

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Fourth Division

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

ANTONIO P. BELICENA, ULDARICO P.
ANDUTAN, JR., MONICO V. JACOB,
CELSO L. LEGARDA, ABDULAZIZ F. AL-
KHAYYAL, APOLINARIO G. REYES,
REYNALDO V. CAMPOS, RAFAEL S. DIAZ,
JR., ANTONIO H. ROMAN, SR.,
MARIALEN C. CORPUZ,

Accused.

x ----- x

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

ANTONIO P. BELICENA, ULDARICO P.
ANDUTAN, JR., MONICO V. JACOB,
CELSO L. LEGARDA, ABDULAZIZ F. AL-
KHAYYAL, APOLINARIO G. REYES,
REYNALDO V. CAMPOS, RAFAEL S. DIAZ,
JR., REGINA T. GONZALES,

Accused.

x ----- x

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

ANTONIO P. BELICENA, ULDARICO P.
ANDUTAN, JR., MONICO V. JACOB,
CELSO L. LEGARDA, ABDULAZIZ F. AL-
KHAYYAL, APOLINARIO G. REYES,
REYNALDO V. CAMPOS, RAFAEL S. DIAZ,
JR., TAN DY LEE,

Accused.

x ----- x

CRIM. CASE NO. 25922

*For: Violation of Section 3(e) of
R.A. No. 3019*

**CRIM. CASES NOS. 25924
& 25934**

*For: Violation of Section 3(e) of
R.A. No. 3019*

CRIM. CASE NO. 25929

*For: Violation of Section 3(e) of
R.A. No. 3019*

Present:

MUSNGI, J., Chairperson

PAHIMNA, J.

JACINTO, J.

Promulgated:

AUG 09 2022

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PAHIMNA, J.:

Before the Court are the following:

1. *Motion For Leave To File Demurrer To Evidence*¹ dated July 11, 2022 filed by accused Antonio H. Roman, Sr. ("Roman") and Marialen C. Corpuz ("Corpuz") in Criminal Case No. 25922;
2. Prosecution's *Comment/Opposition (Re: Accused Antonio H. Roman and Marialen C. Corpuz' Motion for Leave to File Demurrer to Evidence dated July 11, 2022)*; ²
3. *Motion For Leave To File Demurrer To Evidence*³ dated July 8, 2022 filed by accused Regina T. Gonzales ("Gonzales") in Criminal Cases Nos. 25924 and 25934;
4. Prosecution's *Comment/Opposition (Re: Accused Regina T. Gonzales' Motion for Leave to File Demurrer to Evidence dated July 11, [sic] 2022)*; ⁴
5. *Motion For Leave To File Demurrer To Evidence*⁵ dated July 11, 2022 filed by accused Tan Dy Lee ("Lee") in Criminal Case No. 25929; and
6. Prosecution's *Comment/Opposition (Re: Accused Tan Dy Lee's Motion for Leave to File Demurrer to Evidence dated July 11, 2022)*.⁶

Accused Roman, Corpuz, Gonzales and Lee were charged with violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, in separate *Informations* all dated March 27, 2000. After the presentation of prosecution evidence, the Court resolved to admit into evidence the following documentary exhibits:⁷

¹ Record, Vol. 43, pp. 59-64

² Record, Vol. 43, pp. 78-81

³ Record, Vol. 43, pp. 26-31

⁴ Record, Vol. 43, pp. 82-85

⁵ Record, Vol. 43, pp. 38-47

⁶ Record, Vol. 43, pp. 74-77

⁷ Record, Vol. 43, p. 16

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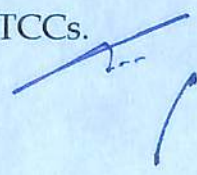
- a) Exhibits "A" to "M⁵", "O⁵" to "S⁵", "V⁵" to "Z⁵", "A⁶" to "D⁶", "G⁶" to "V⁶", "Y⁶" to "Z⁶", "A⁷" to "S⁷", "V⁷" to "Z⁷", "A⁸" to "J⁸" for Criminal Case No. 25922;
- b) Exhibits "A" to "G" for Criminal Case No. 25929; and
- c) Exhibits "A" to "P", "AA" to "S⁵" for Criminal Case Nos. 25924 and 25934.

**Accused Roman and Corpuz' Motion
(Criminal Case No. 25922)**

In praying for leave of court to file demurrer to evidence, accused Roman and Corpuz principally argue that the evidence submitted by the prosecution, consisting of the testimony of Ms. Joanna Mae E. Alberto ("Alberto") and the documentary exhibits offered in relation to the case, failed to establish the elements for violation of Section 3(e) of R.A. No. 3019. Ms. Alberto, being a mere custodian of the documentary exhibits offered by the prosecution, is not competent to testify as to the contents and circumstances leading to the execution thereof. Moreover, considering that all copies of the documentary exhibits presented during trial by the prosecution are mere photocopies, the Court should consider these documents as having no probative value, albeit previously admitted into evidence.

Accused Roman and Corpuz further contend that no evidence was presented by the prosecution that would establish manifest partiality, evident bad faith, or inexcusable negligence on the part of the Department of Finance (DOF) Officers in approving the transfer of the subject Tax Credit Certificates (TCCs) from Filsyn Corporation to Petron Corporation. There is likewise no evidence presented that would show any undue injury caused to the government, or that Filsyn Corporation and/or Petron Corporation were given unwarranted benefits, advantage or preference.

Accused Roman and Corpuz also assert the falsity of the allegation in the *Information* that the DOF Officers together with the accused and Petron Corporation Officers conspired in recommending and approving the TCCs despite lack of legal basis and proper documentation. Their position is mainly anchored on the Court's Resolution dated March 2, 2017, which recognized Petron Corporation as a transferee in good faith and for value of the subject TCCs.

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Accused Gonzales' Motion
(Criminal Cases Nos. 25924 & 25934)

In her Motion, Accused Gonzales submits that the prosecution failed to dispense its burden of proving beyond reasonable doubt the elements of the charges during trial. First, the record is bereft of evidence that would establish the existence of conspiracy, and to what extent the accused acted to further such conspiracy. Second, the testimony of the prosecution's lone witness, Ms. Alberto, relates solely to the identification of the documents in the custody of her office. She has no personal knowledge of the documents she identified, much less the circumstances alleged in the *Information*. Third, apart from Exhibit "A", the rest of the prosecution's documentary evidence are photocopies which have not been compared with the original, and do not conform to the Best Evidence Rule. Being mere photocopies, and having been testified on by a witness who has no personal knowledge of the same as well as the statements they contain, the documentary exhibits of the prosecution lack evidentiary value.

Accused Lee's Motion
(Criminal Case No. 25929)

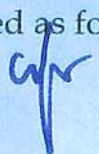
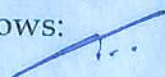

Accused Lee argues that there is no evidence, even remotely, tending to show that he conspired with his co-accused public officials in committing the acts alleged in the *Information*. On this ground alone, the case should be promptly dismissed.

He further claims that the prosecution witness was a mere custodian of the documents presented during trial. She has no knowledge whatsoever of the circumstances regarding their execution, contents or relevance to the case. Therefore, the prosecution's documentary exhibits, *sans* competent witness who could provide meaning or significance thereto, do not in any manner prove any wrongdoing on the part of the accused.

Finally, the evidence on record fail to establish the other elements for violation of Section 3(e) of R.A. No. 3019.

Prosecution's Comments/Oppositions

Although the prosecution filed separate *Comments/Oppositions* on the respective motions of the accused, the counter-arguments raised therein are patently similar and may be summarized as follows:

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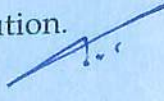
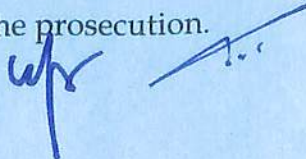
1. While the prosecution's exhibits are not "original" as defined under the Rules on Evidence, they can be considered as "duplicates" which have the same effect as an "original". Moreover, the prosecution exhibits are public documents and should be accorded weight as such pursuant to Section 23, Rule 132 of the Revised Rules on Evidence.
2. The evidence on record shows that after the issuance of TCCs in favor of Filsyn Corporation, Southern Textile Mills, Inc. and Southern Dae Yeong Corporation, as well as Monti Textile Manufacturing Corporation, represented by accused Roman and Corpuz, Gonzales, and Lee, respectively, said TCCs were transferred to Petron Corporation purportedly in payment of petroleum products sold on credit by the latter. The transfer was tainted with evident bad faith, manifest partiality and/or gross negligence, and caused undue injury to the government considering that Petron Corporation is not a supplier of domestic raw materials or component of the registered activity or products of said corporations.

THE COURT'S RULING

A demurrer to evidence is a motion filed by the accused, on the ground that the evidence adduced by the prosecution is insufficient for conviction. It is filed by the accused after the prosecution rests its case.⁸ Section 23, Rule 119 of the Rules of Criminal Procedure provides:

Section 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.



⁸ Rules of Criminal Procedure, Rule 119, Section 23

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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.

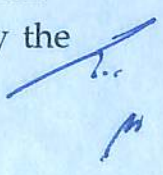
In *People vs. Go, et al.*,⁹ the Supreme Court discussed, to wit;

Demurrer to the evidence is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. x x x Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused. Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.

The Court agrees with the prosecution that its documentary exhibits can be considered as "duplicates" which have the same efficacy as the original.¹⁰ Nevertheless, the Court finds merit in the other arguments put forward by the

⁹ G.R. No. 191015, August 6, 2014

¹⁰ Revised Rules on Evidence, Rule 130, Section 4



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accused, particularly the failure of the prosecution to establish the presence of conspiracy and the lack of probative or evidentiary value of the documentary exhibits, having been identified or testified on by a mere records custodian witness.

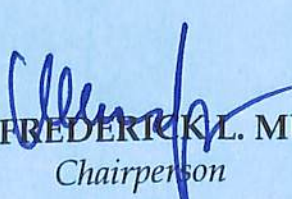
Thus, the Court is inclined, at this stage, to grant the prayer for leave in order to afford the accused an opportunity to further discuss their arguments for full review and appreciation by the Court. The evaluation of the evidence on hand shall be for the purpose of determining whether the same are sufficient to establish a *prima facie* case to sustain the indictment or support a verdict of guilt.

WHEREFORE, the Court resolves to **GRANT** the respective *Motions For Leave To File Demurrer To Evidence* filed by accused Antonio H. Roman, Sr. and Marialen C. Corpuz in Criminal Case No. 25922; accused Regina T. Gonzales in Criminal Case Nos. 25924 and 25934; and accused Tan Dy Lee in Criminal Case No. 25929. They are hereby given a non-extendible period of ten (10) days from receipt hereof to file their respective demurrer to evidence. The prosecution, on the other hand, may file its comment/opposition within a non-extendible period of ten (10) days counted from the date of receipt of the demurrer to evidence.

SO ORDERED.


LORIFEL LACAP PAHIMNA
Associate Justice

We concur:


MICHAEL FREDERICK L. MUSNGI
Chairperson
Associate Justice


BAYANI H. JACINTO
Associate Justice