



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-16-CRM-0580**
 Plaintiff, For: Violation of Sec. 3(e)
 of R.A. No. 3019, as amended

SB-16-CRM-0581
 For: Malversation of Public Funds
 under Art. 217 of the Revised
 Penal Code

Present

- versus -

ESTEBAN R. SIA, ET AL.
 Accused.

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

Promulgated:

SEP 4 2020 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Esperato A. Del Socorro's *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (In re: Motion for Reconsideration of Accused Esperato A. Del Socorro)* [sic].²

In his *Motion for Reconsideration*, accused Del Socorro prays that the Court reconsider its Resolution dated March 12, 2020, and grant him leave to submit his Demurrer to evidence. He avers:

1. There is insufficient evidence to prove conspiracy.

¹ Dated August 22, 2020, and received by the Court on September 1, 2020

² Dated September 3, 2020 and filed by electronic mail on September 7, 2020

[Signature]

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- a. In *People v. Anticamara*,³ it was held that proof that an accused was under duress from a co-accused while participating in the crime would suffice to exempt said accused from incurring criminal liability.
 - b. Here, the testimony of prosecution witness Kasayan and other pieces of evidence would show that he was under duress. Thus, he could not have conspired with the principal accused.
 - c. The disbursement vouchers (Exhibits D to D-58) were offered only to prove that he certified the availability of public funds. These did not prove conspiracy.
 - d. He was merely a victim of the tyrant former Mayor Esteban R. Sia.
 - e. The process of check approval and issuance was ministerial on his part. He was not responsible for stopping the encashment of accused Sia's cash advances.
2. There is insufficient evidence to prove all the elements of the crime charged against him.

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

1. Accused Del Socorro's arguments are a mere rehash of those in his earlier Motion for Leave to File Demurrer to Evidence. These had already been passed upon by the Court.
2. The prosecution was able to prove all the elements of Violation of Sec. 3(e) of R.A. No. 3019.
 - a. Accused Del Socorro admitted that he was the Treasurer of Ronda, Cebu at the time material to the allegations in the Informations. At the time, accused Sia was the Mayor of said municipality.
 - b. Cash advances were released in favor of accused Sia despite several irregularities. Said cash advances could not have been released without accused Del Socorro's signature.
 - c. Accused Del Socorro falsely certified that there were available funds. Under the COA circular, cash advances

³ G.R. No. 178771, June 8, 2011

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- are not available to elected officials except for travelling expenses.
- d. Accused Del Socorro's allegation of coercion is a matter of defense that is better appreciated during the presentation of defense evidence.
 3. All the elements of Malversation under Art. 217 of the Revised Penal Code are also present.
 4. Accused Sia was a public officer who received funds of Ronda, Cebu in the form of various cash advances.
 5. Said cash advances remain to be unliquidated despite repeated demands from the COA and the municipal accountant. Such failure to liquidate the public funds serves as *prima facie* evidence that the funds were put to accused Sia's personal use.

THE COURT'S RULING

The Court resolves to deny accused Del Socorro's *Motion for Reconsideration*, there being nothing that would warrant the reversal of the Resolution dated March 12, 2020.

Accused Del Socorro's arguments in his *Motion for Reconsideration* are a mere reiteration or rehash of those in his *Motion for Leave of Court to File Demurrer to Evidence*.⁴

In *Mendoza-Ong v. Sandiganbayan*,⁵ it was 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.

Accused Del Socorro raises no new arguments in his *Motion for Reconsideration*. This Court had already considered accused Del Socorro's rehashed arguments, and found them to be without merit, when it denied accused Del Socorro's earlier Motion in the Resolution dated March 12, 2020. It is unnecessary to discuss them anew.

⁴ Dated February 9, 2020; Record, Vol. 6, pp. 339-347

⁵ G.R. Nos. 146368-69, October 18, 2004

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For convenience, the Court's ruling⁶ in the assailed Resolution is hereunder quoted:

In *Bernardo v. Court of Appeals*, the Supreme Court explained that the trial court is given the discretion to grant leave to the accused to file a demurrer for the purpose of determining whether the accused is merely stalling the proceedings. *Viz.*:

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' Motions, this Court rules that granting the accused leave to file their demurrers to evidence will accomplish nothing but delay the proceedings.

WHEREFORE, accused Del Socorro's *Motion for Reconsideration* is hereby DENIED.

As provided in Sec. 23, Rule 119⁷ of the Rules of Court, he may adduce evidence in his defense, or in the alternative, he may file his demurrer to evidence without leave of court.

Accused Del Socorro is given five (5) days from receipt of this Resolution to file his manifestation, by personal service or registered mail, and electronically, to inform this Court whether he is submitting his demurrer to evidence without leave of court. The hearings for the

⁶ Resolution dated March 12, 2020, p. 4

⁷ 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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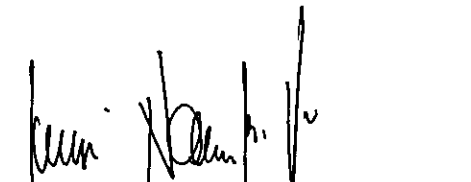
presentation of the defense evidence are set on November 17, 18, 24 and 25, 2020. The scheduled hearings will be considered cancelled upon receipt by this Court of said accused' manifestation that he intends to submit his demurrer to evidence without leave of court.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice