

Republic of the Philippines
SANDIGANBAYAN
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

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

Accused.

CRIM CASE NO.

SB-19-CRM-0047

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

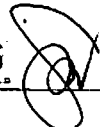
Present:

Quiroz, J. Chairperson

Pahimna, J. &

Caldona, J.

Promulgated:

JUN 20 2022 

x-----x

RESOLUTION

PAHIMNA, J.:

For resolution of this Court are the: (1) *Ad Cautelam Motion for Reconsideration (of the 16 May 2022 Resolution)*,¹ dated May 20, 2022, filed 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 (Ad Cautelam Motion for Reconsideration of the 16 May 2022 Resolution)*,² dated May 24, 2022, filed by the prosecution.

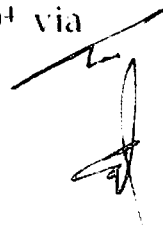
The Accused, in their *Motion*, prayed for the reconsideration of this Court's *Resolution*³ dated May 16, 2022. They stated that other than their filing via electronic mail, they have filed their *Ad Cautelam Motion for Leave (to file the attached Ad Cautelam Demurrer to Evidence)*⁴ via

¹ Records, Vol. 3, pp. 384-388.

² *Id.*, pp. 390-393.

³ *Id.*, pp. 376-379.

⁴ *Id.*, pp. 295-297.



Resolution

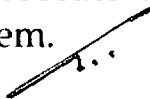
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registered mail on March 30, 2022, within the five (5) day reglementary period under Rule 119, Section 23 of the Rules of Court. They reiterated that their acquittal and the immediate dismissal of this case are warranted based on the following grounds:

- 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 the alternative, the Accused prayed that they be allowed to present their evidence should their *Ad Cautelam Motion for Leave* or their *Ad Cautelam Demurrer to Evidence* be denied.

In its *Comment/Opposition*, the prosecution averred that the Accused's statement that "the prosecution failed to establish that they approved the bid in a manner so as to hold them liable for violation of Section 3(e) of R.A. No. 3019" is a general statement that does not comply with Rule 119, Section 23 of the Rules of Court. The prosecution also stated that the testimonial and documentary evidence they presented established the existence of sufficient and competent evidence to sustain the *Information* or to support a guilty verdict for violation of Section 3(e) of R.A. No. 3019. As to the Accused's 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 binding only between the parties who consented thereto. Absent any consent from the remaining accused, who were not a party therein, they are not subject to the terms of the agreement and likewise the State is not bound nor estopped to prosecute the offenses originally charged in the *Information* against them.



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THE COURT'S RULING

On motion for leave of court to file demurrer to evidence, Rule 119, Section 23 of the Rules of Court, 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

In its *Resolution* dated May 16, 2022, this Court stated that Rule 119, Section 23 of the Rules of Court requires that the motion for leave of court to file demurrer to evidence: (1) specifically state its grounds, and (2) be filed within a non-extendible period of five (5) days after the prosecution rests its case.

Upon updating and re-examination of the records, the Court finds that the Accused filed its *Ad Cautelam Motion for Leave* on March 30, 2022 via registered mail. Considering that their counsel received the May 16, 2022 *Resolution* of the Court on March 25, 2022, the said filing via registered mail falls within the five (5) day reglementary period under Rule 119, Section 23 of the Rules of Court. Thus, the *Ad Cautelam Motion for Leave* of the Accused deserves a second look as to its compliance with the substantive requirement.

Rule 119, Section 23 of the Rules of Court, requires the movant to specifically state his/her grounds for the motion for leave to file demurrer to evidence. The Supreme Court, in *Quinte, et. al. v. Sandiganbayan*,⁵ explained this requirement, to wit:

Upon review of petitioners' Motion for Leave to Admit Demurrer to Evidence and applying the pertinent provisions of the Rules of Court, the Court finds that the general allegations contained in petitioners' Motion do not comply with the requirement of Section 23, Rule 119 of the Rules of Court in that the said Motion for Leave to Admit Demurrer to Evidence should specifically state the specific portions/parts of the prosecution's body of evidence. (Underscoring supplied)



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A perusal of the *Motion* shows that the first ground propounded by the Accused – that the prosecution failed to present proof beyond reasonable doubt that Accused Ojeda committed a violation of Section 3 (e) of the R.A. No. 3019 – is a general statement, which does not satisfy or comply with the requirement under Rule 119, Section 23 of the Rules of Court.

The Accused's second ground – that the plaintiff failed to 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 – likewise does not satisfy the specificity requirement under Rule 119, Section 23 of the Rules of Court. Furthermore, the said argument may well be appreciated and threshed out in the course of the trial by presentation of defense evidence.

Anent Accused's third ground that the plea of guilty to violation of Article 213 of the Revised Penal Code of their co-accused Marissa P. Cortez should inure to their benefit, it must be emphasized that plea bargaining has been defined as a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval.⁶ In *People vs. Lascano*,⁷ the Supreme Court, said that the acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter that is addressed entirely to the trial court's sound discretion.⁸ A plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court.⁹ The consent of the offended party, i.e. the State, will have to be secured from the prosecutor who acts on its behalf. It is a condition precedent to a valid plea of guilty to a lesser offense. In the instant case, only accused Cortez entered into a plea-bargaining agreement with the consent of the prosecution and the approval of the Court. The said consent of the prosecution and approval of the Court are exclusive to accused Cortez and does not automatically apply to the other Accused.

WHEREFORE, the *Ad Cautelam Motion for Reconsideration (of the 16 May 2022 Resolution)* filed by accused Ojeda, De Leon, Eroa and Palillo is hereby **GRANTED**. The May 16, 2022 *Resolution* of this Court is hereby **MODIFIED** in so far as the *Ad Cautelam Motion for*

⁶ *Estipona vs. Lobrigo*, G.R. No. 226679, August 15, 2017

⁷ G.R. No. 250295, March 15, 2021

⁸ Citing *People v. Villanueva*, 1285 Phil. 723, 30 (1999)

⁹ Citing *Saura v. Agnes*, G.R. Nos. 24413 & 24415-16, February 18, 2020

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Leave (to file the attached Ad Cautelam Demurrer to Evidence) dated March 30, 2022 filed by accused Ojeda, De Leon, Eroa and Palillo is hereby declared to have been filed on time, but the same is **DENIED** for lack of merit.

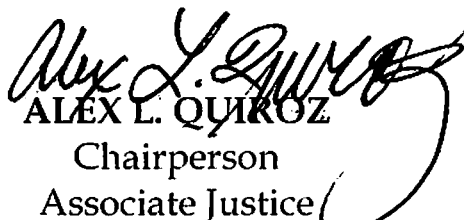
This is without prejudice to the Accused's right to file demurrer to evidence without prior leave of court, but subject to the legal consequences provided under Rule 119, Section 23 of the Rules of Court, as amended, that they shall waive the right to present evidence and submit their case for judgment on the basis of the evidence adduced by the prosecution.

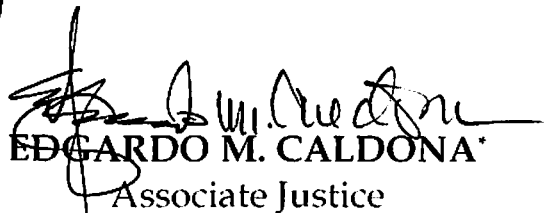
SO ORDERED.

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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