

Republic of the Philippines
SANDIGANBAYAN
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM CASE NO. SB-19-
CRM-0047

-versus-

For: Violation of Section 3(e) of
Republic Act (RA) No. 3019

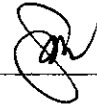
JOSELITO A. OJEDA,
DELIO H. DE LEON,
MARISSA P. CORTEZ,
NOEL M. EROA, and
MARINA L. PALILLO

Present:
Quiroz, J. Chairperson
Pahimna, J. &
Caldona, J.

Accused.

Promulgated:

MAY 16 2022



x-----x

RESOLUTION

PAHIMNA, J.:

Before this Court are the: (1) *Ad Cautelam Motion for Leave (to file the attached Ad Cautelam Demurrer to Evidence)*,¹ dated March 30, 2022, filed via electronic mail² on March 31, 2022 by accused Joselito A. Ojeda, Delio H. De Leon, Noel M. Eroa and Marina L. Palillo (collectively referred herein as "Accused"), through counsel; and (2) *Comment/Opposition (to Ad Cautelam Motion for Leave to file attached Ad Cautelam Demurrer to Evidence)*,³ dated April 4, 2022, filed via electronic mail⁴ on April 5, 2022 by the prosecution.

The Accused, in their *Motion*, averred that their acquittal and the immediate dismissal of this case are warranted based on the following grounds:

¹ Records, Vol. 3, pp. 226-357.

² *Id.*, p. 224.

³ *Id.*, pp. 289-293.

⁴ *Id.*, p. 294-225.



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- a. The prosecution, after presenting their testimonial and documentary evidence, failed to present proof beyond reasonable doubt that accused Ojeda committed a violation of Section 3(e) of R.A. No. 3019;
- b. Based on the evidence on record, the prosecution did not establish that the Accused approved the bid of Alta MaxPower, Co., Inc. in the criminal manner they are accused of so as to hold them liable for violation of Section 3(e) of R.A. No. 3019; and
- c. The plea of guilty of accused Marissa P. Cortez to violation of Article 213 of the Revised Penal Code inures to the benefit of the Accused; such that, assuming they are criminally liable, they can be held liable only for such lesser offense.

In its *Comment and/or Opposition*, the prosecution objected to the instant *Motion* for failure of the Accused to specify the grounds upon which they anchored their motion. The prosecution asserted that the Accused merely raised general allegation that the prosecution purportedly failed to prove their guilt, without even specifying how the prosecution evidence failed to demonstrate their criminal culpability. Moreover, the prosecution stated that it has convincingly proven the existence of sufficient and competent evidence to support a guilty verdict for violation of Section 3(e) of R.A. No. 3019. As to the allegation that the plea of guilty to a lesser offense of accused Cortez operates to benefit all the Accused, the prosecution interposed that the plea-bargaining agreement is a settlement only between the State and the concerned accused and does not cascade to the other accused, who were not party to the agreement.

THE COURT'S RULING

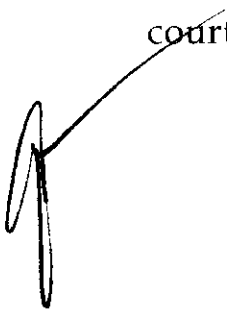
Rule 119, Section 23 of the Rules of Court, on motion for leave of court to file demurrer to evidence, states that:

Section 23. Demurrer to evidence. —

x x x

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

x x x



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The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

In *Bernardo v. Court of Appeals, et. al.*,⁵ the Supreme Court explained that the “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.”

In order for a motion for leave of court to file demurrer to evidence be given due course, Rule 119, Section 23 of the Rules of Court requires that: (1) it specifically state its grounds, and (2) it be filed within a non-extendible period of five (5) days after the prosecution rests its case.

Under Paragraph 1 of their *Motion*, the Accused stated that they received, through counsel, this Court’s *March 21, 2022 Resolution*,⁶ admitting the prosecution’s documentary evidence, on March 25, 2022. Applying Rule 119, Section 23 of the Rules of Court, the Accused has a non-extendible period of five (5) days from receipt of the said *Resolution* or until March 30, 2022, within which to file their motion for leave of court to file demurrer to evidence. The records indubitably show that the Accused filed the instant *Motion* via electronic mail only on March 31, 2022 or six (6) days after they received the *March 21, 2022 Resolution*. Considering that the *Motion* of the Accused was belatedly filed, the same must be denied outright.

In *BDO Unibank, Inc. v. Choa*,⁷ the Supreme Court ruled that the trial court should have denied outright the motion for leave and the demurrer to evidence since the same were filed beyond the five (5)-day period under Rule 119, Section 23 of the Rules of Court. Furthermore, in *Lustaña v. Jimena-Lazo*,⁸ the Supreme Court said that: “rules of procedure are tools designed to promote efficiency and orderliness as well as to facilitate attainment of justice, such that strict adherence thereto is required. Their application may be relaxed only when rigidity would result in a defeat of equity and substantial justice, which is not present here. Utter disregard of the Rules cannot just be rationalized by harking on the policy of liberal construction.”

⁵ G.R. No. 119010, September 5, 1997.

⁶ Records, Volume 3, p. 217.

⁷ G.R. No. 237553, July 10, 2019.

⁸ G.R. No. 143558, August 19, 2005.

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WHEREFORE, the *Ad Cautelam Motion for Leave (to file the attached Ad Cautelam Demurrer to Evidence)* filed by accused Ojeda, De Leon, Eroa and Palillo is hereby **DENIED** for having been filed out of time.

This, however, does not prejudice the Accused's right to file demurrer to evidence without prior leave of court, but subject to the legal consequences provided under Rule 119, Section 23 of the Rules of Court, as amended, that they shall waive the right to present evidence and submit their case for judgment on the basis of the evidence adduced by the prosecution.

SO ORDERED.

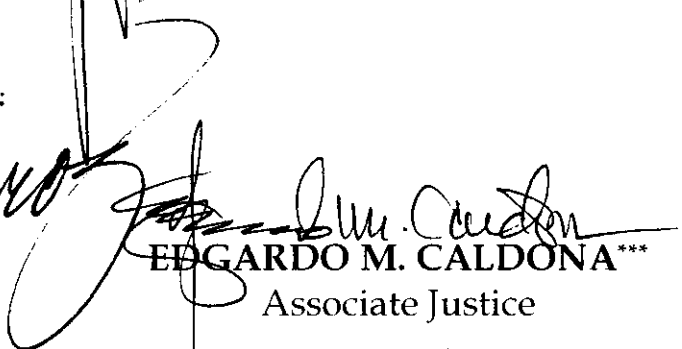


LORIFEL LACAP PAHIMNA
Associate Justice

We concur:



ALEX L. QUIROZ
Chairperson
Associate Justice



EDGARDO M. CALDONA^{*}**
Associate Justice

^{***} Sitting as Special Member per A.O. No. 391-2019 dated October 25, 2019.