

Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**FIFTH DIVISION**

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

SB-18-CRM-0447 to 0449  
For: *Violation of Section 3(e),  
RA 3019 as amended*

*-versus-*

HUSSIN AMIN y UTUTALUM,  
ET AL.,

*Accused.*

Present:  
LAGOS, J., Chairperson,  
MENDOZA-ARCEGA, and  
CORPUS-MAÑALAC, JJ.

Promulgated:

July 22, 2022

x - - - - - Reynold S. Ingui - - - - - x

**RESOLUTION**

**CORPUS-MAÑALAC, J.**

This resolves the separate *motions* for leave to file demurrer to evidence filed by accused **Hussin U. Amin**<sup>1</sup> (Amin); **Nedra S. Burahan**<sup>2</sup> (Burahan); **Ma. Perlice Socorro G. Julian, Oscar O. Parawan and Samuel M. Simbajon**<sup>3</sup> (Julian, Parawan and Simbajon); as well as that of **Abduljamar J. Ingui**<sup>4</sup> (Ingui) and the prosecution's *opposition*<sup>5</sup> thereto.

On the ground of insufficiency of evidence, accused **Amin, Burahan, and Ingui**, in their separate *motions* seek leave of court to file a demurrer to evidence asserting that the evidence adduced by the prosecution are not sufficient to warrant their conviction. They insist that the prosecution

<sup>1</sup> Records, Volume (Vol.) 5, pp. 75-78.

<sup>2</sup> *Ibid.*, pp. 81-85.

<sup>3</sup> *Ibid.*, pp. 86-91.

<sup>4</sup> *Ibid.*, pp. 101-103.

witnesses merely identified certain documents, which, as far as they are concerned, have no probative and evidentiary value.

**Accused Julian, Parawan, and Simbajon** claim in their joint *motion* that the prosecution failed to prove the second and third elements of the criminal charge against them, i.e. that *they acted with manifest partiality, evident bad faith or inexcusable negligence*; and that *their action caused undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of their functions*.

While they admit that at the time material to these cases, they were employees of the Department of Agriculture, Regional Field Unit IX whose functions relative to the transactions subject of this case were to transfer the amount of Five Million Pesos (Php5,000,000.00) to the Municipality of Panglima Tahil, they argue that they have no criminal liability considering that “Xxx there is no finding of irregularity about the fund transfers and that the same passed in audit as evidence by the absence of any suspension or disallowance thereof, xxx”<sup>6</sup> They contend that if the fund transfers were regular, then they have not committed any manifest partiality, evident bad faith or inexcusable negligence as required in the second element of the crime charged against them. Further, the accusatory allegations against them as contained in the Special Audit Report on the GMA Farm Input Fund Program offered in evidence as Exhibits II to II-135 was testified to and identified by Aileen Maqueda, an administrative officer of the Field Investigation Unit of the Office of the Ombudsman, who is not even an auditor of the Commission on Audit who conducted the special audit. They hold that “[w]ith no credible witness who participated in the audit presented to testify on the Special Audit Report and to be cross-examined thereon, the document cannot be given credence as evidence against herein accused.”<sup>7</sup> As to the third element of the crime charged, i.e., undue injury, the accused claim that, the same is wanting as the prosecution did not present any documentary nor testimonial evidence to prove the injury or actual damage sustained by the government in the amount of Php5,000,000.00.

The prosecution counters, however, that this Court has duly admitted the documents presented in evidence. These documents are public documents in the custody of a public officer, which have been duly stipulated by all the accused at the time of their identification by the designated custodian of such public records and which are mostly common exhibits. The prosecution maintains that it has adduced sufficient evidence to prove the elements of the offense charged and belies the claim that “the prosecution did not present any witness who testified in their own

<sup>6</sup> Records, Vol. 5, p. 88, para. 2.

<sup>7</sup> *Ibid.*, p. 89, para. 2.

participation in the preparation of the documents. Xxxx the testimonies of the witnesses presented by the prosecution, namely, Atty. RJ A. Bernal, Ernani M. Dionisio and Julieta B. Lansangan, who personally verified the existence and/or registration of Sunny Marketing Corporation the alleged supplier of the fertilizers subject of this case is conclusive that there is no registered corporation or partnership by that name Sunny Marketing Corporation in the Securities and Exchange Commission and that Sunny Marketing Supplies is neither registered with the Department of Trade and Industry nor licensed and their products are not registered with the Fertilizer and Pesticide Authority.”<sup>8</sup> The prosecution also argues that the “pieces of evidence taken together with the stipulated documents and/or common exhibits relating to the P5Million allocation which was released by accused DA officials and received by the LGU-Panglima Tahil represented by accused Burahan xxxx prove all accused proceeded with transactions without reviewing the work and financial plan of the project contrary to the provisions of the MOA such that additional funds were released even if balances of previous allocations remain unliquidated and could have been implemented because the supplier and fertilizer products were proved to be inexistent.”<sup>9</sup> The prosecution continues that despite no record of audit disallowance, the pieces of evidence remain uncontroverted, which is the very reason why accused Ingui, the concerned State Auditor, was included in the charge. The uncontested evidence “clearly demonstrates the conspiracy among all the accused when the transaction was allowed in audit without proper liquidation, thus, concealing the fictitious nature of the transaction.”<sup>10</sup> The prosecution holds that “since all the elements of the crime charges are sufficiently established, accused may best thresh out their defense in further proceedings/trial of this case.”<sup>11</sup>

### THE COURT’S RULING

The Court finds for the prosecution and resolves to deny the instant *motions*.

After a careful examination of the pieces of evidence presented by the prosecution, the Court finds that, if unrebutted, the same is *prima facie* sufficient to support a finding of guilt against all the accused for violation of Section 3(e) of RA 3019, as amended.

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<sup>8</sup> Records, Vo. 5, p.108, para. 8.

<sup>9</sup> *Ibid.*, pp. 108-109, para. 9.

<sup>10</sup> *Ibid.*, pp. 109, para. 10.

<sup>11</sup> *Ibid.*, para. 12.

The Supreme in the *Soriquez case*<sup>12</sup> aptly pronounced:

Given the sufficiency of the testimonial and documentary evidence against petitioner, it would, therefore, be premature at this stage of the proceedings to conclude that the prosecution's evidence failed to establish petitioner's participation in the alleged conspiracy to commit the crime. Likewise, the Court cannot, at this point, make a categorical pronouncement that the guilt of petitioner has not been proven beyond reasonable doubt. As there is competent and sufficient evidence to sustain the indictment for the crime charged, it behooves petitioner to adduce evidence on his behalf to controvert the asseverations of the prosecution. Withal, respondent court did not gravely abuse its discretion when it found that there was a *prima facie* case against petitioner warranting his having to go forward with his defensive evidence.

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

Such denial, however, is without prejudice to the right of the accused to file a **demurrer to evidence without prior leave of court**, but subject to the legal consequences provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*,<sup>13</sup> that is, they shall waive their right to present evidence and are submitting these cases for judgment based on the evidence adduced by the prosecution.

**WHEREFORE**, premises considered, the instant *motions* for leave of court to file demurrer to evidence are **DENIED** for utter lack of merit.

The initial presentation of defense evidence set on **July 26, 2022 at 1:30 in the afternoon** shall proceed as scheduled, unless the accused

<sup>12</sup> Florante Soriquez v. Sandiganbayan (Fifth Division) and the People of the Philippines, G.R. No. 153526, October 25, 2005.

<sup>13</sup> 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.

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.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.


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.

manifests before said date whether they will file a **demurrer to evidence, without leave of court.**

**SO ORDERED.**

  
**MARYANN E. CORPUS – MAÑALAC**  
Associate Justice

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

  
**MARIA THERESA V. MENDOZA – ARCEGA**  
Associate Justice