



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1496 to 1497
 For: Violation of Section 3(e)
 of R.A. No. 3019, as amended &
 Malversation under Article 217 of
 the RPC

- versus -

GREGORIO T. IPONG, ET AL.,
Accused.

Present :

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

Promulgated:

OCT 08 2020

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RESOLUTION

FERNANDEZ, SJ, J.

For resolution is the *Motion for Reconsideration*¹ of accused Gregorio T. Ipong.

In his *Motion*, accused Ipong asks the Court to reconsider its *Resolution* dated August 25, 2020, denying his *Motion for Leave to File Demurrer to Evidence*. In support of his *Motion*, accused claims:

1. The prosecution materially failed to prove all the elements of Section 3 (e) of R.A. No. 3019.²

*Special Member, in view of the inhibition of J. Karl B. Miranda, per Administrative Order No. 276-A-2017 dated August 14, 2017.

¹ Dated September 4, 2020, filed on the same date by electronic mail.

² p. 2, *Motion for Reconsideration*.

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- i. The prosecution failed to prove the capacity or function for which he is being charged.
 - ii. The prosecution failed to prove that he acted with manifest partiality, evident bad faith or gross inexcusable negligence when he appointed AFPI as the NGO conduit of his office for the implementation of the PDAF project. The letter he issued is merely recommendatory and suggestive.³
2. The *Complaint* should not be considered against him because it did not contain a Verification.⁴
3. The entries in the *Complaint Affidavit* are pure hearsay, which cannot be used against him.⁵ The prosecution did not present the panel of investigators. The prosecution only presented Atty. Vinluan, who prepared the *Complaint-Affidavit*. She is not part of the panel of investigators.
4. His letter was purely recommendatory.⁶ There was no proof that his recommendation was required for TLRC to use and release the PDAF. He should not be held accountable for the use and release of the PDAF. The accountability rests upon the implementing agencies.⁷
5. At the time of the transaction, the circular in force was COA Circular 96-003. Said circular did not require public bidding in the selection of NGOs.⁸
6. The *Complaint* is premature. There was no *Notice of Disallowance* when the *Complaint* was filed. Until now, a *Notice of Disallowance* has not been issued. The *Special Audit Report* is not conclusive without a *Notice of Disallowance*.⁹

³ p.4, *Motion for Reconsideration*.

⁴ pp. 2-3, *Motion for Reconsideration*.

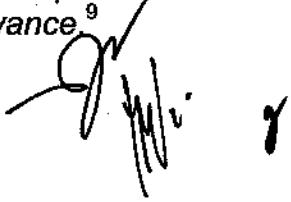
⁵ p. 3, *Motion for Reconsideration*.

⁶ p. 3, *Motion for Reconsideration*.

⁷ p. 3, *Motion for Reconsideration*.

⁸ p. 4, *Motion for Reconsideration*.

⁹ p.4, *Motion for Reconsideration*.



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7. The prosecution failed to prove that the training programs were not implemented or that the livelihood projects do not exist.¹⁰
8. The accused should be absolved from liability because the Special Audit Report states that it was the DBM which did not properly release the PDAF and that the same was not appropriately, officially, and effectively utilized by the implementing agencies.¹¹
9. The prosecution failed to prove conspiracy.¹²
10. There was no evidence to show that he benefited from the PDAF transactions.¹³

In its *Comment/Opposition*,¹⁴ the prosecution opposes the accused' plea for reconsideration and contends that arguments raised by the accused in his *Motion for Reconsideration* are essentially a mere rehash of the arguments raised in his *Motion for Leave to File Demurrer to Evidence*. The prosecution reiterates that it has sufficiently proven the guilt of the accused beyond reasonable doubt and that it has established all the elements of Sec. 3 (e) of R.A. 3019 and Malversation under 217 of the Revised Penal Code.

THE COURT'S RULING

After a careful review of the documentary and testimonial evidence presented by the prosecution, taking into account the arguments raised by the accused in his *Motion for Reconsideration*, the Court still finds that, if unrebutted, the same is *prima facie* sufficient to support a verdict of guilt against accused Gregorio T. Ipong for violation of Section 3(e) of Republic Act No. 3019 and *Malversation* under Article 217 of the *Revised Penal Code*.

The *Motion for Reconsideration* of accused Ipong is **DENIED**. 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, he shall waive his right to present

¹⁰ p.4, *Motion for Reconsideration*.

¹¹ p.5, *Motion for Reconsideration*.

¹² p. 5, *Motion for Reconsideration*.

¹³ p. 6, *Motion for Reconsideration*.

¹⁴ Dated September 8, 2020, filed by electronic mail on September 9, 2020.

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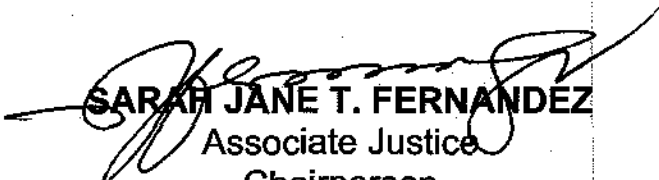
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evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

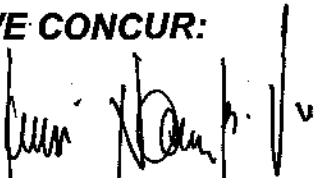
The accused is given a period of five (5) days from receipt of this Resolution within which to file his *Manifestation* to inform this Court whether he will file a *Demurrer to Evidence*, without leave of court.

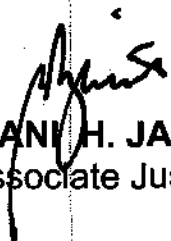
The presentation of defense evidence previously set are maintained. The scheduled hearing will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of the accused.

SO ORDERED *ff*


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KEVIN NARCE B. VIVERO
Associate Justice


BAYANI H. JACINTO
Associate Justice