



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

**SB-16-CRM-1207 to 1208,**  
For: Violation of Sec. 3(b) of  
R.A. 3019


- versus -

**AL SANCHEZ VITANGCOL III,**  
ET AL.,

Accused.

*Present.*

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

*Promulgated:* **MAY 17 2019** 

x-----x

**RESOLUTION**

**VIVERO, J.**

This resolves the following:

- a) *Motion for Leave of Court to File Demurrer to Evidence*<sup>1</sup> filed by accused Al Sanchez Vitangcol III; and
- b) *Motion to File Demurrer to Evidence with Leave of Court*<sup>2</sup> filed by accused Wilson T. De Vera.

In their *Motions*, although couched in varying language and tenor, accused Vitangcol III and De Vera similarly seek leave of court to file Demurrer to Evidence in order to show that the prosecution failed to prove beyond reasonable doubt the existence of all the acts/elements constituting the offense of violation of Section 3(b) of Republic Act (R.A.) No. 3019 or the Anti-Graft and Corrupt Practices Act. The Court notes that in the case of accused Vitangcol III, he has attached to his motion a copy of his Demurrer to Evidence.

<sup>1</sup> Dated 11 January 2019; Record, Vol. III, pp. 125-127.

<sup>2</sup> Dated 13 January 2019, pp. 1-2.

**RESOLUTION**

People vs. Vitangcol, et al.

Criminal Cases Nos. SB-16-CRM-1207 to 1208

Page 2 of 5

x-----x

In its *Comment/Opposition (Re: Motions for Leave to File Demurrer to Evidence)*<sup>3</sup>, the prosecution asked this Court to deny the respective *Motions for Leave of Court* filed by accused Vitangcol III and De Vera. It argued that:

1. The prosecution was able to prove the existence of all the elements of the crime of violation of Section 3(b) of Republic Act (R.A) No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act.
2. The prosecution was able to present witnesses and documentary evidence to establish that accused Vitangcol, in conspiracy with accused De Vera, requested or demanded from INEKON Group (INEKON) that they should enter and sign the Joint Venture Agreement (JV) together with other persons chosen by accused De Vera in connection with the contract for the maintenance service of MRT3 line considering that the then existing contract with Sumitomo Corporation for maintenance service was about to expire, in relation to CRM-16-CRM-1208.
3. In CRM-16-CRM-1207, the prosecution was able to present witnesses and documentary evidence to establish that accused De Vera, in conspiracy with accused Vitangcol, demanded or attempted to extort money from INEKON in the amount of US\$ 30,000,000.00, which was later reduced to US\$ 2,500,000.00.
4. In determining the merits of the demurrer to evidence, the prosecution needs only to present evidence to establish prima facie case against the accused.
5. The mere absence of a direct evidence does not necessarily connote dismissal of the case. The circumstantial evidence presented and admitted by the Honorable Court sufficiently established the existence of the crimes charged and that the accused is probably guilty thereof. Without any evidence of denial coming from the accused, the findings of Atty. Bersoña and the sworn statements of Amb. Rychtar and Mr. Husek could well nigh be deemed as amply supported in material points by other documents offered, and therefore sufficient to constitute a prima facie case against the accused.

<sup>3</sup> Dated 18 January 2019, pp. 1-7.



**RESOLUTION**

People vs. Vitangcol, et al.  
Criminal Cases Nos. SB-16-CRM-1207 to 1208

Page 3 of 5

x-----x

**THE COURT'S RULING**

After carefully weighing the arguments offered by the prosecution and the accused-movants, the Court resolves to grant the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Al Sanchez Vitangcol III dated 11 January 2019 and the *Motion to File Demurrer to Evidence with Leave of Court* filed by accused Wilson T. De Vera dated 13 January 2019.

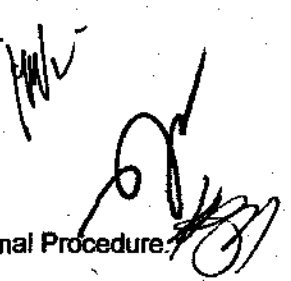
The Supreme Court in *People vs. Go*<sup>4</sup> explained the nature and purpose of demurrer to evidence as follows:

Demurrer to the evidence is "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of 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 competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. x x x Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused." Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.

In fine, under existing rules<sup>5</sup> on demurrer to evidence, the accused has the right to file a demurrer to evidence after the prosecution has rested its case. If the accused obtained prior leave of court before filing his demurrer, he can still present evidence if his demurrer is denied. However, if he demurs without prior leave of court, or after his motion for leave is denied, he waives his right to present evidence and submits the case for decision on the basis of the evidence for the prosecution.

<sup>4</sup> G.R. No. 191015, 06 August 2014.

<sup>5</sup> Section 23 of Rule 119, 2000 Rules of Criminal Procedure.



**RESOLUTION**

People vs. Vitangcol, et al.  
Criminal Cases Nos. SB-16-CRM-1207 to 1208

Page 4 of 5

x-----x

While it is true that the judicial action on the motion for leave of court to file demurrer to evidence is left to the exercise of the court's sound judicial discretion,<sup>6</sup> the Supreme Court, in *Bernardo vs. Court of Appeals*<sup>7</sup>, explained that the purpose of leaving it to the sound discretion of the court is to determine whether the accused is merely stalling the proceedings. Put differently, the trial court, in exercising its discretion on whether or not it should allow the accused to file a demurrer to evidence, should determine if the motion is dilatory. If the accused has shown merit in its motion and that the same is not dilatory, then leave should be granted.

To the mind of this Court, the motions for leave to file demurrer in this case were filed not for the purpose of delaying the proceedings but appears to be based on accused's sincere belief that the prosecution's evidence failed to prove beyond reasonable doubt that they are guilty of violating Section 3(b) of Republic Act No. 3019.

WHEREFORE, premises considered, the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Al Sanchez Vitangcol III and the *Motion to File Demurrer to Evidence with Leave of Court* filed by accused Wilson T. De Vera are hereby GRANTED.

Accused De Vera shall file his demurrer to evidence within a non-extendible period of ten (10) calendar days upon receipt of this Resolution. In the case of accused Vitangcol III, while there is on record his Demurrer to Evidence attached to his motion for leave, he is nonetheless given a similar period of ten (10) calendar days within which to file a supplemental or amendment thereto, if so minded. The prosecution, on the other hand, may file its comment/opposition within a non-extendible period of ten (10) calendar days counted from date of receipt of the demurrer to evidence.<sup>8</sup>

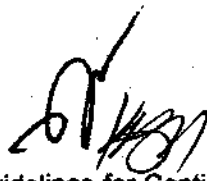
SO ORDERED.

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

<sup>6</sup> People vs. Zapata, G.R. No. 145915, 24 April 2003.

<sup>7</sup> G.R. No. 119010, 05 September 1997.

<sup>8</sup> Pursuant to A.M. No. 15-06-10-SC or the Revised Guidelines for Continuous Trial of Criminal Cases.



**RESOLUTION**  
People vs. Vitangcol, et al.  
Criminal Cases Nos. SB-16-CRM-1207 to 1208

Page 5 of 5

X-----X

**WE CONCUR:**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

  
**KARL B. MIRANDA**  
Associate Justice

