosecution, are attempting to point a factual matter not yet presented for the consideration of this Court because accused Treñas is yet to present his evidence. This being so, the Court has no basis yet to find that accused Treñas did not incur any liability beyond what is contained in the SARO.

The prosecution likewise points out that accused Treñas heavily relied on the SARO has no basis since the actions being complained of against him arose immediately after the SARO was issued and after the funds are released. It further explained that there is nothing in the Information that confines his criminal liability in the SARO only. Additionally, the prosecution argued that this Court upon perusal of the allegations in the Information found probable cause for the issuance of a Warrant of Arrest against him which implies that criminal liability may be incurred beyond what is relected in the SARO.

With respect to the reliance of accused Treñas on the Notice of Disallowance, to the effect that the transaction he entered into which is the subject of this case, cannot be considered as illegal, irregular, unecessary and extravagant, the prosecution reasoned out that the absence of Notice of Disallowance does not mean that the transaction undertaken by a public official is regular. It added that it presented a witness in the person of State Auditor IV Evelyn Marañon, where she testified that since the previous Auditor issued an Audit Observation Memo (AOM) as a result of her audit, and since there was no compliance with the AOM, the transaction is still questionable.

The prosecution also clarified that the liability of accused Treñas hinges from his act of releasing public funds to a private entity and from his failure to exercise caution in releasing the funds and not because he selected IPC as beneficiary. To be precise, the prosecution pointed out that even without accreditation, accused Treñas, then Mayor of Iloilo City, and

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released public funds to a private entity, which is prohibited by law.

Another reason brought by the prosecution is that accused Treñas failed to perform the obligations incumbent upon him as stated in the Memorandum of Agreement. The prosecution explained that under the MOA, accused Treñas is required to monitor the project and to compel the IPC to make the proper liquidation, which he failed to comply. In fact, the prosecution theorizes that accused Treñas failed to require IPC to liquidate the amount of ₱ 500,000.00, also as required under the MOA. The prosecution added that accused Treñas although with full knowledge that IPC did not liquidate a prior amount (₱ 100,000.00) extended to it, still it did not require to liquidate the said amount.

More, contrary to the claim of accused Treñas, after the signing of the MOA, he simply left it for the (*sic*) dead and just failed to endorse the same to the City Engineering's Office for proper monitoring.

After hearing all the arguments raised by both parties, the Motion was submitted for resolution.

Hence, this resolution.

After a thorough examination of the allegations in the Motion and, the Opposition thereto, as well as the evidence offered by the prosecution in support of establishing its case against herein accused, this Court is inclined to deny the Motion.

Allow this Court to discuss.

Section 23, Rule 119 of the Rules of Court states that after the prosecution terminates the presentation of evidence and rests its case, the trial court may dismiss the case on the ground of insufficiency of evidence upon the filing of a Demurrer to Evidence by the accused with or without leave of court. If the accused files a Demurrer to Evidence with prior leave of court and the same is denied, he may adduce evidence in his defense. However, if the Demurrer to Evidence is filed by the accused without prior leave of court and the same is denied, he waives his right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

Corollarily, in the case of *People v. Laguio, Jr.*³, the Supreme Court explained that after the prosecution rests its case, and the accused files a Demurrer to Evidence, the trial court is required to evaluate whether the evidence presented by the prosecution is sufficient enough to warrant the

³ G.R. No. 128587, March 16, 2007

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conviction of the accused beyond reasonable doubt. If the trial court finds that the prosecution evidence is not sufficient and grants the accused's Demurrer to Evidence, the ruling is an adjudication on the merits of the case which is tantamount to an acquittal and may no longer be appealed. Any further prosecution of the accused after an acquittal would, thus, violate the constitutional proscription on double jeopardy.

In the present case, it should be noted that in our Resolution dated January 4, 2019⁴, this Court **ADMITTED ALL** the documentary evidence from which prosecution anchored its allegations, majority of those, not to mention, are public documents, which enjoy the presumption of regularity, in their favor and to contradict the same, there must be evidence that is clear, convincing and more than merely preponderant; otherwise the document should be upheld.⁵

Since accused Treñas is yet to present his case, this Court has no basis to rule that his evidence is clearer and more convincing than what the prosecution has presented.

Specifically, the reliance of accused Treñas to the effect that, since there is no the Notice of Disallowance, the transaction he entered into which is the subject of this case, cannot be considered as illegal, irregular, unnecessary and extravagant, is **factual in nature** which requires presentation of evidence and can only be properly determined after both parties have presented their respective evidence specially so that the prosecution had presented as one of its witnesses State Auditor IV Evelyn Marañon, who testified that since the previous Auditor issued an Audit Observation Memo (AOM), the transaction entered into by accused Treñas is still in question.

Not only that, accused Treñas' allegation that the elements of *manifest partiality, evident bad faith or gross inexcusable negligence* are absent in this case, likewise requires an examination of both the evidence of the prosecution and the accused.

In the case of *Alex M. Valencerina vs. People of the Philippines*⁶, the Supreme Court explained each constitutive element in this manner:

"Partiality is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "Bad faith does not simply connote bad judgment or negligence; it imputes a

⁴ Record, Vol. 2, pp. 378 to 380

⁵ Dionisio C. Ladignon vs. Court of Appeals, GR No. 122973, July 18, 2000

⁶ GR No. 206162, December 10, 2014

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dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."

Taken from their respective definitions, these constitutive elements of RA 3019 require a careful evaluation of the respective evidence of the prosecution and the accused, primarily because this Court cannot determine its existence or non-existence without reviewing or evaluating the evidence presented.

To be precise, in order for this Court to determine whether or not accused Treñas acted with manifest partiality, evident bad faith or gross inexcusable negligence, it has to look into the facts and circumstances surrounding the case more specifically his defense that he did not incur any liability beyond what is contained in the SARO and/or under the MOA.

Therefore, gauging from the evidence so far presented by the prosecution, the Court is of the mind that, for now, the pieces of evidence presented by it are strong enough to warrant conviction. Hence, there is a need for the accused to present his evidence because it is only in doing so that there can be a full appreciation and evaluation of the case.

WHEREFORE, and considering our disquisitions above, the Motion for Leave of Court to File Demurrer to Evidence filed by accused Geronimo P. Treñas is **DENIED FOR LACK OF MERIT**.

Consequently, the setting on January 31, 2019 at 8:30 in the morning for the reception of the defense's evidence, shall proceed.

SO ORDERED.


GEORGINA D. HIDALGO
Associate Justice

J. J.

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


ZALDY V. TRESPESES
Associate Justice

