



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-13-CRM-0576 to 0578
For: Violation of Section 3 (g) of
Republic Act (R.A.) No. 3019

and

-versus-

**AUGUSTO L. SYJUCO, JR. ET
AL.,**

Accused,

SB-13-CRM-0579 to 0581
For: Violation of Section 3 (e) of
R.A. No. 3019

PRESENT:

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

Promulgated:

OCT 17 2019

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RESOLUTION

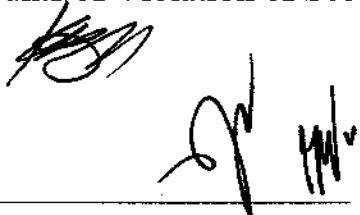
MIRANDA, J.:

This resolves the: 1) **Motion for Leave to File Demurrer to Evidence [For Accused Teodoro S. Sanico]** dated August 23, 2019 filed by accused Teodoro S. Sanico (Sanico); 2) **Motion for Leave to File Demurrer to Evidence of Accused Buen Samarista Mondejar**

dated August 23, 2019 filed by accused Buen S. Mondejar (Mondejar); 3) **Manifestation (In Re: Advanced Copies of the Motion for Leave to File Demurrer to Evidence)** dated August 28, 2019 filed by accused Ernesto Beltran (Beltran), Juanito L. Belda (Belda), Francisco D. Fang (Fang), and Maximiano F. Montemayor (Montemayor); 4) **Motion for Leave of Court to File Demurrer to Evidence** dated August 26, 2019 filed by accused Augusto L. Syjuco, Jr. (Syjuco); 5) **Motion for Leave to File Demurrer to Evidence [For Accused Ernesto Beltran, Juanito L. Belda, Francisco D. Fang and Maximiano F. Montemayor]** dated August 27, 2019 filed by accused Beltran, Belda, Fang, and Montemayor; and 6) **Consolidated Comment/Opposition** dated September 10, 2019 filed by the Prosecution.

On December 17, 2007, the Technical Education and Skills Development Authority (TESDA) entered into three Contract Agreements (Agreements) with V.G. Roxas Co., Inc. (VGRCI) for the supply, delivery, installation and commissioning of various testing and training tools and equipment for the Ladderized Education Programs¹ of TESDA. Accused Syjuco signed the Agreements as the Director General of TESDA. On the other hand, accused Sanico, Beltran, and Mondejar were members of the Bids and Awards Committee (BAC) that recommended the award of the Agreements to VGRCI, while accused Belda, Fang, and Montemayor were members of the BAC Secretariat that assisted the BAC in the preparation of documents.

On March 12, 2009, the Commission on Audit (COA) issued Audit Observation Memorandum Nos. 2009-011 and 2009-17 finding the Agreements grossly and manifestly disadvantageous to the government. The COA found that some tools and equipment were overpriced, defective or of low quality, have missing parts, did not match the distinctive area of competence offered by the training institutions, not accompanied by manuals, not even intended for commercial use, or unusable. TESDA, however, made partial payments to VGRCI despite the COA findings thereby giving unwarranted benefits, advantage, or preference to VGRCI and causing undue injury to the government. Accused Syjuco, Sanico, Beltran, Mondejar, Belda, Fang, and Montemayor were thereafter charged before this Court with three counts of Violation of Section 3(g) and three counts of Violation of Section 3(e) of R.A. No. 3019.



¹ These programs are the LEPTES-03, NDFTES-03, and LEPTES-02.

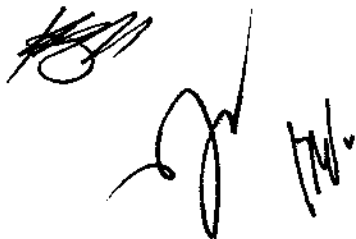
In their respective motions, accused Sanico, Mondejar, Beltran, Belda, Fang, Montemayor, and Syjuco claimed that the Prosecution failed to adduce evidence sufficient to support their conviction of Violation of Sections 3 (g) and (e) of R.A. No. 3019. In particular, accused Sanico, Mondejar, Beltran, Belda, Fang, and Montemayor alleged that:

- 1) as members of the BAC and its Secretariat, their participation in the Agreements were limited to the bidding process and no evidence of any irregularity during the process was presented;
- 2) all documentary and testimonial evidence presented pertain to overpricing, planning, and design of competencies/programs, non-compliance with specifications of tools and equipment, and defective deliveries, which are all beyond the functions of the BAC; and
- 3) there was no evidence of conspiracy between and/or among accused Syjuco, Roxas, Peyuan, Del Rosario, Beltran, Sanico, Mondejar, Docdocil, Belda, Fang, and Montemayor.

For his part, accused Syjuco alleged that he should not be held criminally liable for the failure of VGRCI to comply with its contractual obligations. Aside from being a mere signatory and representative of TESDA in the Agreements, Syjuco claimed that the Prosecution failed to identify any specific duty that he violated. Syjuco contended that he merely relied on the reports of subordinate officials as to the progressive performance of the supplier. He should neither be expected to make an individual inspection of the deliveries to TESDA, nor follow-up full compliance with VGRCI. Lastly, Syjuco emphasized that the Agreements were subjected to public bidding. It is therefore erroneous and misleading for the Prosecution to imply that accused Syjuco had absolute control in the award of the Agreements to VGRCI.

In the Manifestation (In Re: Advanced Copies of the Motion for Leave to File Demurrer to Evidence) dated August 28, 2019 filed by accused Beltran, Belda, Montemayor, and Fang, they claimed that they filed their Motion for Leave to File Demurrer to Evidence through registered mail on August 27, 2019.

In its Consolidated Comment/Opposition, the Prosecution, through the Office of the Special Prosecutor, stated that the documentary and testimonial evidence it adduced were sufficient to sustain the indictment of accused Sanico, Mondejar, Syjuco, Beltran, Belda, Fang, and Montemayor, for Violation of Sections 3 (g) and (e) of R.A. No. 3019.

Handwritten signatures and initials in black ink, including a large signature on the left and initials 'MW' on the right.

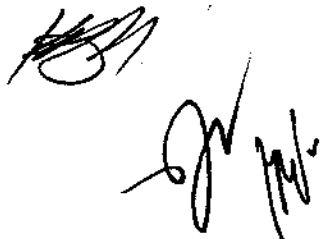
After a thorough review of the records of the cases and the evidence submitted by the Prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt for Violation of Sections 3 (g) and (e) of R.A. No. 3019 against the accused. The Court hereby **DENIES** the Motions for Leave to File Demurrer to Evidence filed by accused Sanico, Mondejar, Syjuco, Beltran, Belda, Fang, and Montemayor.

This is without prejudice to the filing by accused Sanico, Mondejar, Beltran, Belda, Fang, Montemayor, and Syjuco of a Demurrer to Evidence without prior leave of court, but subject to the legal consequence provided under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, that they shall waive their right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the Prosecution.

WHEREFORE, the Motion for Leave to File Demurrer to Evidence dated August 23, 2019 of accused Teodoro S. Sanico; Motion for Leave to File Demurrer to Evidence dated August 23, 2019 of accused Buen S. Mondejar; Motion for Leave of Court to File Demurrer to Evidence dated August 26, 2019 of accused Augusto L. Syjuco, Jr.; and Motion for Leave to File Demurrer to Evidence dated August 27, 2019 of accused Ernesto A. Beltran, Juanito L. Belda, Francisco D. Fang and Maximiano F. Montemayor are **DENIED**.


Accused Sanico, Mondejar, Syjuco, Beltran, Belda, Fang, and Montemayor are given a non-extendible period of five (5) days from receipt of this Resolution within which to file their Demurrer to Evidence without prior leave of court, if they so desire, or file a Manifestation informing the Court that they will no longer file a Demurrer to Evidence.

The hearings set on October 23 and 24, 2019, both at 1:30 in the afternoon for the initial presentation of evidence for the Defense are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the Demurrer to Evidence of the accused.




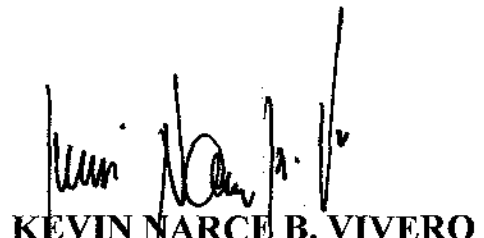
The Manifestation dated August 28, 2019 filed by accused Ernesto Beltran, Juanito L. Belda, Francisco D. Fang and Maximiano F. Montemayor is **NOTED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice