



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

- versus -

Present

GELACIO R. MANALANG,
ET AL.,

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

Accused.

Promulgated:

20 MAY 2022 p.

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Ellen Te Laddaran's *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (Re: Motion for Reconsideration of the Resolution Dated 27 April 2022)*.²

In her Motion, accused Laddaran prays that this Court's Resolution dated April 27, 2022 be reconsidered and set aside, and that she be granted leave of court to file her Demurrer to Evidence within ten (10) days from notice. She avers:

1. In her *Motion for Leave of Court to File Demurrer to Evidence*, she stated several grounds on why the prosecution's evidence is insufficient to prove her guilt beyond reasonable doubt.

¹ Dated May 12, 2022 and filed by electronic mail on even date

² Dated May 16, 2022 and filed by electronic mail on May 17, 2022

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- a. The prosecution failed to prove all the elements of Violation of Sec. 3(e) of R.A. No. 3019.
 - i. The prosecution failed to prove the injury caused to the Government because (1) it failed to prove which of the DOTAs presented is the authentic and duly executed agreement; (2) in concluding that the consideration is low, the prosecution did not take into account that the sizes and locations of the areas subject of the three contracts; (3) the alleged damage is based on income projections for stalls in 2012, and not based on actual proof of occupancy of the stalls before the execution of the DOTA; and (4) the terms of the DOTA are favorable to the Government of Tarlac.
 - ii. She was not given unwarranted benefits because (1) the change in concession area was due to the market vendors' complaint, and not to favor her; (2) there was justification for the lower rental rate; and (3) the DOTA passed through the PBAC, and was approved and ratified by the Sangguniang Panlungsod of Tarlac.
 - b. The prosecution failed to prove the conspiracy between her, a private individual, and accused Manalang. A private individual may be charged under R.A. No. 3019 based on conspiracy with a public officer. Without proof of conspiracy, the charge against the private individual cannot stand.
2. The Court, in the assailed Resolution, did not clearly and distinctly state the facts and law on which its conclusion was based, and merely stated that the demurrer to evidence will merely delay the proceedings in the case.

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

1. Accused Laddaran's *Motion for Reconsideration* should be denied for being filed beyond the non-extendible period of five (5) days for filing a motion for reconsideration.
2. Accused Laddaran's *Motion for Reconsideration* is a mere rehash of her arguments in her *Motion for Leave of Court to File Demurrer to Evidence*.
3. The prosecution was able to establish the existence of conspiracy to sustain the Information and to support a guilty verdict.



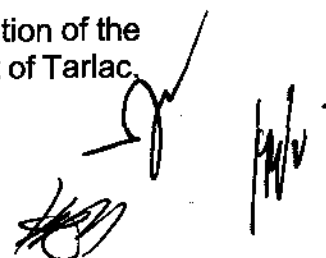
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4. The elements of Violation of Sec. 3(e) of R.A. No. 3019 are present.
 - a. The first element is present. During the pre-trial, the parties admitted that accused Manalang was the Mayor of Tarlac City from June 30, 2010 to June 30, 2013. Notwithstanding accused Manalang's death, the case against accused Laddaran stands because she is charged with conspiring with accused Manalang.
 - b. The second element is present.
 - i. Tarlac City entered into three (3) contracts with accused Laddaran, covering relatively the same portion of the Tarlac City Downtown Public Market (TCDPM). The rental rates for the said contracts were reduced with each contract, and the reduction in rental rate had no basis.
 - ii. Accused Manalang ensured that the redevelopment of the TCDPM, through the DOTA, would be awarded to accused Laddaran. The contracting parties blatantly disregarded the requirements for a develop-operate-and-transfer (DOT) scheme under Republic Act No. 7718 (R.A. No. 7718). Instead of submitting the required documents, accused Laddaran submitted only an unsolicited proposal dated December 12, 2011 (Exhibit M and M-1).
 - iii. The redevelopment project was awarded to accused Laddaran, through the DOTA, despite there being no documents to show her eligibility to undertake the project. Accused Manalang and Laddaran, fully aware that she was ineligible, changed the contractual relationship to a contractual arrangement governed by R.A. No. 7718 to guarantee that other possible project proponents interested in the project will be hindered by the submission of the requirements under R.A. No. 7718.
 - iv. There is no question as to the authenticity of the DOTA (Exhibit H). It is an official copy from the City Treasurer's Office (CTO), Business Permit and Licensing Division (BPLD), and the Office of the Market Supervisor. Furthermore, all DOTAs formally offered bear the signature of accused Manalang.
 - c. The third element was established. The execution of the DOTA caused damage to the City Government of Tarlac.



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- i. The rental rate accorded to accused Laddaran was considerably lower than those for the other tenants.
- ii. Accused Laddaran subleased the area subject of the DOTA to Puregold Price Club, Inc. (Puregold) for ₱700,000.00/month, or ten (10) times higher than the amount she paid to the City Government of Tarlac. Accused Laddaran was expected to introduce improvements under a develop-operate-and-transfer scheme, but instead, it was Puregold that introduced the said improvements. Moreover, there was a one (1) year moratorium on the payment of rentals to the City Government of Tarlac, while Puregold paid to accused Laddaran ₱8,400,00.00 as security deposit, and ₱8,988,000.00 as advance rental.
- iii. The DOTA from the Office of the Secretary – Sangguniang Panlungsod (Exhibits H-2 and H-3), and approved by the PBAC, had a monthly rental rate of ₱100,000.00. On the other hand, the DOTA in the official files of various offices of the City Government of Tarlac (Exhibit H, H-4, H-5 and H-6) had a monthly rental rate of ₱70,000.00. Although accused Laddaran knew that the one approved by the PBAC had a rental rate of ₱100,000.00, she paid only ₱70,000.00/month, which was lower than the amount in the unsolicited proposal.
- iv. Accused Manalang was aware of the monthly rental rate approved by the PBAC, but he knowingly caused copies of the DOTA with the rental rate of ₱70,000.00 to be furnished to the CTO, BPLD and Market Division. The CTO relied on the said copy in collecting the monthly rental payments from accused Laddaran.

THE COURT'S RULING

As pointed out by the prosecution, accused Laddaran's *Motion for Reconsideration* was filed beyond the period allowed under the *Revised Guidelines for Continuous Trial of Criminal Cases (Revised Guidelines)*.³ The pertinent provision⁴ reads:

The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five

³ A.M. No. 15-06-10-SC

⁴ III. Procedure, 2. Motions, (c) *Meritorious Motions*

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(5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment.

(underscoring supplied)

According to accused Laddaran, she received a copy of the Court's Resolution dated April 27, 2022 by electronic mail on even date.⁵ Thus, accused Laddaran had five (5) calendar days from the said date within which to file her *Motion for Reconsideration*. Clearly, her Motion, filed by electronic mail on May 12, 2022, was filed beyond the said five (5)-day period.

Even assuming that accused Laddaran filed her *Motion for Reconsideration* within the period allowed for filing the same, the Court nonetheless resolves to deny her Motion, there being nothing therein that would warrant the reversal of the assailed Resolution.

Sec. 14, Art. VIII of the Constitution does not apply to the matter at hand. The said provision reads:

Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

(underscoring supplied)

The aforequoted provision of the Constitution only applies to decisions or judgments on the merits.⁶ Here, this Court did not render its judgment on the merits. In resolving accused Laddaran's previous *Motion for Leave of Court to File Demurrer to Evidence*, the Court was called upon merely to determine if the said accused, in filing her demurrer, is merely stalling the proceedings. The Court then denied her said Motion after making an evaluation of the prosecution's evidence and the parties' arguments, and concluding that granting her

⁵ *Motion for Reconsideration*, p. 1, par. 2; The records show that her counsel received a paper copy of the April 27, 2022 Resolution on April 27, 2022; Record Vol. IV, p. 446.

⁶ Please see *GC Dalton Industries, Inc. v. Equitable PCI Bank*, G.R. No. 171169, August 24, 2009

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leave to file her demurrer to evidence will merely cause delay in the proceedings. The pertinent portion⁷ of the assailed Resolution reads:

In *Bernardo v. Court of Appeals*, 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)

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.

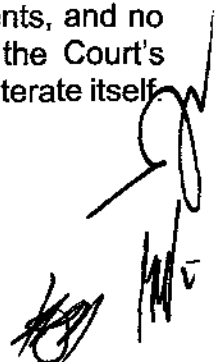
If accused Laddaran decides to file her demurrer to evidence without leave of court, then the Court will render its judgment, and will be mandated to state clearly and distinctly the facts and law upon which its judgment is based.

The rest of accused Laddaran's arguments are a mere reiteration or rehash of those in her *Motion for Leave of Court to File Demurrer to Evidence*. The Court had already considered the said arguments, and found the same to be without merit. It is unnecessary to discuss them anew. In *Mendoza-Ong v. Sandiganbayan*,⁸ 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

⁷ Resolution dated April 27, 2022, pp. 5-6

⁸ G.R. Nos. 146368-69, October 18, 2004



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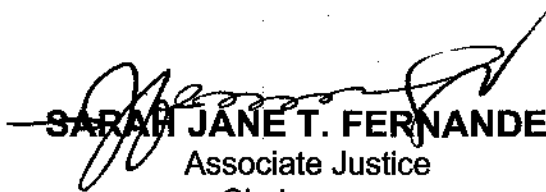
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WHEREFORE, accused Laddaran's *Motion for Reconsideration* is hereby DENIED.

As provided in Sec. 23, Rule 119⁹ 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.

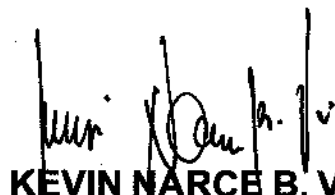
Accused Laddaran is given five (5) days from receipt of this Resolution to file her manifestation, by personal filing or registered mail, and electronically, to inform this Court whether she is submitting her demurrer to evidence without leave of court. The scheduled hearings will be considered cancelled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

⁹ **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.