



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-15-CRM-0095
For: Violation of Section 3(e)
of R.A. No. 3019 as amended

- versus -

ROLANDO C. ALONZO,
ET AL.,

Accused.

Present

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

Promulgated:

JUN 25 2019

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion for Reconsideration with Manifestation*¹ filed on May 6, 2019 by accused Teresita Cometa;
2. *Motion for Reconsideration (re: Resolution dated 26 April 2019)*² filed on May 6, 2019 by accused Rolando C. Alonzo;
3. *Motion for Reconsideration*³ filed on May 6, 2019 by accused Alison A. Sy, Guillermo G. Sy and Renato C. Ang; and,

¹ Record, Vol. 11, p. 242.

² Record, Vol. 11, p. 199.

³ Record, Vol. 11, p. 270.

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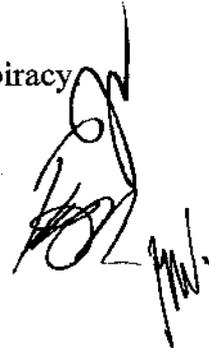
4. *Consolidated Comment/Opposition (Re: Motions for Reconsideration of the Resolution dated April 26, 2019)*⁴ filed on May 15, 2019 by the prosecution.

In their respective motions, accused seek the reversal of this Court's *Resolution* dated 26 April 2019, denying their *Motion for Leave to file Demurrer to Evidence*.

Accused Cometa argues:

1. The evidence of the prosecution lacks probative value to prove her guilt beyond reasonable doubt.
2. No evidence was presented to prove that she acted with manifest partiality, evident bad faith or gross inexcusable negligence.
3. No evidence was presented to identify the "certain conditions" imposed by the Credit Committee and the Board of Directors of TIDCORP.
4. No evidence was presented to prove that the alleged non-compliance with such certain conditions is the proximate cause of the alleged undue injury.
5. No evidence was presented to show how the amount of PhP4, 222,391,731.60 was computed.
6. The charge for a violation of Section 3 (e) of R.A. No. 3019 could only either be by *dolo* or *culpa* and cannot be both. Hence, when the prosecution claimed that the crime was committed with manifest partiality and/or evident bad faith, its claim that it was committed with gross inexcusable negligence was dropped, and vice versa.
7. The prosecution's Formal Offer of Evidence did not specify that the evidence was offered for the purpose of proving the existence of manifest partiality, evident bad faith and gross inexcusable negligence.
8. No evidence was presented to prove conspiracy

⁴ Record, Vol. 11, p. 298-305.



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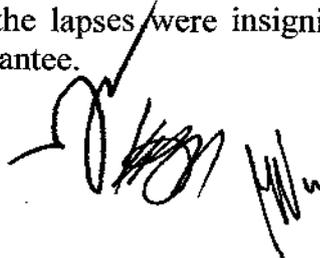
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Accused Alonzo, on the other hand, contends:

1. The testimonial and documentary evidence presented by the prosecution, even if unrebutted, is not sufficient to convict him.
2. The prosecution failed to present evidence to show that he connived with the other accused and acted with manifest partiality, evident bad faith or gross inexcusable negligence in the performance of his duties.
3. Private complainant was never presented as a witness to testify on his complaint affidavit and was not cross-examined. Thus, his affidavit and all the related documents attached thereto are superfluous and have no probative value.
4. The Transactional Audit Report is in itself flawed and should not have been sufficient to support the case of the prosecution. Moreover, the testimony of Atty. Bernaldo is unreliable considering the inconsistencies therein. Her qualifications should have been put in question since it was her first time to conduct an audit report for a government agency.
5. The immediate supervisor of accused Cometa was Clarissa Tuazon and not accused Alonzo.
6. The guarantee application went through a rigorous process and the approval thereof was not dependent upon him. He was not the one who signed the Memorandum to the Board neither did he have any authority to approve the guarantee.
7. After the grant of the subject WGI guarantee and when he was no longer connected with TIDCORP, the Board of Directors of TIDCORP granted another bridge facility to WGI. Assuming that there were problems with the WGI account, TIDCORP should have raised such issues before approving further guarantees. None of the findings, as stated in the TAR, were brought up when WGI applied for another facility, which shows that as far as TIDCORP is concerned, even assuming there were lapses, the lapses were insignificant in the approval of the guarantee.

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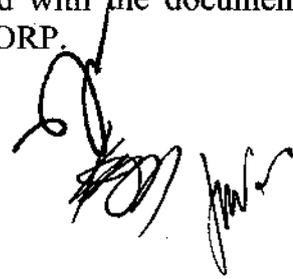
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8. Atty. Bernaldo admitted that there was no connivance or confederation between accused Cometa and Alonzo.
9. The prosecution is mistaken in claiming that the government suffered damages in the amount of PhP8.4 Billion. There is no damage to speak of because WGI is only temporarily prevented to settle its obligations pending rehabilitation proceedings but once the stay order is lifted, the amount will be covered by collaterals.

Accused Alison Sy, Guillermo G. Sy and Renato C. Ang contend:

1. The prosecution did not present any evidence to prove the existence of conspiracy.
 - i. Exhibit V of the prosecution does not prove that they have direct contact with accused Alonzo and Cometa. There was nothing irregular in writing a letter to TIDCORP, addressed in the attention line to accused Alonzo and Cometa.
 - ii. There is no evidence that they communicated with the accused public officials to secure any unwarranted benefits.
 - iii. The prosecution failed to present a single witness to categorically testify on the supposed conspiracy among the accused. In fact, Atty. Rosario Bernaldo even admitted that she found no evidence that would show connivance among the accused.
2. The prosecution failed to prove that WGI did not go through any of the required steps in its application on account of the efforts of accused Alonzo and Cometa, which would warrant a finding that WGI was given undue preference.
3. The prosecution failed to present any documentary or testimonial evidence to show that accused Alison Sy, et al. deliberately failed to substantially comply, if not fully comply, with all the requirements imposed by TIDCORP. In fact, the evidence presented by the prosecution proves that they substantially complied with the documentary requirements imposed by TIDCORP.



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4. The prosecution did not present any evidence to show any correlation between the default of WGI and its purported qualification to be extended a guarantee.
5. No undue injury was caused to the government since the entire project, including the parcels of land where the project was built, was mortgaged to TIDCORP.
6. In approving WGI's application for a guarantee, TIDCORP knowingly assumed the risks that come with the transaction as its Board of Directors judiciously reviewed the application of WGI.
7. The prosecution did not present any documentary or testimonial evidence to prove that accused Alonzo or Cometa withheld any material information from the Credit Committee or the Board of Directors.

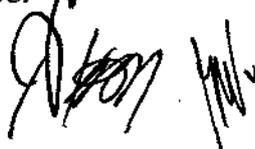
In its *Comment/Opposition*, the prosecution argues that they have established a *prima facie* case against the accused for violation of Section 3(e) of R.A. No. 3019 and that they have proven undue injury to the government in the amount of P8,441,140,321.69 in the form of unpaid principal, penalties and interest. The prosecution posits that the arguments of the accused pertain to matters that are evidentiary in nature, the truth of which can only be passed upon in a full-blown trial.

THE COURT'S RULING

After a careful reconsideration of the evidence presented by the prosecution, taking into account the arguments raised by the accused, the Court still finds that the testimonial and documentary evidence presented by the prosecution sufficiently established a *prima facie* violation of Section 3 (e) of R.A. No. 3019.

The arguments raised by the accused are essentially a rehash of their previous arguments and have already been considered by the Court in denying their *Motions for Leave*. Besides, accused' arguments relate to matters of defense and are evidentiary in nature, the veracity of which can be passed upon in the course of trial.

In fine, the Court finds no reason to reverse its *Resolution* dated April 26, 2019, denying accused' respective *Motions for Leave of Court to file Demurrer to Evidence*.



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WHEREFORE, the *Motions for Reconsideration* separately filed by accused Teresita Cometa, Rolando C. Alonzo, and, Alison A. Sy, Guillermo G. Sy, and Renato C. Ang, are hereby **DENIED** for lack of merit.

This is without prejudice to the filing by any of the accused of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequences provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, that is, they shall waive their right to present evidence and are submitting this case for judgment on the basis of the evidence adduced by the prosecution.

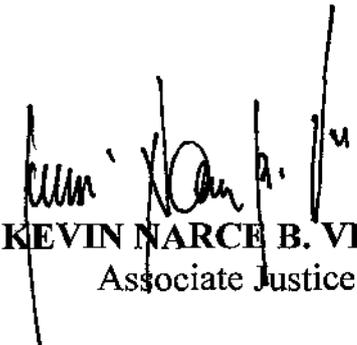
The accused, including accused Cometa, are given a period of five (5) days from receipt of this Resolution within which to file, by personal filing and service, or through courier, their respective *Manifestations* to inform this Court whether they will file a *Demurrer to Evidence*, without leave of court.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice