



Republic of the Philippines
Sandiganbayan
Quezon City

FOURTH (4TH) DIVISION

PEOPLE OF THE PHILIPPINES, SB-16-CRM-0538

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

- versus -

RICARDO SISON RIVERA,

Accused.

Members:

QUIROZ, J., Chairperson

PAHIMNA, J.

JACINTO, J.

Promulgated:

JUL 26 2022

RESOLUTION

QUIROZ, J.:

This resolves the accused Ricardo Sison Rivera's *Motion for Reconsideration*¹ assailing this Court's Decision² dated 08 June 2022 which found him guilty of violation of Sec.3(e) of Republic Act No. 3019. The dispositive portion of the said Decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused Ricardo S. Rivera

¹ Records, Vol. 3, pp. 509-520

² Records, Vol. 3, pp. 421-454

***GUILTY** beyond reasonable doubt of violation of Sec.3(e) of Republic Act No. 3019 in Criminal Case No. SB-16-CRM-0538. He is accordingly sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum, to eight (8) years as maximum, with perpetual disqualification from holding public office."*³

In the instant motion, the accused would like this Court to reconsider the above Decision based on the following grounds:

"a. The Prosecution failed to prove the guilt of the accused beyond reasonable doubt; and

*b. The Honorable Court misappreciated the evidence on record and disregarded vital pieces of documentary and testimonial evidence resulting in injustice."*⁴

The accused argues that the Court erred in finding that he failed to justify the delay in the construction of the subject slaughterhouse within the period agreed upon and in not giving credence to the testimony and documentary evidence identified by his witness Ms. Elsa Pantino. He claims that considering Ms. Pantino had no reason or motive to perjure, her testimony together with the documentary evidence would have sufficed to acquit him.

In its *"Comment/Opposition (Re: Ricardo S. Rivera's Motion for Reconsideration dated June 23, 2022),"*⁵ the prosecution argues that it is erroneous for the accused to claim that his evidence should have been given credence by the Court simply because Ms. Pantino was allowed to testify despite not being listed as defense witness in the Pre-Trial Order and that the documents she identified in the course of her testimony were already admitted by the Court.

³ Records, Vol. 3, p. 453

⁴ Records, Vol. 3, p. 510

⁵ Records, Vol. 3, pp. 525-531

The sole issue to be resolved in this motion is whether the Court erred in not giving credence to the accused's documentary evidence and Ms. Elsa Pantino's testimony.

The Court answers in the negative.


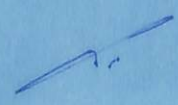
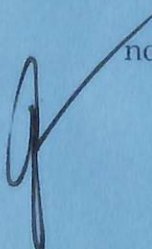
In convicting the accused, the Court found that accused Rivera acted with gross inexcusable negligence on the basis of the following factual findings: *first*, he failed to take appropriate action to ensure the completion of the construction of the Guagua Municipal Slaughterhouse within the period fixed in the contract and to institute proper legal action against NC's General Contractor and *second*, his failure to do the above acts were not justified.

It bears to reiterate that the main thrust of the defense of the accused is that the delay in the construction of the subject slaughterhouse is attributable to fortuitous events such as typhoons and torrential rains that resulted to heavy flooding in the area where the project is located. To support such allegations, the defense presented two witnesses and submitted documentary evidence such as Weather Updates, Situational Reports, Emergency Work Reports and other photographs that show flooding in Guagua, Pampanga and inspection of the slaughterhouse.

The accused is now faulting this Court for allegedly not giving credence to the above pieces of documentary evidence as well as the testimony of one of the witnesses named Elsa Pantino. It is the accused's postulation that had the Court considered the same, it would have established that the delay is justified and therefore, he is not negligent. Consequently, the second element of the crime of violation of Sec. 3(e) of R.A. No. 3019 is lacking.

This Court is not persuaded.

It is elementary principle that admissibility of evidence should not be confounded with its probative value.



In a long line of cases, the Supreme Court held that "the admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade."⁶ Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue."⁷ "Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence."⁸

Verily, while the accused's documentary evidence were admitted by this Court, it's probative value is still subject to scrutiny.

As it turned out, Exhibits "1" to "37" which were purportedly Certified True Copies of supporting documents were mere print-outs of unofficial and unsigned disaster reports from the database of the Municipal Planning and Development Coordinator Office. What is worse, the defense first witness Mr. Panganiban, tried to authenticate these documents by certifying the same as true copies when he was well aware that he was not an authorized person to do the same. It must be recalled that he certified the situational reports purportedly issued by the Municipal Disaster Coordinating Council in his official capacity as Secretary to the *Sanggunian*. However, the situational reports were neither part of the *Sangguniang Bayan* records nor relevant to his duty as Secretary.

Thus, it appears that while the defense heavily relied on the situational reports to prove fortuitous events resulting to the alleged delays in the construction, the same were found to be mere scrap of papers with no probative value.

⁶ Dra. Dela Liana v. Biong, 722 Phil. 743, 759 (2013)

⁷ Lepanto Consolidated Mining Co. v. Dumapis, et.al., 584 Phil. 100, 110 (2008)

⁸ De Guzman v. Tumolva, 675 Phil. 808, 819 (2011) citing Tating v. Marcella, 548 Phil. 19, 28 (2007).

In order to salvage the situation, the defense tried to present Ms. Elsa Pantino in order to identify the documents which were certified as true copies by Mr. Panganiban.

However, the identification of Ms. Pantino has no effect on the probative value of those pieces of documentary evidence because those were the same print-outs which were unsigned by the supposed authorized custodian, if any.

Be that as it may, it is worth noting that while the accused primarily anchors his defense on justifying the existence of fortuitous events resulting to flooding and delays in the construction, he never bothered to explain whether the non-continuation of the project is attributable to the flooding alone. Neither did the accused present any evidence to convince this Court that there were no "workable" months.⁹ In fact, nowhere in the records show that the torrential rains were non-stop during the entire year making the continuation of the project impossible. To emphasize, the project should have been completed on or before 20 December 2009, i.e., 240 days from the time the project commenced on 21 April 2009. However, what takes 240 days to construct was fully finished only after 10 years. This fact alone speaks volumes as to the gross negligence of the accused.

While it may be true that the accused's term as mayor was only three years, it does not change the fact of his negligence. He had ample time during his incumbency to supervise the construction of a slaughterhouse that could have been finished in less than a year. He likewise had sufficient time to at least go after the contractor. Again, he did not institute any legal action against NC's General Contractor either through termination of the contract or the enforcement of payment of liquidated damages.¹⁰

Yet, the only evidence he presented in a bid to exculpate himself were mere documents which showed flooding in his municipality. Certainly, such evidence is not one that would warrant the reversal of his conviction.

⁹ TSN dated 25 September 2019 p. 42

¹⁰ Records, Vol. 2, p. 343

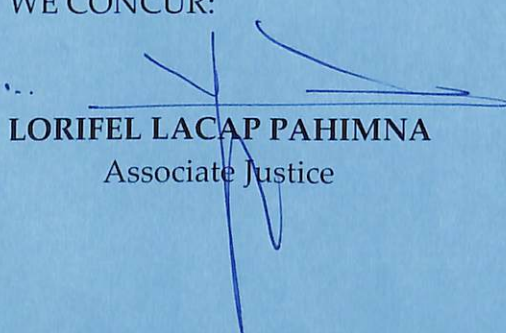
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WHEREFORE, the Motion for Reconsideration dated 23 June 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.


ALEX L. QUIROZ
Chairperson

WE CONCUR:


LORIFEL LACAP PAHIMNA
Associate Justice


BAYANI H. JACINTO
Associate Justice