



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-2169 TO 2183**
For: Violation of Section 3(e)
of R.A. 3019, as amended

- versus -

MARIANO Y. BLANCO, III ET AL.,
Accused.

Present :

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

Promulgated:

AUG 30 2019

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RESOLUTION

FERNANDEZ, SJ, J.

For resolution are the following:

1. *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Oscar Pilapil, Thelma Landiza, Brigida Cabaron, Frauline Requilme and Evelina Tan on July 29, 2019;¹
2. *Comment/Opposition (To the Motion for Leave of Court to File Demurrer to Evidence dated 29 July 2019)* filed by the prosecution on August 5, 2019;² and,

¹ Dated July 29, 2019, received by mail on July 31, 2019, Record, vol. 3, pp. 483-487.

² Dated August 2, 2019, Record, vol. 3, pp. 502-507.

RESOLUTION

People vs. Mariano Y. Blanco III, et al.
Criminal Cases No. SB-17-CRM-2169 to 2183

Page 2 of 4

x-----x

3. *Rejoinder to the Comment/Opposition* filed by accused Oscar Pilapil, Thelma Landiza, Brigida Cabaron, Frauline Requilme and Evelina Tan on August 20, 2019.³

Accused, in their *Motion for Leave of Court to File Demurrer to Evidence*, pray that they be granted leave to file *Demurrer to Evidence* considering that the evidence presented by the prosecution is insufficient to prove their guilt beyond reasonable doubt.

The prosecution, in its *Comment/Opposition (To the Motion for Leave of Court to File Demurrer to Evidence dated 29 July 2019)*, opposes accused' *Motion for Leave of Court to File Demurrer to Evidence* and contends:

1. Accused' Motion should be denied outright because it did not specify the grounds relied upon by the accused in filing the Motion.
2. Even assuming that the Motion was in accordance with Sec. 23, Rule 119, the same should be denied because the prosecution was able to establish all the elements for a violation of Sec. 3(e) of R.A. No. 3019.
 - i. At all times material to the allegations in all the Informations, the accused are public officers of the Municipality of Ronda, Cebu.
 - ii. The prosecution was able to establish that the winning bidders were undeniably given unwarranted benefits, advantage and preference and that the action of the BAC caused undue injury to the government. The fifteen (15) contracts subject of these cases were awarded to the winning bidders in violation of R.A. 9184 and its Implementing Rules and Regulations, particularly because the Invitations to Bid were not advertised and posted in accordance with law.

Accused, in their *Rejoinder to the Comment/Opposition*, point out that a detailed discussion on the insufficiency of evidence of the Plaintiff is not required in a motion for leave. They contend that a detailed

³ Dated July 29, 2019.

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RESOLUTION

People vs. Mariano Y. Blanco III, et al.
Criminal Cases No. SB-17-CRM-2169 to 2183

Page 3 of 4

x-----x

discussion shall be done in the *Demurrer to Evidence* once the Court grants their *Motion for Leave*.

THE COURT'S RULING

The *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Oscar Pilapil, Thelma Landiza, Brigida Cabaron, Frauline Requilme and Evelina Tan is **DENIED**.

Section 23, Rule 119 of *The Revised Rules of Criminal Procedure* provides:

Section 23. 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. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. (15a)

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (n) (Emphasis supplied)

Indeed, the rule requires that a *Motion for Leave of Court to File Demurrer to Evidence* shall specifically state its grounds. In this case, accused, in their *Motion for Leave*, merely stated a general averment that the prosecution's evidence is insufficient to support a conviction of guilt, without specifying any ground or basis to support their contention.

Nonetheless, after a careful study of the documentary and testimonial evidence presented by the prosecution, the Court finds that, if un rebutted, the same is *prima facie* sufficient to support a verdict of

RESOLUTION

People vs. Mariano Y. Blanco III, et al.
Criminal Cases No. SB-17-CRM-2169 to 2183

Page 4 of 4

x-----x

guilt against accused Oscar Pilapil, Thelma Landiza, Brigida Cabaron, Frauline Requirme and Evelina Tan for violation of Section 3(e) of Republic Act No. 3019.

This is without prejudice to the filing by 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 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 *Manifestation* 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