



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0727

- versus -

For: Malversation of Public
Funds Under Art. 217 of the
Revised Penal Code

ALBERT G. AMBAGAN JR., et al.,
Accused.

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

Promulgated:

February 27, 2019 *lad*

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RESOLUTION

LAGOS, J.:

This resolves the *Motion for Leave of Court to File Demurrer to Evidence*, dated 27 January 2019, of accused Albert G. Ambagan, Jr., *Motion for Leave of Court to File Demurrer to Evidence*, dated 27 January 2019, of accused Jaime P. Rojas and the *Motion for Leave of Court to File Demurrer to Evidence*, dated 28 January 2019, of accused Alma V. Ambat, and the prosecution's *Consolidated Opposition* to the said motions.

After a thorough consideration of the prosecution's evidence, both oral and documentary, which the Court admitted in its Minute Resolution dated 17 January 2019, as well as the stipulations between the parties, the Court is not inclined to grant the accused-movants' leave to file demurrer to evidence. However, if they so desire, the accused-movants are given a non-

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extendible period of ten (10) days from notice within which to file their respective demurrers to evidence without prior leave of court, subject to the provision of Section 23, Rule 119 of the 2000 Rules of Criminal Procedure which provides:

SEC. 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.**

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.

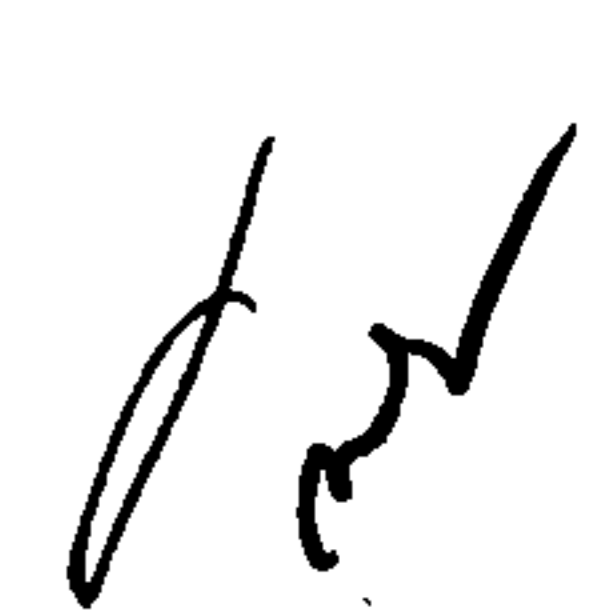
The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

WHEREFORE, in light of the foregoing, the *Motions for Leave of Court to File Demurrer to Evidence* of accused Albert G. Ambagan, Jr., Jaime P. Rojas and Alma V. Ambat are hereby **DENIED**.

The settings for presentation of defense evidence on March 5 and 6, 2019 shall proceed as scheduled.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice



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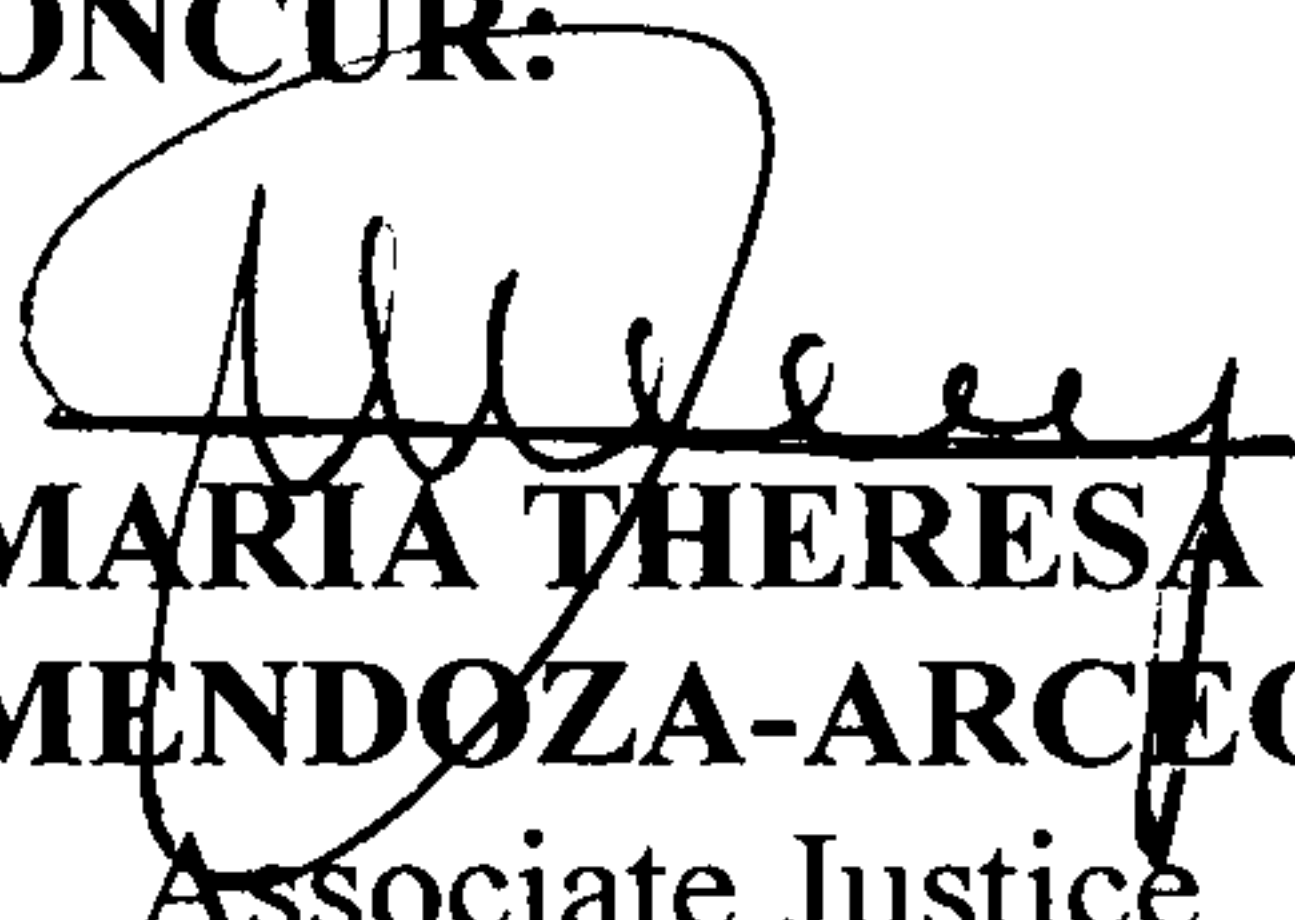
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WE CONCUR:


**MARIA THERESA V.
MENDOZA-ARCEGA**
Associate Justice


**MARYANN E.
CORPUS-MAÑALAC**
Associate Justice