



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0389
For: Violation of Section 3(e)
of Republic Act No. 3019

- versus -

ENRICO R. ECHIVERRI, ET AL.,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0390
For: Falsification of Public Document

- versus -

Present

EDNA V. CENTENO, ET AL.,
Accused.

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

X-----X

Promulgated:

APR 16 2019 *[Signature]*

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

The prosecution, in its *Motion to Withdraw Informations (For Criminal Case Nos. SB-18-CRM-0389 to 0390)*,¹ prays that the Information in the present cases be withdrawn. It avers:

1. The Ombudsman has approved the recommendation for the withdrawal of the charges against herein accused.

¹ Dated March 6, 2019; Record, pp. 403-413

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2. The factual antecedents and the legal issues involved in the present cases are substantially the same as those in SB-17-CRM-1389 and 1390, which were then pending before the First Division of the Sandiganbayan (henceforth referred to as First Division, for brevity).
3. In the Resolution dated October 1, 2018 in G.R. Nos. 241103-04, the Supreme Court affirmed the First Division's Decision in SB-17-CRM-1389 and 1390, granting the *Demurrer to Evidence* filed by accused Echiverri, et al.

In their *Comment*,² accused Enrico R. Echiverri, Edna V. Centeno and Jesusa C. Garcia aver:

1. The prosecution's evidence and the matters agreed upon in the Joint Stipulation of Facts (JSF) dated November 5, 2018 are insufficient to prove their guilt beyond reasonable doubt of violation of Sec. 3(e) of R.A. No. 3019 and of Falsification under Art. 171 (4) of the Revised Penal Code (RPC).
2. Falsification under Art. 171 (4) of the RPC
 - a. The evidence presented by the prosecution during the pre-trial shows that accused Centeno and Garcia performed their duties and official functions pursuant to their respective mandates under the law.
 - b. The documentary evidence listed in the JSF does not prove the essential elements of the crime.
 - c. There was an appropriation for the subject project, and hence, the certifications in the subject ALOBS are not absolutely false.
 - d. The subject project was among those included in the list attached to Resolution No. 1980 s. 2012. Said Resolution clarified that the list of specific projects was inadvertently not submitted to the Sangguniang Panlungsod. Such inadvertence does not amount to the inexistence of an appropriation for the subject project.
 - e. The law does not require prior approval of the Sangguniang Panlungsod for the disbursement of local funds.
 - f. In *Germar v. Legaspi*, it was held that the line-item "Consultancy Services" is a specific allocation for a

² Dated April 3, 2019; Record, pp. 429-440

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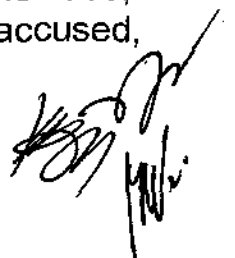
specific purpose for the MOOE of a specific office, and is thus deemed sufficiently specific, that an authorization from the Sanggunian is not required.

- g. The prosecution's evidence failed to prove conspiracy between accused Centeno and Garcia.
3. Violation of Sec. 3(e) of R.A. No. 3019
 - a. The Sangguniang Panlungsod, through Ordinance No. 0464 s. 2010, appropriated the amount of ₱1.42 billion from the proceeds of the OTL to finance various city development projects.
 - b. The Supreme Court, in *People v. Sandiganbayan (First Division)*, agreed with the First Division's conclusion that the Sanggunian authorized accused Echiverri to enter into contracts for various city development projects.
 - c. The city development projects to be funded specifically included the improvement of roads and drainage system.
 - d. The subject project was particularly identified as one of the priority projects under the LBP loan attached to Resolution No. 1980 s. 2012.
 - e. The prosecution's evidence actually proved that there was both prior authority and specific authorization for the subject project.
 - f. The local chief executive does not need to secure a separate authorization from the Sanggunian if the appropriation is of sufficient detail.
 - g. Manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Echiverri is negated by the fact that he entered into the contract with MMVCC only after public bidding, and after the BAC recommended that the contract be awarded to MMVCC, the lowest bidder.

THE COURT'S RULING

The Court resolves to grant the prosecution's Motion.

Once an Information is filed in court, any disposition of the case, whether it be dismissal, or the conviction or the acquittal of the accused,



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rests in the sound discretion of the court. The only qualification to this exercise of the judicial prerogative is that the substantial rights of the accused must not be impaired nor the People be deprived of the right to due process.³ This also applies to a motion to withdraw the Information or to dismiss the case before or after the arraignment of the accused.⁴

In *Fuentes v. Sandiganbayan*,⁵ the Supreme Court clarified that such exercise of judicial discretion involves the court's own assessment of the evidence in the possession of the prosecution. To wit:

We hold that the exercise of judicial discretion, with respect to a motion to withdraw the Information filed by the prosecution, is not limited to the mere approval or disapproval of the stand taken by the prosecution. The court must itself be convinced that there is indeed no sufficient evidence against the accused and this conclusion can only be reached after an assessment of the evidence in the possession of the prosecution. What is required is the court's own assessment of such evidence.

This Court's examination of the prosecution's evidence must be done in the light of the aforementioned Supreme Court's Resolution in *People v. Sandiganbayan (First Division)*.⁶

In said Resolution, the Supreme Court found that there was no grave abuse of discretion on the part of the First Division when it granted the demurrer to evidence of therein private respondents—who are also the accused in the present cases. It was held that the grant of the demurrer was warranted because (a) the Sangguniang Panglungsod, in Ordinance No. 0464, series of 2010, authorized then Mayor Echiverri to enter into various city development projects, including the project subject of the cases before the First Division; and (b) the subject project strictly underwent the required procurement process, which eliminated the possibility that the contract was entered into with manifest partiality or gross inexcusable negligence on the part of therein respondents, and likewise, the possibility of the transaction resulting in undue injury or actual damage to Caloocan City. It was further held that considering the foregoing, the First Division correctly ruled that accused Centeno and Garcia did not commit any falsification

³ *Fuentes v. Sandiganbayan*, G.R. No. 139618, July 11, 2006

⁴ *Lanier v. People*, G.R. No. 189176, March 19, 2014

⁵ *Supra*. Note 3

⁶ G.R. Nos. 241103-04, October 1, 2018

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in making their respective certifications in the subject Allotment and Obligation Slip.

Here, the evidence attached to the Ombudsman's Resolution dated November 16, 2016⁷ shows the following:

1. The Sangguniang Panlungsod of Caloocan, in Ordinance No. 0464 s. 2010,⁸ as amended by Ordinance No. 0465 s. 2010,⁹ appropriated the amount of ₱1,420,000,000.00 for various infrastructure projects. Included in the enumeration under "Object of Expenditure" in said ordinance is "construction and/or improvement of x x x, drainage system." Thus, Ordinance No. 0464 s. 2010, as amended, constitutes the authorization required for accused Echiverri to enter into the subject contract.
2. The subject project underwent the required procurement process before accused Echiverri entered into the contract with Margin Multi-Ventures and Construction Corporation (Margin), the lowest bidder.¹⁰ There is nothing in the documents which would support the conclusion that the contract price was unconscionable.
3. The subject project was completed¹¹ before the accused, through the Disbursement Vouchers dated August 23, 2011¹² and October 20, 2011,¹³ authorized payment in the total amount of ₱ 11,953,998.79 to Margin.¹⁴

Thus, after examining the evidence attached to the Office of the Ombudsman's Resolution, this Court concludes that there is insufficient evidence to establish the essential elements of the offenses charged. The available evidence established only the element of the

⁷ Record, pp. 9-28

⁸ Record, pp. 61-63; It is the same Ordinance No. 0464 as that the Supreme Court referred to in its Resolution dated October 1, 2018

⁹ Record, pp. 69-71

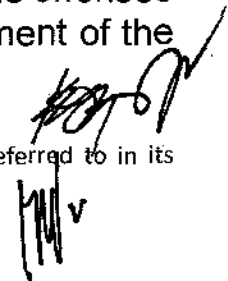
¹⁰ Record, pp. 73-78

¹¹ Record, p. 99

¹² Record, p. 80

¹³ Record, p. 83

¹⁴ Record, pp. 80-85

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accused being public officers in the performance of their respective official functions.

There could have been no manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Centeno and Garcia when they made their respective certifications in the subject ALOBS¹⁵ because the subject Widening/Reblocking and Improvement of Drainage project was included in the enumeration under "Object of Expenditure" in Ordinance No. 0464 s. 2010. The same can be said of accused Echiverri when he awarded the subject contract to, and entered into a contract with Margin, as the Sangguniang Panlungsod of Caloocan authorized him, through Ordinance No. 0464 s. 2010, to enter into contracts for various city development projects, of which the subject project was one. Likewise, the three accused could not have acted with manifest partiality, evident bad faith or gross inexcusable negligence for disbursing the total amount of ₱11,953,998.79 as payment to Margin because the project appears to have been completed. The City of Caloocan was contractually obligated to pay Margin for the work done on the project.¹⁶

Aside from there being no manifest partiality, evident bad faith or gross inexcusable negligence on the part of the accused, their aforementioned acts could not have caused undue injury or the giving of unwarranted benefits, advantage or preference to Margin, there being no apparent irregularity in the procurement process, and the subject project having been completed.

Finally, the fact that the subject project falls within the enumeration under "Object of Expenditure" in Ordinance No. 0464 s. 2010 also negates the possibility that accused Centeno and Garcia falsified the subject ALOBS.

In fine, the insufficiency of the available evidence to establish the elements of the crimes charged and the absence of anything to show that the rights of the parties will be prejudiced justifies the withdrawal of the Informations in the present cases.

WHEREFORE, the Court rules as follows:

¹⁵ Record, p. 72

¹⁶ Record, pp. 76-77



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1. The prosecution's *Compliance*¹⁷ and the attachment¹⁸ thereto are hereby NOTED.
2. The prosecution's *Motion to Withdraw Informations* is hereby GRANTED. As prayed for, the Informations in SB-18-CRM-0389 and 0390 are hereby WITHDRAWN.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

¹⁷ Dated March 28, 2019; Record, pp. 421-427

¹⁸ Portions of the Memorandum dated January 30, 2019 recommending the withdrawal of the Informations in the present cases, approved by the Ombudsman on February 27, 2019