



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1490

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

- versus -

ELEANDRO JESUS F.
MADRONA, ET AL.,
Accused.

Present :

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

Promulgated:

April 19, 2023 *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

For resolution is the *Motion to File Demurrer to Evidence with Leave of Court*¹ of accused Elisa D. Morales.

In her *Motion*, accused Morales asks the court to allow her to file *Demurrer to Evidence with Leave of Court* on the ground that the prosecution failed to prove her guilt beyond reasonable doubt due to insufficiency of evidence. In support of her *Motion*, accused Morales raised the following grounds:

1. The prosecution failed to prove that accused Morales is connected with Feshan, Inc. and that accused

¹ Dated April 12, 2023, filed on even date by electronic mail.

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Morales knew any (one) from Feshan, Inc. and *vice versa*;²

2. There is no proof that any of her co-accused knew accused Morales;³
3. The prosecution's witnesses lack personal knowledge;⁴
4. The prosecution witnesses' testimonies have no probative value;⁵
5. There is no circumstantial evidence to prove the guilt of accused Morales;⁶
6. There is no criminal intent by reason of accused Morales' lack of knowledge and lack of participation;⁷
7. The prosecution failed to prove that accused Morales benefitted from the transaction;⁸
8. Accused Morales, a mere representative in a limited capacity, was not the payee who actually benefitted from the proceeds of the sale of the fertilizer.⁹

In its *Opposition (Re: Motion to File Demurrer to Evidence with Leave of Court)*,¹⁰ the prosecution moves for the denial of the *Motion* and contends that it presented sufficient or competent evidence to prove beyond reasonable doubt the guilt of all the accused, as it has established the existence of all elements of Section 3(e) of R.A. No. 3019. *Viz:*

1. The first element is not disputed because the parties during the *Pre-Trial* admitted that accused Madrona, Galos and Fadri were all public officers at the time material to the allegations in the Information, while accused Morales, the representative of Feshan, is charged in conspiracy with the said public officers.¹¹

² *Motion to File Demurrer to Evidence with Leave of Court*, p. 1.

³ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

⁴ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

⁵ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

⁶ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

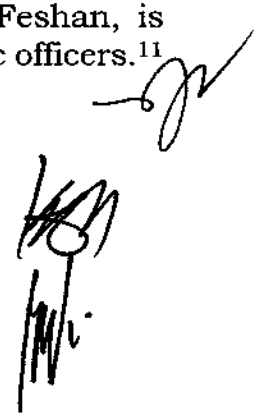
⁷ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

⁸ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

⁹ *Motion to File Demurrer to Evidence with Leave of Court*, p. 2.

¹⁰ Dated April 13, 2023, filed on April 17, 2023..

¹¹ *Opposition*, pp. 2-3.



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2. The second element is present. While in the performance of their duties, and by their concerted, contributive, and indispensable acts, accused public officials, in conspiracy with accused Morales, procured 3,333 bottles of Bio Nature liquid organic fertilizer from Feshan Philippines Inc. (Feshan) in complete disregard of R.A. No. 9184 and its IRR.¹²

Accused purchased 3333 bottles of Bio Nature liquid organic fertilizer from Feshan through alternative method of procurement without first resorting to public bidding.¹³

As verified by the Commission on Audit (COA), there were other brands of the same item and with the same specifications or formulations being sold in the local market of Romblon.¹⁴

The Fertilizer and Pesticide Authority (FPA) certified that Feshan was not the sole and exclusive distributor of foliar fertilizers in the Philippines and that there were other suppliers and distributors in the Philippines in the year 2004.¹⁵

Its license to import and distribute Bio Nature liquid fertilizer has expired on March 5, 2003 when Feshan submitted its price quotation to the Provincial Government of Romblon on January 6, 2004, prior to the execution of the Memorandum of Agreement between DA-RFU IV-B and the province of Romblon on April 19, 2004, and even before SARO No. E-04-0164 was issued on February 3, 2006.¹⁶

The brand name BIO-NATURE was specified in *Purchase Request* No. 382 dated April 23, 2004, in violation of Section 18 of IRR-A of R.A. No. 9184.¹⁷

3. *Third element.* The manner and speed by which the transaction was consummated clearly shows that accused public officers acted with manifest partiality and evident bad faith in giving unwarranted benefit to Feshan Inc.

¹² *Opposition*, p. 3.

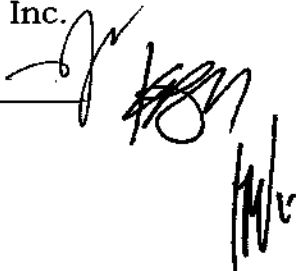
¹³ *Opposition*, p. 4.

¹⁴ *Opposition*, p. 4.

¹⁵ *Opposition*, pp. 3-4.

¹⁶ *Opposition*, p. 4.

¹⁷ *Opposition*, p. 5.



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The contract was awarded to Feshan Inc. without any public bidding.¹⁸

The PR for the liquid fertilizers was issued on April 23, 2004, and the items were immediately delivered on the following day, April 24, 2004. The inordinate speed clearly shows manifest partiality toward Feshan.¹⁹

Unwarranted benefit was given to Feshan Inc. because they received accommodations, gains, or perquisites without proper authorization or reasonable justification.²⁰

The prosecution further argues:

1. It was able to establish the participation of accused Morales. Accused Morales' complicity is evident from the supporting documents of the transaction, and without her participation, the crime would not have transpired or succeeded. The prosecution argues that accused Morales' defense that she: (a) was not related to Feshan, (b) was not privy to any of the parties to the case, and, (3) did not receive any benefit from the transaction, are matters of defense that can be best passed upon after a full-blown trial on the merits.²¹
2. There is no merit in accused Morales' contention that the witnesses have no personal knowledge and that their testimonies have no probative value.²² Provincial accountant Fruelda testified on the irregularities in the procurement, and declared that DV No. 300-0404561 and all its supporting documents had deficiencies.²³
3. The acts of all the accused before, during and after the consummation of the transaction clearly indicates conspiracy between and among all of them in violating R.A. No. 9184 and its IRR.²⁴

¹⁸ *Opposition*, p. 5

¹⁹ *Opposition*, p. 5.

²⁰ *Opposition*, p. 5.

²¹ *Opposition*, p. 5.

²² *Opposition*, p. 5.

²³ *Opposition*, p. 6.

²⁴ *Opposition*, p. 6.

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THE COURT'S RULING

After a careful study of the documentary and testimonial evidence presented by the prosecution, the Court finds that, if unrebutted, the same is *prima facie* sufficient to support a verdict of guilt against accused Morales for Violation of Section 3(e) of R.A. No. 3019. Granting accused Morales leave to file her demurrer to evidence will merely delay the proceedings.

In *Bernardo v. Court of Appeals*,²⁵ the Supreme Court held that the power to grant leave to an 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 his 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 demurrer, he can still present evidence if his demurrer is denied. However, if he demurs without prior leave of court, or after his motion for leave is denied, he waives his 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 his demurrer is merely stalling the proceedings.

(underscoring supplied)

WHEREFORE, the *Motion to File Demurrer to Evidence with Leave of Court* of accused Morales is hereby DENIED for lack of merit.

This is without prejudice to the filing by accused Morales of 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*, that is, she shall waive her

²⁵ G.R. No. 119010, September 5, 1997

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right to present evidence and is submitting this case for judgment based on the evidence adduced by the prosecution.

Accused Morales is given a period of five (5) days from receipt of this *Resolution*, within which to file her *Manifestation* to inform this Court whether she will file a *Demurrer to Evidence*, without *Leave of Court*.

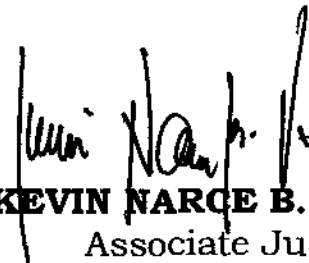
The initial presentation of defense evidence set on April 20, 2023 is maintained. The same will be deemed automatically cancelled upon receipt by the Court of the *Demurrer to Evidence without Leave of Court* filed by the accused Morales.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

CLERK OF THE COURT
COUNTY OF SAN DIEGO
JULY 11 2023 10:15 AM
COURT REPORTER
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