



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

MINUTES of the proceedings held on April 4, 2019.

Present:

<i>Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--</i>	<i>Chairperson</i>
<i>Justice ZALDY V. TRESPESES -----</i>	<i>Member</i>
<i>Justice GEORGINA D. HIDALGO-----</i>	<i>Member</i>

The following resolution was adopted:

Crim. Case No. SB-17-CRM-1809 – People of the Philippines vs. Constantino Huit Cordial, Jr., Irene Ranara Breis, Danilo Obias Belleza

Crim. Case No. SB-17-CRM-1810 - People of the Philippines vs. Constantino Huit Cordial, Jr., Irene Ranara Breis, Danilo Obias Belleza

This resolves the following:

1. Accused Constantino Huit Cordial Jr.'s "Motion for Leave to File Demurrer to Evidence" dated February 04, 2019;¹
2. Accused Danilo O. Belleza's "Motion for Leave of Court to File Demurrer to Evidence" dated February 04, 2019;²
3. Accused Irene Breis's "Ex-Parte Motion for Leave to File Demurrer" dated February 8, 2019;
4. The prosecution's "Consolidated Opposition" dated February 08, 2019; and
5. The prosecution's Manifestation (Re: Ex-Parte Motion for Leave to File Demurrer of Accused Breis) dated February 26, 2019.

HIDALGO, J.:

¹ Record Vol. 2, pp. 241-255

² Record Vol. 2, pp 256-257

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After the prosecution rested its case, separate Motions for Leave of Court to File Demurrer to Evidence (Motions) were filed by accused Constantino H. Cordial Jr., (accused Cordial Jr.), accused Danilo O. Belleza, (accused Belleza), both dated February 4, 2019 and accused Irene Breis (accused Breis), dated February 8, 2019. A Consolidated Comment/Opposition to these Motions were filed by the Prosecution. Likewise, the Prosecution filed a Manifestation to the Ex-Parte Motion for Leave to File Demurrer of Accused Breis.

Accused Cordial Jr.'s Motion for Leave to File Demurrer to Evidence

In his Motion, accused Cordial Jr. prayed that he be allowed to file Demurrer to Evidence on the basis of the following grounds:

1. The prosecution failed to prove all the elements of Falsification of Official Document under Article 171 of the Revised Penal Code;
2. The prosecution miserably failed to rebut the constitutional presumption of innocence of accused [Cordial] and to discharge the burden to prove his guilt beyond reasonable doubt;
3. The documentary and testimonial evidence adduced by the prosecution failed to prove that accused [Cordial] conspired with the other accused in the commission of the Falsification of Official documents; and
4. He could not be held liable for the crime of falsification considering that his function in signing the resolutions was only misiterial.³

Accused Belleza's Motion for Leave of Court to File Demurrer to Evidence

For his part, accused Belleza likewise prayed that he be allowed to file Demurrer to Evidence based on the following grounds:

1. The prosecution failed to present the original copies of the alleged falsified documents subject matter of the above cases for the crimes of falsification of official documents under Article 171(2) of the Revised Penal Code;
2. The prosecution presented and relied on mere photocopies of the said alleged falsified documents and had not even presented or shown, at least, certified copies of the same;

³ Record Vol. 2 p. 243

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3. There is also no showing whether the private complainants themselves secured copies of the documents in question and from the legitimate source or sources of such documents; and
4. In the testimony of Eduardo Bonita, he admitted that he was not the one who [himself] prepared the complaint as such complaint was already prepared when he went to the Governor's Office of the Province of Camarines Sur.⁴

Accused Breis' Ex Parte Motion for Leave to File Demurrer

Similarly, in her Motion, accused Breis prayed that she be allowed to file Demurrer to Evidence on the ground that the evidence presented is insufficient to convict her of the crime charged.⁵

Prosecution's Consolidated Opposition

In its Consolidated Opposition, to counter the arguments of Accused Cordial Jr. and Belleza, the prosecution argued in this wise:

1. Both Motions are devoid of merit, frivolous and dilatory. At most, the only merit that the court could extend to the motions is *outright dismissal* and nothing else. For there is no insufficiency of evidence to speak of except in the minds of the movants. There was no showing in the motions at what point the evidence of the Prosecution fails to meet the sufficiency required by law insofar as elements of the crime is concerned;
2. If the accused-movants have no evidence to present, even testimonial, to meet the prima-facie case against them and if they really believe in their respective innocence, [they] could abridge the proceedings by submitting the case for decision if they must;
3. It is misleading to allege that the prosecution failed to prove all the elements of the crime of Falsification of Official Document defined and penalized under Article 171 of the Revised Penal Code considering that the very first element of the crime was obviously proven;
4. Assuming without admitting that accused Cordial, Jr. is not required to attend Sangguniang Bayan meetings, it is *non sequitur* that he did not take advantage of his official position

⁴ Record Vol. 2 pp256-257

⁵ Ibid p 266

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and conspired with the other accused. It would be absurd to infer and even conclude that since he did not attend the meetings, he did not commit the crime;

5. Another absurdity is the allegation of physical impossibility for accused Cordial, Jr. to have directly forged the Sangguniang Bayan Resolution;
6. Direct proof is not essential to prove conspiracy for it may be deduced from the acts of the accused before, during and after the commission of the crime charged, from which it may be indicated that there is a common purpose to commit the crime. It is not sufficient, however, that the attack be joint and simultaneous for simultaneousness does not of itself demonstrate the concurrence of will or unity and purpose which are the bases of the responsibility of the assailants;
7. The motion of accused Cordial, Jr. is completely misplaced and off-tangent to the fact in issue and even to the gravamen of the crime charged in the Information. And
8. The allegation of good faith and ministerial duty is likewise misplaced. Conspiracy negates the idea of good faith and it is contrary to human experience that the accused would simply affix his signature.⁶

Prosecution's Manifestation (Re: Ex-Parte Motion for Leave to File Demurrer of Accused Breis)

The prosecution countered the Ex Parte Motion filed by accused Breis on the following grounds:

1. The Motion for leave cannot be done ex-parte considering that it is a litigated motion hence, it cannot be deprived of its right to interpose its comment or objection thereto; and
2. The accused did not cite any ground when she alleged insufficiency of evidence as provided under Section 23 Rule 119 of the Revised Rules of Criminal Procedure. There is no showing at what instance did the prosecution allegedly fail to prove insufficiency of evidence.⁷

⁶ Record Vol. 2 Pp 259-263

⁷ Ibid pp269-270

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Our Ruling

After a thorough examination of the allegations in the Motions filed and the Comment/Opposition thereto, to include the evidence offered by the prosecution in support of the case filed against accused Cordial, Jr., Belleza and Breis, this Court is inclined to DENY the relief sought in said Motions.

Allow us to discuss.

On Demurrer to Evidence, Sec. 23, Rule 119 of the Rules of Court provides:

Section 23, Rule 119 of the Rules of Court:

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.

x x x.” (underscoring ours)

Following the above quoted-provision of law, there is thus only one ground when the Court can dismiss a case through Demurrer to Evidence and that is, when the evidence presented by the prosecution is not sufficient to support the conviction of the accused. In the case of ***Gregorio Singian, Jr. vs Sandiganbayan (Third Division)***⁸ the Supreme Court explained the concept of a demurrer to evidence in this wise, “*a demurrer to the evidence is an objection by one of the parties in an action, to the effect that the evidence which is adversary produced is insufficient in point and in law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is a competent or sufficient evidence to sustain the indictment or to support a verdict of guilt.*” Moreover, “*sufficient evidence refers to evidence of such probative value as to support the verdict of a finding of fact by the court. The word sufficient does not mean conclusive. Conclusive evidence is evidence that serves to establish a fact or the truth of something. Evidence is sufficient when it satisfies an unprejudiced mind.*”⁹

In the light of the High Court’s pronouncement as to when evidence is sufficient, it is worthwhile to go over the evidence so far presented by the prosecution:

⁸ G.R Nos. 195011-19, Spetember 30, 2013

⁹ [Estate of Cruson v. LONG, 189 Ore. 537, 562 (Or. 1950)].

On the Motion of accused Cordial:

To prove its case against accused Cordial and even as to against his co accused Belleza and Breis, the prosecution presented the following witnesses: **Eduardo B. Bonita**, who testified on the inexistence of Resolution No. 48, Series of 2014 entitled "Resolution Earnestly Requesting Honorable DILG Secretary Mar A. Roxas of the Department of Interior and Local Government for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Camarines Sur" and Resolution No. 48A, Series of 2014 entitled "Resolution Earnestly Requesting His Excellency Benigno C. Aquino III for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Camarines Sur"; **Jeman S. Ramirez** and **Camilo R. Alvarez**, who testified that there is no copy of the said Resolution No. 48 and 48A in the records of the Sangguniang Bayan and that there was no proper turn over of Sangguniang Bayan records from accused Belleza to the next Sangguniang Bayan Secretary.

Evidently, the testimonies of the above named witnesses were consistent in pointing to the Court, first, the non existence of Resolution Nos. 48 and 48A, series of 2014 and second, the fact that, they do not form part of the record of the Sangguniang Bayan of Caramoan, Camarines Sur, as they were not turned over to the Sangguniang Bayan Secretary. These two Resolutions being the documents allegedly falsified by accused Cordial as Municipal Mayor of Caramoan, Camarines Sur in cohorts with his co-accused, Breis and Belleza the Vice Mayor and Municipal Secretary, respectively, for now, the Court can rely on the words of these prosecution witnesses. Couched differently, pending presentation of evidence discrediting and or outweighing the prosecution's evidence about the alleged falsified documents, the Court finds that, "*there is a competent or sufficient evidence to sustain the indictment or to support a verdict of guilt.*"¹⁰

Also, in praying for the grant of his Motion, accused Cordial Jr. impressed to the Court the non-existence of conspiracy between him and his co-accused. This being so and since his function of signing resolutions made by the Sanggunian is merely ministerial, no way will the charge thrive. Unless and until accused Cordial Jr. can present a better evidence than those presented against him, for now, the Court considers his argument on this point evidentiary in nature owing to the very nature of conspiracy which is "*planned in utmost secrecy. Hence, for collective responsibility to be established, x x x the existence of conspiracy may be inferred and proved through the acts of the accused,*"¹¹

¹⁰ Soriquez vs Sandiganbayan (Fifth Division), 510 Phil. 709, 706

¹¹ Pp vs Medina, 354 Phil 447, 457-458, (1998) as cited in G.R. No. 17038

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In sum and considering our observations above, the allegation on the failure to prove the elements of Art. 177 Par. 2 of the Revised Penal Code cannot be appreciated. On this score, the ruling of the High Court in the case of *Andres vs Cuevas*¹² is instructive when it said, “*the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits. x x x.*”

On the Motion of accused Belleza:

Accused Belleza alleged that the presentation of photocopies of the allegedly falsified documents will not suffice to convict him of the crime charged, much more that those presented were not even certified copies. Scrutiny of the record of the case shows that photocopies of the following documents were submitted to the Court:

Exhibit “B” - Executive Order No. 04-001 dated 06 September 2004;

Exhibit “C” - Resolution No. 48, Series of 2014 of the Sangguniang Bayan of Caramoan, Camarines Sur entitled “*Resolution Earnestly Requesting Hon. DILG Secretary Mar A. Roxas of the Department of the Interior and Local Government for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Province of Camarines Sur*;

Exhibit “D” - Resolution No. 48-A Series of 2014 of the Sangguniang Bayan of Caramoan, Camarines Sur entitled “*Resolution Earnestly Requesting His Excellency President Benigno Simeon C. Aquino III for the Immediate Removal of the Task Force Sagip Kalikasan in the Entire Municipality of Caramoan, Province of Camarines Sur*; and

Exhibit “L” - Minutes of the Regular Session of the 9th Sangguniang Bayan of Caramoan, Camarines Sur held on 24 March 2014;

True that they may be photocopies but the Court in its Resolution dated January 25, 2019 in express terms ruled:

“The Court considers the photocopies of the above documents as secondary evidence. While the Court should not receive in evidence that which is substitutionary in nature, such as photocopies, **in the absence of any clear showing that the original has been lost or destroyed or cannot be produced in court**¹³, in the present cases, the Court takes exception

¹²G.R. No. 150869, June 9, 2005, 460 SCRA 40, 52

¹³ Pacasum vs People, G.R. No. 180314, April 16, 2009, citing Sandiganbayan ruling

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because the three subject documents are no longer in the possession of accused Belleza and it has become apparent that he could not produce them. Thus, taking from the quoted Court's Order, which recognized that these documents are in the custody of the Sangguniang Bayan of Caramoan, Camarines Sur, the introduction of secondary evidence¹⁴ by the prosecution becomes in order.¹⁵

The issue on these documentary exhibits, having been passed upon by this Court, raising the same issue again is a rehash. Nonetheless, the probative value of these documents will be ruled in the final disposition of the case.

On the Motion of accused Breis:

On the part of accused Breis, notably and as correctly found by the prosecution, she did not state with particularity why she considers the evidence presented against her insufficient if not weak, thereby warranting the dismissal of the charge against her. Having not able to convince this Court with her sweeping statement that the evidence presented against her is insufficient, the Court has no reason to grant her of the relief prayed.

In fine and after evaluating the totality of evidence so far presented by the prosecution, the Court FOR NOW finds them sufficient to sustain the charge filed against the three (3) accused. In connection to this finding, jurisprudence states that:

“ x x x. As there is competent and sufficient evidence to sustain the indictment for the crime charged, it behooves petitioner to adduce evidence on his behalf to controvert the asseverations of the prosecution. x x x. ”¹⁶

WHEREFORE and in view of the foregoing, the respective Motions for Leave to File Demurrer to Evidence filed by accused Cordial Jr. and accused Belleza are DENIED FOR LACK OF MERIT. The Ex-Parte Motion for Leave to File Demurrer of accused Irene Breis is likewise DENIED FOR LACK OF MERIT. Consequently, the hearing set on April 29 & 30, 2019 at 8:30 o'clock in the morning for the initial presentation of defense evidence shall proceed.

SO ORDERED.

GEORGINA D. HIDALGO
Associate Justice

¹⁴ Section 3(a) Rule 130 Rules of Court

¹⁵ Record Vol. 2 pp 228-231

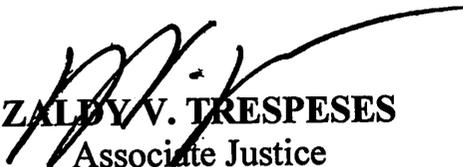
¹⁶ G.R. Nos. 195011-19, Sept. 30, 2013

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WE CONCUR:


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


ZALBY V. TRESPESES
Associate Justice

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