



Republic of the Philippines
Sandiganbayan
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-1562 - 1566

For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019 and
Malversation of Public Funds

-versus-

PRESENT:

**RODOLFO V. VALDEZ, PAZ
P. FORTUNATO and MA.
CYNTHIA A. PUYAT,**

Accused,

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, J., &
VIVERO, J.

Promulgated:

APR 08 2019

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RESOLUTION

MIRANDA, J.:

This resolves the: 1) Motion (for Leave of Court to File Demurrer to Evidence) dated March 4, 2019 filed by accused Maria Cynthia A. Puyat (Puyat) on the same day; 2) Manifestation and Ex Parte Humble Motion dated March 7, 2019 (with attached Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019) filed by accused Rodolfo V. Valdez (Valdez) and Paz P. Fortunato (Fortunato) on March 8, 2019; and 3) Consolidated Opposition (Re: Motions for Leave of Court to File Demurrer to Evidence) dated March 7, 2019 filed by the Prosecution on March 8, 2019.

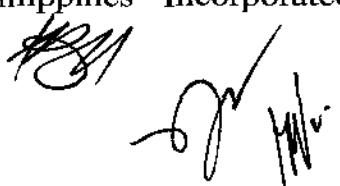
In her motion, accused Puyat alleges that: 1) the Prosecution's evidence is insufficient to establish the guilt of the accused beyond reasonable doubt; 2) the Prosecution's documentary evidence are hearsay as these were identified by persons who did not have personal knowledge of their existence and due execution; 3) the Prosecution's documentary evidence are immaterial as the fact being proved was not alleged in the information; 4) the

Prosecution's documentary evidence were introduced as secondary evidence without laying the foundation for their introduction; and 5) the testimonial evidence of the Prosecution are hearsay as its witnesses had no personal knowledge of the material allegations in the complaint and informations.

In their manifestation and ex-parte humble motion, accused Valdez and Fortunato allege that they have filed a manifestation and motion for leave to file verified demurrer to evidence after the Prosecution filed its formal offer of evidence but before the Court could resolve the same. Since the earlier manifestation and motion for leave to file verified demurrer to evidence appeared to be prematurely filed, they pray that the Court admit the Manifestation and Ex Parte Humble Motion dated March 7, 2019 and consider it to be filed within the allowed period and/or admit it and resolve the issues raised therein in the interest of justice and human consideration.

In their attached manifestation and motion for leave to file verified demurrer to evidence, accused Valdez and Fortunato allege that: 1) the documentary evidence adduced by the Prosecution, except for the complaint and recent certifications, are inadmissible in evidence for being secondary evidence and identified by people who do not have personal knowledge of their existence, due execution, preparation, issuance and veracity of the contents thereof; 2) the testimonial evidence of the Prosecution are hearsay and inadmissible as none of the witnesses had personal knowledge of the material allegations in the informations; 3) the certifications issued by prosecution witnesses show that material documentary evidence could not be found; and 4) the certifications were not under oath and did not definitely state the cause, date and place of the occurrence that led to the loss of the original copies of the documentary evidence.

In its consolidated opposition, the Prosecution alleges that: 1) accused Valdez, Fortunato and Puyat stipulated that they were public officers at the time material to the allegations in the informations; 2) they purchased 17 cartons/boxes of soil conditioner, 87 sachets of organic fertilizers, 1,000 liters of Orgamin DA and 2,500 bags of SAKA organic fertilizers without public bidding; 3) the transactions with the three suppliers, i.e., Chempro, Exquisite and SAKA, were made with inordinate speed; 4) the brands of the fertilizers to be purchased were specified in the purchase requests; 5) the purchase orders failed to indicate vital informations contrary to Commission on Audit (COA) Circular No. 96-010; 6) prior to the release of the funds, the Provincial Government of Oriental Mindoro had already transacted with Exquisite and SAKA Agri Ventures as shown by the delivery order and purchase request; 7) prosecution witness Julieta B. Lansangan testified that Exquisite Focus Philippines Incorporated, Chempro Sales and SAKA Agri Ventures



Incorporated were not the sole and exclusive distributors of bio-organic fertilizers, foliar fertilizers and organic fertilizers, respectively, and that there were other suppliers/distributors of the same fertilizers in the Philippines in 2004; 8) the authorizations and certifications issued by the accused, in relation to the disbursement of funds, show manifest partiality, evident bad faith or inexcusable negligence; 9) the certifications and authorizations issued by the accused facilitated the disbursement of funds to the three suppliers despite knowledge of the lack of public bidding and non-conformity with COA circulars; 10) the presentation of secondary evidence was justified because the Prosecution adduced sufficient evidence that the originals of the documents were lost, destroyed or not available (Exhibits "QQQ", "RRR", "TTT-6", "UUU-3", "VVV" to "VVV-1", "WWW", and "XXX" to "XXX-2"); and 11) the Court already admitted all of the documentary evidence of the Prosecution in its Minute Resolution dated February 18, 2019 and the accused did not seek reconsideration thereof.

In its Resolution dated March 29, 2019, the Court denied the Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019 filed by accused Valdez and Fortunato on February 11, 2019 because the filing thereof was premature and the Court had yet to resolve the Prosecution's formal offer of evidence.

In the interest of justice, the Court **notes** the Manifestation and Ex Parte Humble Motion dated March 7, 2019 of accused Valdez and Fortunato and **admits** their Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019. The Court will now rule on the motions for leave to file demurrer to evidence of all accused.

After a thorough review of the records of the case and the evidence formally offered by the Prosecution and admitted by the Court, the Court finds that, if un rebutted, the same is sufficient to support a verdict of guilt for violation of Section 3(e) of R.A. No. 3019 and Malversation of Public Funds. The Court hereby **denies** the Motion (for Leave of Court to File Demurrer to Evidence) dated March 4, 2019 of accused Puyat and the Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019) of accused Valdez and Fortunato.

This is without prejudice to the filing by accused Puyat, Valdez and Fortunato of their 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, as amended, that they shall waive their



right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Manifestation and Ex Parte Humble Motion dated March 7, 2019 of accused Rodolfo V. Valdez and Paz P. Fortunato is **NOTED** and their attached Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019 is **ADMITTED** in the interest of justice.


The Motion (for Leave of Court to File Demurrer to Evidence) dated March 4, 2019 of accused Maria Cynthia A. Puyat and the Manifestation and Motion for Leave to File Verified Demurrer to Evidence dated February 7, 2019 of accused Rodolfo V. Valdez and Paz P. Fortunato are **DENIED**. Accused Puyat, Valdez and Fortunato, through counsel, are given a non-extendible period of ten (10) days from receipt of this Resolution within which to file their respective Demurrer to Evidence without prior leave of court, if they so desire, or file a Manifestation informing the Court that they will no longer file a demurrer to evidence.

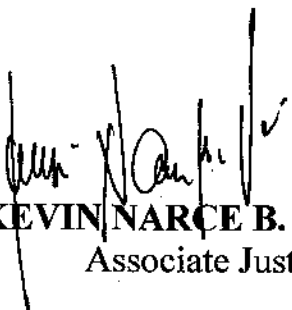
The hearings set on May 6 and 7, 2019 at 1:30 in the afternoon for the presentation of defense evidence are maintained. The said scheduled dates will be considered automatically cancelled as to the accused who files a demurrer to evidence.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice