

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Cases Nos. SB-16-CRM-0242
to SB-16-CRM-0248


For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019 and
Malversation of Public Funds

-versus-

Present:
Herrera, Jr., J. *Chairperson*
Musngi, J. &
Malabaguio, J.

ARREL R. OLAÑO, ET AL.,
Accused.

Promulgated:

March 22, 2022 

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RESOLUTION

HERRERA, JR., J.:

For resolution of the Court are the following:


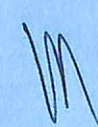

- 1) ***Motion For Leave Of Court To File Demurrer To Evidence***¹ dated December 23, 2021 filed by accused Maria Rosalinda M. Lacsamana, through counsel;
- 2) ***Joint Motion For Leave To File Demurrer To Evidence***² dated December 27, 2021 filed by accused Mario L. Relampagos, Rosario S. Nuñez, Lalaine N. Paule and Marilou D. Bare, through counsel;
- 3) ***Motion For Leave To File Demurrer To Evidence***³ dated December 27, 2021 filed by accused Dennis L. Cunanan, through counsel;
- 4) ***Motion For Leave (To: File Demurrer To Evidence)***⁴ dated December 24, 2021 filed by accused Janet Lim Napoles, through counsel; and

¹ Record, Vol. 12, pp. 373-381

² Id, pp. 382-400

³ Id, pp. 401-447

⁴ Id, pp. 448-483

5) ***Motion For Leave To File Demurrer To Evidence With Notice Of New Email Address***⁵ dated January 6, 2021 filed by accused Arrel R. Olaño, through counsel.

In response, the plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed the following:

- a) ***Consolidated Comment/Opposition (Re: [a] Motion for Leave of Court to File Demurrer to Evidence dated 23 December 2021 filed by Accused Maria Rosalinda M. Lacsamana; and [b] Joint Motion for Leave to File Demurrer to Evidence dated 27 December 2021 filed by Accused Mario L. Relampagos, Rosario S. Nuñez, Lalaine N. Paule and Marilou D. Bare)***⁶ dated January 7, 2022, to which a ***Reply (Consolidated Comment/Opposition Dated January 6, 2022)***⁷ dated January 12, 2022 was filed by accused Rosalinda M. Lacsamana, through counsel;
- b) ***Consolidated Comment/Opposition (To the: [a] Motion for Leave (To: File Demurrer to Evidence) dated 24 December 2021 filed by Accused Janet L. Napoles; and [b] Motion for Leave to File Demurrer to Evidence dated 27 December 2021 filed by Accused Dennis L. Cunanan)***⁸ dated February 14, 2022; and
- c) ***Comment/Opposition (On the Motion for Leave to File Demurrer to Evidence dated 06 January 2021 filed by Accused Arrel R. Olaño)***⁹ dated January 26, 2022.

These are seven (7) criminal cases being jointly tried by the Court.

The first three (3) - Criminal Cases Nos. SB-16-CRM-0242, 0243 and 0244 – are for ***Violation of Section 3(e) of Republic Act (R.A.) No. 3019***, or the ***Anti-Graft and Corrupt Practices Act***, under three (3) separate ***Informations***¹⁰ all dated April 4, 2016. Those charged in the three (3) ***Informations*** are the following accused: Arrel R. Olaño; Mario L. Relampagos; Rosario S. Nuñez; Marilou D.

⁵ Id, pp. 494-578

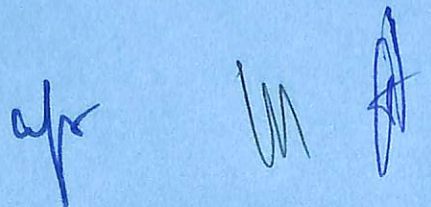
⁶ Id, pp. 522-541

⁷ Id, pp. 542-568

⁸ Record, Vol. 13, pp. 70-87

⁹ Record, Vol. 12, pp. 552-568

¹⁰ Id, pp. 1-5



Bare; Lalaine N. Paule; Antonio Y. Ortiz; Dennis L. Cunanan; Francisco B. Figura; Maria Rosalinda M. Lacsamana; Marivic V. Jover; Maueine E. Demaranan; and Janet L. Napoles. The accused in Criminal Cases Nos. SB-16-CRM-0242 and 0245 include Mylene T. Encarnacion. Those in Criminal Case No. SB-16-CRM-0243 also include accused Evelyn D. de Leon and Eulogio D. Rodriguez, while those in Criminal Case No. SB-16-CRM-0244 include accused Evelyn D. de Leon and Consuelo Lilian R. Espiritu.

The next three (3) cases – Criminal Cases Nos. SB-16-CRM-0245, 0246 and 0247 – are for **Malversation of Public Funds** under **Article 217 of the Revised Penal Code**. The charge in Criminal Cases Nos. SB-16-CRM-0245 and 0246 are contained in two (2) separate **Informations**¹¹ both dated April 4, 2016, while that in Criminal Case No. SB-16-CRM-0247 is contained in an **Amended Information**¹² dated June 7, 2016.

In Criminal Cases Nos. SB-16-CRM-0245, 0246 and 0247, those charged are the following accused: Olaño; Relampagos; Nuñez; Bare; Paule; Ortiz; Cunanan; Figura; Jover; Dimaranan; and Napoles. The accused in Criminal Case No. SB-16-CRM-0246 also include Encarnacion. The accused in Criminal Case No. SB-16-CRM-0246 also include Evelyn D. De Leon and Eulogio D. Rodriguez. And the accused in Criminal Case No. SB-16-CRM-0247 include De Leon and Consuelo Lilian R. Espiritu.

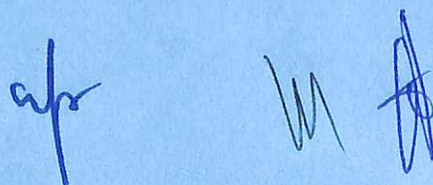
The last one is Criminal Case No. SB-16-CRM-0248 where the only accused is Olaño who is charged with **Direct Bribery** under **Article 210 of the Revised Penal Code**, under an **Amended Information**¹³ dated June 7, 2016.

The charges of **Violation of Section 3(e) of R.A. 3019** against the accused in Criminal Cases Nos. SB-16-CRM-0242, 0243 and 0244 pertain to the release of the Priority Development and Assistance Fund (PDAF) of accused Olaño as a member of the House of Representatives in the total amount of around P7,720,000.00, supposedly for implementation of PDAF-funded projects which turned out to be non-existent.

¹¹ Id, pp. 16-25

¹² Id, pp. 26-30

¹³ Id, pp. 31-33



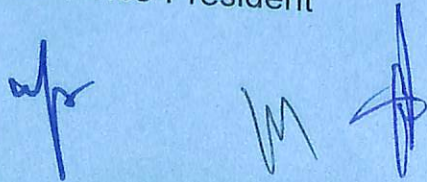
On the other hand, the charges against the accused in Criminal Cases Nos. SB-16-CRM-0245, 0246 and 0247 of **Malversation of Public Funds** under **Article 217 of the Revised Penal Code** pertain to their alleged misappropriation of the PDAF-drawn public funds for the implementation of the PDAF-funded projects which turned out to be non-existent.

The charge against accused Olaño in Criminal Case No. SB-16-CRM-0248 for **Direct Bribery** under **Article 210 of the Revised Penal Code** refers to his alleged receipt of the amount of P3,175,000.00, in consideration of unilaterally choosing and endorsing the non-governmental organizations of accused Napoles for livelihood projects funded by his PDAF, but which "were not implemented and actually fictitious and/or unexistent."

The accused, in their separate motions praying for leave to file demurrer to evidence, essentially contend that the evidence adduced by the prosecution in these cases are insufficient to sustain a conviction. Invariably, they all claim that the evidence of the prosecution failed to prove their guilt of the crimes charged.

The Court finds the instant motions untenable.

To prove the charges against the accused, the prosecution presented the following as witnesses: (1) Marissa A. Santos, Chief Administrative Officer, Central Records Division, Department of Budget and Management (DBM); (2) Atty. RJ A. Bernal, Securities Counsel III, Securities and Exchange Commission (SEC); (3) Leona A. Andriano, State Auditor V assigned at the Special Audit Office, Special Services Sector, Commission on Audit (COA); (4) Mr. Benhur K. Luy; (5) Dario V. Sabilano, Special Investigator, Intelligence Service Division, National Bureau of Investigation (NBI); (6) Atty. Peter Leo Mendiola, Manager, Legal Compliance Department, Manulife; (7) Ms. Angela Marie Ramos, Manager, Underwriting and Enrollment Fulfillment Department, Maxicare Corp.; (8) Ms. Merlina A. Talay, Social Security Officer III, Social Security System (SSS); (9) Atty. Donato V. Espino, Chief Compliance Officer, Metrobank; (10) Atty. Alexander G. Erese, Jr., Legal Officer, Insular Health Care; (11) Atty. Leigh Vhon Santos, Bank Officer, Bangko Sentral ng Pilipinas (BSP); (12) Mr. Francisco Burgos, Jr., Vice-President



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and Relationship Officer, LandBank of the Philippines (LBP); (13) Mr. Nelson A. Bader, former Assistant Department Manager of LandBank, DECS Extension Office; (14) Mr. Robert D. Gregorio, Administrative Assistant I, Digital Forensic Laboratory, NBI; (15) Ms. Lourdes Bayaton-Monte, Officer-in-Charge/Chief Administrative Officer, Human Resources Management Office, DBM; (16) Mr. Jhoven G. Litana, Supervising Administrative Officer, General Services Division, Department of Science and Technology (DOST); (17) Ms. Mary Arlence Joyce Baltazar, former employee of JLN Corporation; and (18) Engr. Roberto Villaluz, Officer-in-Charge, City Assessor's Office, Taguig City.

The testimony of Atty. Hale Oliver M. Labayo, Securities Counsel II, SEC was dispensed with, after a stipulation with the accused that prosecution Exhibits "S³-16", "S³-57", "Q⁴-17" and "Q⁴-49" are part of the records of the SEC.¹⁴

The prosecution also submitted as evidence various documents marked as Exhibits "A", "A-1" to "A-489", "C" to "E", "G" to "Y", "AA" to "PP", "TT" to "ZZ", "A³" to "Z³", "A⁴" to "Z⁴", "A⁵" to "Z⁵", "A⁶" to "Z⁶", "A⁷" to "U⁷", and "W⁷", inclusive of submarkings and submarked documents.

Following a meticulous review of the records, the Court finds that the evidence adduced by the prosecution, testimonial and documentary, are *prima facie* sufficient to sustain the conviction of the accused of the crimes charged, unless these are successfully rebutted by defense evidence. The accused therefore need to present countervailing evidence.

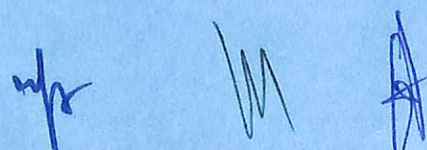
A *prima facie* case is a cause of action that is sufficiently established by a party's evidence to justify a verdict in his favor, provided such evidence is not successfully rebutted by the other party.

In ***Cometa v. State Investment Trust, Inc.***,¹⁵ the Supreme Court stated:

"It denotes evidence which, if unexplained and uncontradicted, is sufficient to sustain a prosecution or establish the facts, as to counterbalance the presumption of innocence and warrant the conviction of the accused."

¹⁴ Record, Vol. 9, p. 357

¹⁵ G.R. No. 124062, December 29, 1999



In ***Soriquez v. Sandiganbayan***,¹⁶ the Supreme Court explained:

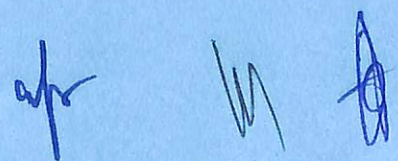
"A demurrer to evidence is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt.

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The determination of the sufficiency or insufficiency of the evidence presented by the prosecution as to establish a *prima facie* case against an accused is left to the exercise of sound judicial discretion."

WHEREFORE, premises considered, the Court hereby resolves to deny the following:

- 1) ***Motion For Leave Of Court To File Demurrer To Evidence*** dated December 23, 2021 filed by accused Maria Rosalinda M. Lacsamana, through counsel;
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- 3) ***Motion For Leave To File Demurrer To Evidence*** dated December 27, 2021 filed by accused Dennis L. Cunanan, through counsel;
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RESOLUTION

People vs. Arrel R. Olaño, et al.

SB-18-CRM-0242, etc.

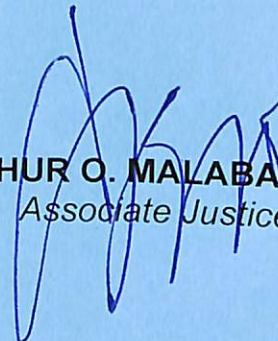
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OSCAR C. HERRERA, JR.
Chairperson
Associate Justice

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


ARTHUR O. MALABAGUIO
Associate Justice