



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-19-CRM-0051**
Plaintiff, For: Violation of Sec. 3(e) of Republic
Act No. 3019, as amended

Present

- versus -

GELACIO R. MANALANG,
ET AL.,

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

Accused.

Promulgated:

APR 27 2022

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Ellen Te Laddaran's *Motion for Leave of Court to File Demurrer to Evidence*,¹ and the prosecution's *Comment/Opposition (Re: Motion for Leave to File Demurrer to Evidence)*.²

In her Motion, accused Laddaran prays that she be granted leave of court to file a Demurrer to Evidence within ten (10) days from notice. She avers:

1. The prosecution's evidence is insufficient to prove her guilt beyond reasonable doubt.
2. The prosecution failed to prove all the elements of Violation of Sec. 3(e) of R.A. No. 3019.

¹ Dated April 4, 2022 and filed on April 6, 2022

² Dated April 19, 2022 and filed by electronic mail on April 25, 2022

RESOLUTION

People vs. Manalang, et al.

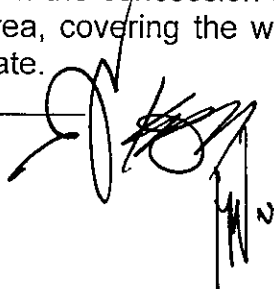
SB-19-CRM-0051

Page 2 of 6

X -----X

- a. The prosecution's witnesses identified two (2) Develop-Operate-and-Transfer Agreements³ (DOTA) with different rental rates, terms and conditions. The prosecution, however, failed to explain why there were two (2) DOTAs, and which was the real one. If the DOTA identified by witnesses David and Lawan (Exhibit H) is a false document, then the allegation in the Information has no basis.
 - b. The prosecution failed to prove malice and deliberate misrepresentation on the part of the accused, and thus, failed to prove the allegations in the Information.
 - c. One of the DOTAs (Exhibit H) does not bear accused Manalang's signature. Moreover, both DOTAs are incomplete because the attachments are not included.
3. The prosecution failed to prove the damage suffered by the City Government of Tarlac.
- a. The prosecution's conclusion that the consideration was low was based on the terms of other contracts, *i.e.*, the original Contract of Lease and the Amended Contract of Lease dated November 25, 2011. It did not consider the fact that the areas subject of the three (3) contracts have different sizes and locations.
 - b. The claims of damage to the City Government of Tarlac are based on mere suppositions, and not on actual factual data. They are based on income projections for stalls in 2012, without proof of occupancy of the stalls before the execution of the DOTA.
 - c. The execution of the DOTA, which covered the wet section, did not affect the contracts of lease with Streetwell, Lawrenceville, Arturo Calilung and Botica St. Cristo, covering concession areas in the dry section.
 - d. The prosecution's witnesses admitted that the concession area covered by the DOTA was changed from the dry section area to the wet section area because of the opposition and dissent of market vendors, and not to favor her.
 - e. Prosecution witness Nilo Cabreros testified that the change in the concession area from the front area to the back area, covering the wet section, resulted in a lower rental rate.

³ Exhibits H and H-2



RESOLUTION

People vs. Manalang, et al.
SB-19-CRM-0051

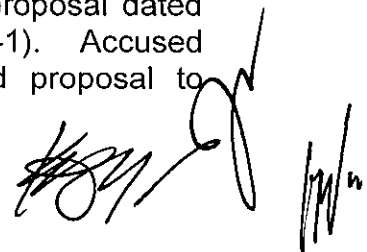
Page 3 of 6

x-----x

- f. The DOTA passed through the Prequalification, Bids and Awards Committee (PBAC), and was approved and ratified by the *Sangguniang Panlungsod* through a series of resolutions.
 - g. The terms of the DOTA are favorable to the City Government of Tarlac.
4. The prosecution failed to present evidence to prove the conspiracy between her and accused Manalang.
- a. The act of entering into a contract with the government is not sufficient to prove conspiracy, especially considering that the contract was approved by the *Sangguniang Panlungsod*.
 - b. Witnesses David and Lawan were not present during the negotiations and the preparation of the contract.
 - c. The prosecution's claims of conspiracy are mere suppositions not proved by evidence.

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

- 1. All elements of Violation of Sec. 3(e) of Republic Act No. 3019 are present.
- 2. The first element is not disputed. During the pre-trial, the parties stipulated that accused Manalang was the Mayor of Tarlac City. Although the case against him was dismissed because of his death, the case against accused Laddaran stands because she is charged with having conspired with accused Manalang.
- 3. The prosecution established the second element.
 - a. Accused Manalang accorded preference to accused Laddaran when Tarlac City entered into three (3) contracts with her. The rental rates were reduced by a considerable extent without any basis.
 - b. Accused Manalang ensured that the redevelopment of the Tarlac City Downtown Public Market (TCDPM), through the DOTA, will be awarded to accused Laddaran by disregarding the guidelines set forth under R.A. No. 7718. Instead of submitting the required documents, accused Laddaran submitted only the unsolicited proposal dated December 12, 2011 (Exhibits M and M-1). Accused Manalang relied on the said unsolicited proposal to

Handwritten signatures in black ink, appearing to be the names of the parties involved in the case, located at the bottom right of the page.

RESOLUTION

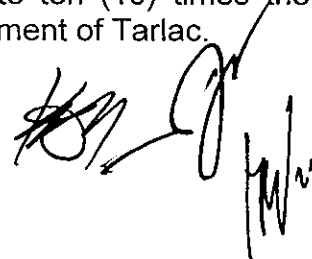
People vs. Manalang, et al.
SB-19-CRM-0051

Page 4 of 6

X-----X

change the contractual relationship from ordinary lease to a contractual arrangement governed by R.A. No. 7718.

- c. The project was awarded to accused Laddaran despite her failure to comply with the requirements under R.A. No. 7718, which would prove that she was legally, financially and technically capable.
 - i. She had no existing business permit and no Department of Trade and Industry (DTI) registration at the time of the submission of the unsolicited proposal or during the execution of the DOTA.
 - ii. She had no proven track record, not having previously undertaken a project similar to the one in the DOTA, and was financially ineligible to handle such project as shown by her application for a business permit, indicating that her capitalization was only in the amount of ₱70,000.00.
 - iii. The Public-Private-Partnership (PPP) Center was not furnished a copy of the DOTA.
 - d. Accused Manalang knew that accused Laddaran was ineligible for the project, yet he dismissed her lack of qualifications and still awarded the project to the latter. Both accused conspired to facilitate the award of the project.
 - e. The DOTAs (Exhibits H, H-4, H-5 and H-6) formally offered by the prosecution were certified photocopies from the pertinent offices of the City Government of Tarlac, and all bear accused Manalang's signature.
4. The prosecution established the third element. The actions of accused Manalang and Laddaran caused undue injury to the City Government of Tarlac and gave unwarranted benefits to accused Laddaran.
- a. The award to accused Laddaran caused damage to the City Government of Tarlac. The rental rate was considerably lower, compared to the rates of the other tenants.
 - b. Accused Laddaran subleased the area subject of the DOTA to Puregold Price Club, Inc. (Puregold) for ₱700,000.00/month, or a rental rate ten (10) times the amount she paid to the City Government of Tarlac.



RESOLUTION

People vs. Manalang, et al.
SB-19-CRM-0051

Page 5 of 6

X -----X

- c. The DOTA had a one (1) year moratorium with regard to the payment of rentals to the City Government of Tarlac, while Puregold paid to accused Laddaran ₱8,400,000.00 security deposit and ₱8,988,000.00 advance rental.
- d. The DOTA issued by the Office of the Secretary of the Sangguniang Panlungsod (Exhibits H-2 and H-3) has a monthly rental rate of ₱100,000.00. It is not the same as the DOTA from the files of the various offices of the City Government of Tarlac (Exhibits H, H-4, H-5 and H-6), with a rental rate of ₱70,000.00.
- e. The DOTA with the monthly rental rate of ₱100,000.00 was the one approved by the PBAC. Accused Laddaran knew of such fact, but paid only ₱70,000.00 a month. Accused Manalang was also aware of the monthly rental rate approved by the PBAC, but still furnished the other offices of the city government with copies of the DOTA with the lower monthly rental rate of ₱70,000.00, which the City Treasurer's Office (CTO) relied upon in collecting the monthly payments from accused Laddaran.

THE COURT'S RULING

In *Bernardo v. Court of Appeals*,⁴ it was held that trial courts are given the power to grant leave to the accused to file a demurrer for the purpose of determining whether the accused, in filing a demurrer, 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 [or her] demurrer, he [or she] can still present evidence if [the] demurrer is denied. However, if [the accused] demurs without prior leave of court, or after his [or her] motion for leave is denied, [the accused] waives his [or her] 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 [a] demurrer is merely stalling the proceedings.

(underscoring supplied)

⁴ G.R. No. 119010, September 5, 1997

RESOLUTION

People vs. Manalang, et al.
SB-19-CRM-0051

Page 6 of 6

X -----X

After examining the prosecution’s evidence and the parties’ arguments, this Court rules that granting accused Laddaran leave to file her demurrer to evidence will merely delay the proceedings.

WHEREFORE, accused Laddaran’s *Motion for Leave of Court to File Demurrer to Evidence* is hereby DENIED for lack of merit.

As provided in Sec. 23, Rule 119⁵ of the Rules of Court, she may adduce evidence in her defense, or in the alternative, she may file her demurrer to evidence without leave of court.

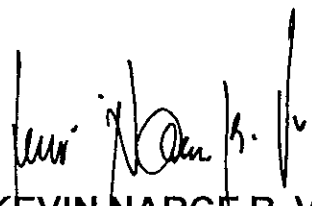
Accused Laddaran is given five (5) days from receipt of this Resolution to file her manifestation, by personal filing or registered mail, and electronically, to inform this Court whether she is submitting her demurrer to evidence without leave of court. The scheduled hearings will be considered cancelled upon receipt by this Court of her manifestation that she intends to submit her 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

⁵ 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.