



REPUBLIC OF THE PHILIPPINES  
Sandiganbayan  
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **CRIM CASE NO. SB-22-CRM-0004**  
*Plaintiff,* For: Violation of Section 3(e) of R.A.  
No. 3019 (Anti-Graft and Corrupt  
Practices Act, as amended.)  
-versus-

GONDELINA G. AMATA,  
GREGORIA G.  
BUENAVENTURA, JANET LIM  
NAPOLES, ZENAIDA G. CRUZ-  
DUCUT,  
*Accused.*

x-----x

PEOPLE OF THE PHILIPPINES, **CRIM CASE NO. SB-22 -CRM-0005**  
*Plaintiff,* For: Malversation of Public Funds or  
Property (Article 217, RPC)  
-versus-

GONDELINA G. AMATA,  
GREGORIA G.  
BUENAVENTURA, JANET LIM  
NAPOLES, ZENAIDA G. CRUZ-  
DUCUT,  
*Accused.*

x-----x

**Present:**  
HERRERA, JR., J., Chairperson  
CALDONA, J., Associate Justice  
MALABAGUIO, J., Associate Justice

August 8, 2023

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**RESOLUTION**

**MALABAGUIO, J.**

For resolution of the Court are the following:

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RESOLUTION

PP vs. Gondelina G. Amata, et al.

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1. *Motion for Leave (Under Sec. 23, Rule 119, Revised Rules of Criminal Procedure) a) To file Demurrer to Evidence and b) To Admit this Demurrer (On Charges of Violation of Sec. 3(e), RA 3019 and Malversation of Public Funds or Property, Art. 217, RPC)*<sup>1</sup> dated June 26, 2023, filed by accused Gregoria G. Buenaventura (**Buenaventura**), through counsel;
2. *Motion for Leave of Court To File Demurrer to Evidence*<sup>2</sup> dated June 26, 2023, filed by accused Gondelina G. Amata (**Amata**), through counsel;

On July 6, 2023, the plaintiff People of the Philippines, through the Office of the Special Prosecutor (**OSP**), Office of the Ombudsman (**Prosecution**), filed its *Consolidated Comment/Opposition To accused Amata and Buenaventura's Separate Motions for Leave to File Demurrer to Evidence*.<sup>3</sup>

There are two (2) criminal cases jointly tried by the Court.

The *Information*<sup>4</sup> docketed as Criminal Case No. SB-22-CRM-0004 charges accused Amata, Buenaventura, Janet Lim Napoles (**Napoles**) and Zenaida G. Cruz-Ducut (**Ducut**) with Violation of Section 3(e) of Republic Act (**RA**) No. 3019, or the Anti Graft and Corrupt Practices Act, while the *Information*<sup>5</sup> docketed as Criminal Case No. SB-22-CRM-0005 charges all accused with *Malversation of Public Funds* under Article 217 of the Revised Penal Code (**RPC**).

The charge of *Violation of Section 3(e) of RA 3019* against the accused relates to their participation in the release in favor of SDPFFI of the Priority Development and Assistance Fund (**PDAF**) of Congressman Victor Francisco C. Ortega (**Cong. Ortega**), in the total amount of PhP5,000,000.00, supposedly for the implementation of Cong. Ortega's livelihood project in the 1<sup>st</sup> District of *La Union*.

On the other hand, the charge of *Malversation of Public Funds* under Article 217 of the RPC pertains to their alleged misappropriation of the public funds drawn from the PDAF of Cong. Ortega for the implementation of the afore-mentioned livelihood project.

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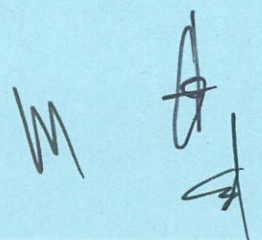
<sup>1</sup> Records, Vol. 6, pp. 126-148.

<sup>2</sup> *Id.* at pp. 83-102.

<sup>3</sup> *Id.* at pp. 160-172.

<sup>4</sup> *Id.* at pp. 1-4.

<sup>5</sup> *Id.* at pp. 5-8.





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In her Motion, accused Buenaventura prays for leave to file Demurrer to Evidence based on the following grounds: (a) the prosecution failed to prove the second and third elements of violation of Section 3(e) of RA 3019; (b) the prosecution failed to prove the second, third and fourth elements of Malversation of public funds under Article 217 of the RPC; and (c) the prosecution failed to show criminal intent on the part of accused Buenaventura in committing Malversation under Article 217 of the RPC.<sup>6</sup>

For her part, accused Amata prays for leave of court to file demurrer to evidence on the ground that: (a) the PDAF was repeatedly upheld to be valid and constitutional; (b) her act of signing the checks and of certifying that funds were available, are not crimes; (c) there is no concrete proof that she had knowledge of any crime or even of any criminal intent to commit a crime; (d) the cooperation that the law punishes is the assistance knowingly or intentionally rendered, which cannot exist without previous cognizance of the criminal act intended to be executed; (e) she does not automatically become a conspirator in a crime which transpired at a stage where she had no participation; and (f) there is no competent evidence proving the allegations in both Informations.<sup>7</sup>

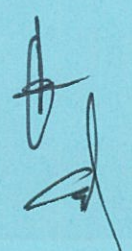

In its *Consolidated Comment/Opposition*, the Prosecution counters that the evidence on record established that (a) Amata and Buenaventura's participation in the scheme that permitted the release of funds to SDPFFI are both essential; b) Amata and Buenaventura gave unwarranted benefits, advantage or preference to SDPFFI and to themselves in the total amount of Php5,000,000.00, and caused undue injury to the government in the same amount; (c) all the essential elements of Malversation of public funds under the Article 217 of the Revised Penal Code are present in this case; (d) there was conspiracy among the accused in relation to the commission of the offenses charged; (e) COA findings should be accorded great weight and respect; (f) the validity and constitutionality of PDAF is not in issue, as the charge against the accused is hinged on the illegality of the utilization, disbursement, and release of PDAF to an incompetent, non-qualified and bogus SDPFFI that resulted in misappropriation of public funds.<sup>8</sup>

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<sup>6</sup> Supra Note 1.

<sup>7</sup> Supra Note 2.

<sup>8</sup> Supra Note 3.





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### *The Ruling of the Court*

At the outset, a demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence. It is a remedy available to the defendant, to the effect that the evidence produced by the plaintiff is insufficient in point of law, whether true or not, to make out a case or sustain an issue.<sup>9</sup> The power to grant leave to accused to file a demurrer to evidence is addressed to the sound discretion of the court, and wide latitude is given to it in exercising such discretion.<sup>10</sup>

Demurrer to evidence is governed by Rule 119, Section 23, of the Rules of Court, as amended, which provides that the trial court may dismiss the action on the ground of insufficiency of evidence upon a demurrer to evidence filed by the accused with or without leave of court. Pertinent portion of the said rule reads:

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.

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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.

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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.

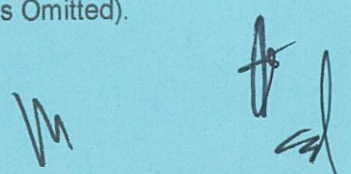
In *Jalandoni v. Office of the Ombudsman*,<sup>11</sup> the Supreme Court explained the function of a demurrer to evidence, *viz.*:

When a demurrer to evidence is filed, the trial court ascertains whether there is competent or sufficient evidence

<sup>9</sup> *Republic v. De Borja*, G.R. No. 187448, January 9, 2017.

<sup>10</sup> *Quinte v. Sandiganbayan*, G.R. Nos. 240021-24 (Notice), December 7, 2020.

<sup>11</sup> G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, May 10, 2021 (Citations Omitted).





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to issue a judgment. Thus, a demurrer's resolution belongs to the court's sound discretion. In *People v. Sandiganbayan*:

Under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, the trial court may dismiss the action on the ground of insufficiency of evidence upon a demurrer to evidence filed by the accused with or without leave of court. **Thus, in resolving the accused's demurrer to evidence, the court is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or support a verdict of guilt. The grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of discretion. (Emphasis Supplied)**

To prove the charges against the accused, the Prosecution presented testimonial evidence and submitted documentary evidence marked as Exhibits "A" to "Z", "AA" to "ZZ", and "AAA" to "BBB" inclusive of submarkings and submarked documents.

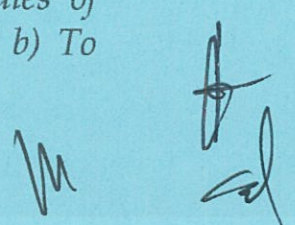
Guided by the foregoing rule and jurisprudence, followed by a conscientious examination of the records and all the evidence presented by the prosecution as against the elements of the crimes charged in the *Informations*, the Court resolves to deny the motions for leave to file demurrer to evidence separately filed by Buenaventura and Amata. It must be emphasized that at this point, the Court is not yet passing upon the merits of the case. The incident before Us is merely a determination of whether the evidence on record is sufficient to sustain the indictment or support a verdict of guilt and does not lead to a conclusion of the guilt or innocence of accused.

Furthermore, it is significant to note that the grounds raised by the accused involve matters that are evidentiary in nature and must therefore be established during trial.

Finding sufficient evidence to sustain the indictment for the crimes charged at this point of the trial, all the accused now bear the evidentiary burden to controvert the evidence of the prosecution.

**WHEREFORE**, the premises considered, the Court hereby resolves to the deny the following:

1. Motion for Leave (Under Sec. 23, Rule 119, Revised Rules of Criminal Procedure) a) To file Demurrer to Evidence and b) To





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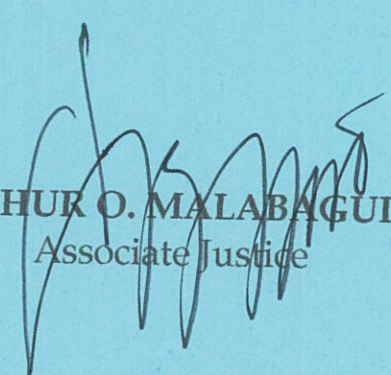
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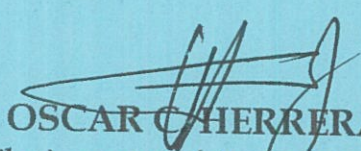
*Admit this Demurrer (On Charges of Violation of Sec. 3(e), RA 3019 and Malversation of Public Funds or Property, Art. 217, RPC) dated June 26, 2023, filed by accused Gregoria G. Buenaventura, through counsel;*

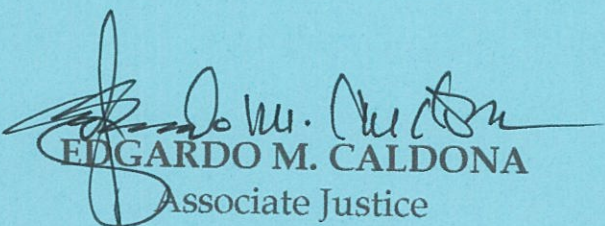
2. *Motion for Leave of Court To File Demurrer to Evidence dated June 26, 2023, filed by accused Godelina G. Amata, through counsel.*

**SO ORDERED.**

  
**ARTHUR O. MALABAGUIO**  
Associate Justice

We Concur:

  
**OSCAR C. HERRERA, JR.**  
Chairperson/ Associate Justice

  
**EDGARDO M. CALDONA**  
Associate Justice