



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-18-CRM-0464**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019, as amended

**SB-18-CRM-0465 to 0468**  
For: Falsification of Public Document

*Present*

- versus -

**ENRICO R. ECHIVERRI, ET AL.** **FERNANDEZ, SJ, J.,**  
Accused. Chairperson  
**MIRANDA, J. and**  
**VIVERO, J.**

*Promulgated:*

AUG 24 2020

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Reconsideration*<sup>1</sup> filed by accused Enrico R. Echiverri, Russel C. Ramirez, Edna V. Centeno, Evelina M. Garma and Jesusa C. Garcia; and the prosecution's *Comment/Opposition (To Accused's Motion for Reconsideration Dated 16 March 2020)*.<sup>2</sup>

In their *Motion for Reconsideration*, the accused pray that this Court's Resolution dated March 9, 2020 be reconsidered and set aside, and that they be allowed to file their Demurrer to Evidence. They aver:

1. There was an appropriation for the subject project.

<sup>1</sup> Dated March 16, 2020. The Court received a copy of the Motion through electronic mail on June 15, 2020.

<sup>2</sup> Dated June 8, 2020 and filed by electronic mail on June 8, 2020

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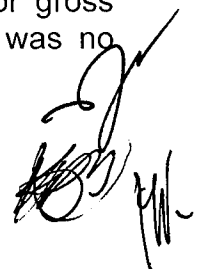
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- a. The Proposed Annual Executive Budget for Calendar Year 2013 provides the amount of ₱587,459,027 for the Special Projects/Activities Fund, under which is the Maintenance of Peace and Order Programs, from which the subject projects were funded.
  - b. Ordinance No. 0488, s. 2012, passed by the Sangguniang Panlungsod, approved the AEB, and appropriated said amount for the Special Projects/Activities Fund.
  - c. Prosecution witness May R. Arboleda admitted that the projects were part of the AEB, and that the Special Projects/Activities Fund was part of the Maintenance and Other Operating Expenses (MOOE) of the Office of the City Mayor.
  - d. In *Germar v. Legaspi*,<sup>3</sup> it was held that a line-item appropriation in an ordinance under the category "Maintenance and Other Operating Expense" is sufficient and would not require a separate ordinance.
  - e. The subject projects fall under the line-item "Maintenance and Other Operating Expenses" found under "Special Projects/Activities Fund." Thus, there is no need to obtain a separate or additional authority from the Sangguniang Panlungsod.
  - f. The specific projects covered by the Special Projects/Activities Fund were listed in both the Annual Investment Plan (AIP) of the City of Caloocan for 2013 and in the Maintenance of Peace and Order Programs (Special Activities Fund) 2013, which was submitted to the Sangguniang Panlungsod and specifically appropriated the amount of ₱14,000,000 each for the group life insurance of barangay officials and barangay tanods.
  - g. Prosecution witness Nomer Marmolejo testified that said AIP contained an allocation of ₱30,000,000 for the subject projects.
  - h. Witness Arboleda admitted that the audit team issued the Notices of Suspension and Disallowance without considering the AIP.
2. There was no manifest partiality, evident bad faith or gross inexcusable negligence on their part because there was no

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<sup>3</sup> G.R. no. 232532, October 1, 2018



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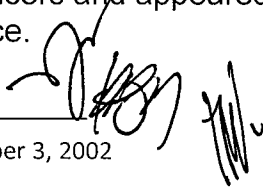
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dishonest or fraudulent purpose, ill-will, self-interest, or want of even the slightest care.

- a. The prosecution's own evidence shows the absence of manifest partiality. In Resolutions No. 03-11B and 03-11C dated March 6, 2013, the BAC recommended the use of "canvassing" as the mode of procurement for the insurance coverage.
  - i. The procurement of the subject group life insurance coverage from BENLIFE was made through limited source bidding, an alternative method of procurement allowed by law.
  - ii. In Resolutions No. 03-11B and 03-11C, the BAC recommended the award of the contracts to BENLIFE, which submitted the lowest total premium.
- b. There was no evident bad faith.
  - i. They enjoy the presumption of regularity in the performance of official duties.
  - ii. The prosecution failed to introduce even a single shred of evidence showing that they acted with evident bad faith. On the contrary, its evidence shows that they acted for no other purpose but to fulfill their respective duties as public officials of the City of Caloocan.
- c. There was no gross inexcusable negligence.
  - i. They are being prosecuted for signing documents necessary for entering into a contract with BENLIFE. However, the prosecution failed to show that there was no specific appropriation for the projects.
  - ii. In *Sistoza v. Desierto*,<sup>4</sup> it was held that it is sheer speculation to perceive and ascribe corrupt intent and conspiracy of wrongdoing for Violation of Sec. 3(e) of R.A. No. 3019 solely from a mere signature on a document although coupled with repeated endorsements of its approval to the proper authority, where the supporting documents passed the unanimous approval of equally accountable public officers and appeared regular and customary on their face.

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<sup>4</sup> G.R. No. 144784, September 3, 2002



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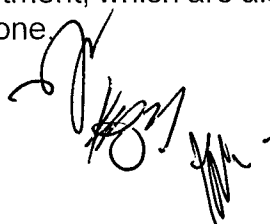
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- iii. The evidence on record shows that they acted in good faith, and exercised care in their actions and duties.
3. No party was given unwarranted benefits, advantage or preference.
    - a. The BAC recommended the award of the contracts to BENLIFE, which submitted the lowest total premium.
    - b. The BAC (1) approved the use of canvassing as a mode of procurement; (2) recommended the acceptance of BENLIFE's proposal for the insurance coverage of barangay officials and barangay tanods, and (3) recommended the issuance of the notice of award to BENLIFE.
  4. The prosecution did not adduce evidence to show the damage caused to the government or to any party.
    - a. In *Llorente v. Sandiganbayan*,<sup>5</sup> it was held that the element of damage to the government or to any party must be proved by evidence of actual damage.
    - b. There is no proof of loss or damage suffered by the government. The COA State Auditor even confirmed that the projects were fully implemented.
  5. There was no falsification. They were merely performing their official duties when they signed the subject documents. There is nothing in their respective certifications that would suggest that there was manifest partiality, evident bad faith or gross inexcusable negligence.
    - a. The element of absolute falsity is not present because the Sangguniang Panlungsod ratified the Memorandum of Agreement with BENLIFE. It did not disown the disbursement when it had every opportunity to exclude the same from ratification.
    - b. Sec. 346 of R.A. No. 7160 does not require prior approval of the Sanggunian for disbursement of local funds.
    - c. The prosecution failed to overturn the presumption of regularity. When they signed the subject documents, there was already a prior procedure done by the requesting department, which are also presumed to have been regularly done.

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<sup>5</sup> G.R. No. 122166, March 11, 1998



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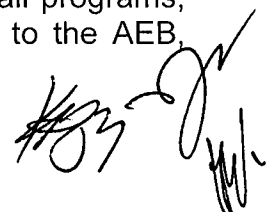
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6. The prosecution's evidence is insufficient to sustain a conviction under Sec. 3(e) of R.A. No. 3019 and for Falsification of Public Document under Art. 171, par. 4 of the Revised Penal Code.
7. The prosecution failed to adduce evidence to prove the allegation of conspiracy. Instead, its evidence proved that they merely performed their respective duties.

In its *Comment/Opposition*, the prosecution counters:

1. The accused' contentions are a mere rehash and repetition of their arguments in their *Motion for Leave to File Demurrer to Evidence* dated February 11, 2020, which was found to be without merit.
2. In Ordinance No. 0488, s. 2012, the amount of ₱587,459,027.00 was earmarked for "Special Projects/Activities Fund." However, the ordinance did not list the specific projects for which said fund would be used. There was also no specific appropriation for the procurement of group life insurance policies for barangay officials and barangay tanods.
3. Said amount for "Program Appropriation and Obligation by Object for Special Projects/Activities Fund" is expressly denoted as "Lump Sum Appropriations for Various City Government Projects."
4. Contrary to the accused' claim, witness Arboleda did not state that the subject group life insurance policies were part of the AEB. Neither did she confirm that the same were part of the *Maintenance of Peace and Order Program* under the SAF. She consistently stated that the appropriation for the SAF was lump-sum in nature.
5. The appropriation in the AEB is a lump-sum appropriation, and not the line-item contemplated in *Germar*. The appropriation ordinance and the *Maintenance of Peace and Order Programs* annexed to said ordinance did not list the projects to be funded from the allocation.
6. The accused pointed out that specific projects were listed in the AIP and the *Maintenance of Peace and Order Programs (Special Activities fund) 2013*. However, the AIP was not among the exhibits offered by the prosecution.
7. The AIP is a mere "wish list" which contains proposals for disbursements, expenses and acquisitions of the various offices of the city. Witness Marmolejo testified that not all programs, projects, and activities listed in the AIP made it to the AEB.



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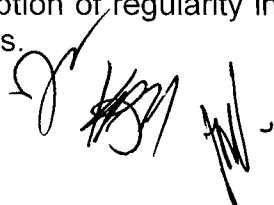
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which forms part of the ordinance. Only the programs, projects and activities that were prioritized by the city government were included in the AEB and were given appropriation.

8. The burden of evidence has shifted to the accused, to prove that the subject projects that were allegedly listed in the AIP were in fact included in the approved AEB.
9. The SP-Secretariat Services Office, the City Budget Department, the City Treasury Department, the City Accounting Department and the City Auditor's Office have no copy of the purported list of projects covered by the *Maintenance of Peace and Order Programs (Special Activity Fund) 2013*. Said list was also not attached to the 2013 Annual Budget.
10. Because said list cannot be found in the proper repositories of the city government, it may be reasonably inferred that the same does not exist.
11. Life insurance cannot be considered to be a highly specialized type of product where only a few suppliers are known to be available. The resort to limited source bidding was not justified.
12. The accused, in conspiracy with one another, acted with evident bad faith, manifest partiality and/or gross inexcusable negligence when they caused the award of the subject contracts to BENLIFE without public bidding and without any legal basis for an alternative mode of procurement, giving undue favor to BENLIFE, and resulting in loss to the government.
13. All the elements of Falsification of Public Document under Art. 171 (4) of the RPC are present.
  - a. All accused were public officers at the time material to the present cases.
  - b. They took advantage of their official positions when they made their respective certifications in the ALOBS and DVs.
  - c. They made their respective certifications in the respective documents despite knowing the absence of itemized appropriations in the annual budget for the subject transactions, and without prior authorization from the Sangguniang Panlungsod, allowing accused Echiverri to enter into said transactions.
14. The prosecution's evidence was able to overturn the presumption of regularity in the discharge of official duties and functions.

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- a. There is doubt as to when the purchase requests were actually made. Furthermore, the significant difference in the unit cost of group insurance coverage for barangay officials and that for barangay tanods gives rise to suspicion, considering that the purchase request for the policies were made almost at the same time.
- b. The issuance of the ALOBS on January 22, 2013 and February 3, 2013, respectively, for payment to BENLIFE is irregular because they were issued prior to the BAC's issuance of the corresponding Notices of Award on March 15, 2013.
- c. The DVs were likewise issued prior to the BAC's issuance of the Notices of Award.
- d. Paragraphs No. 4 and 7 of the respective MOAs involve insurance coverage for senior citizens, and not for barangay officials and barangay tanods.

THE COURT'S RULING

The Court resolves to deny the accused' *Motion for Reconsideration*.

An examination of the arguments in their instant *Motion for Reconsideration* would show that the same are a mere reiteration or rehash of the arguments in their *Motion for Leave to File Demurrer to Evidence* dated February 11, 2020.

In *Mendoza-Ong v. Sandiganbayan*,<sup>6</sup> the Supreme Court held:

Concerning the first ground abovesited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

This Court had already considered the accused' arguments, and found the same to be without merit when it denied the accused' *Motion for Leave to File Demurrer to Evidence* in the Resolution dated March

<sup>6</sup> G.R. Nos. 146368-69, October 18, 2004

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9, 2020. For convenience, the Court's ruling in the assailed Resolution is hereunder quoted.<sup>7</sup>

In *Bernardo v. Court of Appeals*, the Supreme Court explained the trial court's power to grant leave to the accused to file a demurrer. To wit:

In fine, under the new rule 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. This power to grant leave to the accused to file a demurrer is addressed to the sound discretion of the trial court. The purpose is to determine whether the accused in filing his demurrer is merely stalling the proceedings.

(underscoring supplied)

After an examination of the prosecution's evidence and the arguments in the accused' Motion, this Court rules that granting the accused leave to file their demurrer to evidence will accomplish nothing but delay the proceedings.

**WHEREFORE**, the *Motion for Reconsideration* of accused Echiverri, Ramirez, Centeno, Garma and Garcia is hereby DENIED for lack of merit.

As provided in Sec. 23, Rule 119<sup>8</sup> of the Rules of Court, they may adduce evidence in their defense, or in the alternative, they may file their demurrer to evidence without leave of court.

The accused are given five (5) days from receipt of this Resolution to file their respective manifestations, by personal service or registered mail, and electronically, to inform this Court whether they are submitting their demurrer to evidence without leave of court. The

<sup>7</sup> Resolution dated March 9, 2020, pp. 4-5

<sup>8</sup> **Sec. 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.



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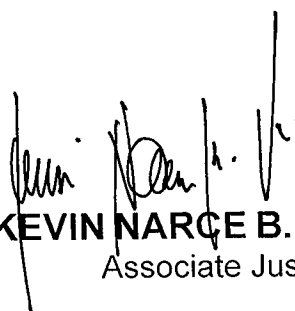
hearings for the initial presentation of the defense evidence are set on October 1 and 5, 2020, and all Mondays and Thursdays thereafter, all at 1:30 in the afternoon. Said hearings will be considered cancelled upon receipt by this Court of the accused' manifestation that they intend to submit their demurrer to evidence without leave of court.

SO ORDERED.

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

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARÇE B. VIVERO**  
Associate Justice