



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SECOND DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

-versus-

MARIO JOEL TOLENTINO
REYES, ET AL.,

Accused.

CRIM CASE NO. SB-17-CRM-
0293 to 0451

For: Violation of Section 3(e) of
R.A. No. 3019; Violation of Section
2 in Relation to Section 1 of PD
1759; Falsification of Public
Documents

Present:

HERRERA, JR., J., Chairperson

CALDONA, J., Associate Justice

MALABAGUIO, J., Associate
Justice

February 28, 2024
Promulgated

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RESOLUTION

MALABAGUIO, J.:

For resolution of the Court are the following:

1. *Motion for Leave to File Demurrer to Evidence*¹ dated 05 January 2024 filed by accused Bella Tiotangco, through counsel;
2. *Motion for Leave to File Demurrer to Evidence*² dated 08 January 2024 filed by accused Jesus Tan, through counsel;
and

¹ Records, Vol. 17, pp. 465-468.

² *Id.*, pp. 473-477.

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3. *Consolidated Comment/Opposition (on the "Motion for Leave to File Demurrer to Evidence" separately filed by JESUS TAN and BELLA TIOTANGCO, both dated January 08, 2024)*³ filed by the plaintiff People of the Philippines, through the Office of the Special Prosecutor (OSP), Office of the Ombudsman (Prosecution).

Motion for Leave to File Demurrer to Evidence filed by accused Bella Tiotangco

In support of her Motion for Leave to File Demurrer to Evidence, accused Tiotangco claims that the prosecution has failed to present competent or sufficient proof to sustain the conviction of Bella Tiotangco since a perusal of all the documents, particularly the Statement of Work Accomplished (SWA) presented by the prosecution to prove the graft cases as well as the falsification cases would clearly show on their faces that accused Bella had no participation in the preparation and execution of any of them. Allegedly, her name and signature do not appear thereon.

Among pieces of evidence that were offered and admitted to prove the existence of the Contract and Agreement between Bella of BCT Construction and the province of Palawan were Exhibits "Z³ - 262 to Z³ -489". However, according to accused Tiotangco, the said documents tend to prove the existence of the said Contracts and Agreements of some other projects - not with the construction of water transmission lines and water storage project of Roxas, Palawan for which she is being charged.

Thus, accused Tiotangco prays for leave of Court to file demurrer to evidence to expound the failure of the prosecution to prove all the cases against her.

Motion for Leave to File Demurrer to Evidence filed by accused Tan

Meanwhile, accused Tan seeks to justify the filing of his Motion for Leave of Court to File Demurrer to Evidence on the ground that the prosecution has failed to present evidence to prove its material allegations in the Information.

According to the accused-movant, the issue on posting of the Invitation to Apply for Eligibility was the duty of the Bids and

³ *Id.*, pp. 469-472.

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Awards Committee (BAC), and he was not a member thereof. Moreover, accused-movant claims that as a practice, a contract for the construction of a government project is prepared by the government, which in this case is the Provincial Government of Palawan. In short, it is an adhesive contract. Hence, it is the government that should be held responsible and the contractor cannot be faulted by any mistake or lack thereof in terms of requirements or compliance with laws, rules, and regulations.

Thus, accused-movant prays for a leave to file a demurrer to evidence to expound on the failure of the prosecution to prove its material allegations in the Information.

Consolidated Comment/Opposition (on the "Motion for Leave to File Demurrer to Evidence" separately filed by JESUS TAN and BELLA TIOTANGCO, both dated January 08, 2024) filed by the plaintiff

In its *Consolidated Comment/Opposition*, the Prosecution counters that accused-movants' motions merely allege that the plaintiff's pieces of evidence are insufficient to prove their guilt beyond reasonable doubt, without proffering any concrete, clear and convincing evidence. The prosecution avers that accused-movants' explanations remain as mere speculations, and should be denied outright.

Moreover, the prosecution posits that the plaintiff's admitted exhibits successfully shifted the burden of evidence on the accused-movants' part to come forward with their own proof, documentary or otherwise, to rebut the prima-facie case, against them. On this note, the plaintiff re-pleads and adopts the pertinent discussion in its *Consolidated Comment/Opposition* dated 05 October 2023 relative to the sufficiency of evidence presented against all the accused herein to counter the accused-movants' allegation of "insufficiency" of evidence against them.

THE RULING OF THE COURT

The Court finds the instant motions for leave to file demurrer to evidence untenable.

A demurrer to evidence is an objection by one of the parties in an action to the effect that the evidence which his adversary

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produced is insufficient in point of law to make out a case or sustain the issue. The party filing the demurrer challenges the sufficiency of the prosecution's evidence, asking the court to ascertain if there is competent or sufficient evidence to establish a prima facie case to sustain in the indictment or support a verdict of guilt.⁴

The rule pertaining to demurrer to evidence is laid out in *Section 23 of the Rules of Court*, to wit:

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.

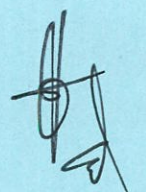
The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (Underscoring supplied.)

Clearly, the Rules require that a motion for leave of court to file demurrer to evidence must specifically state the grounds relied upon by the movant.

Contrary thereto, accused-movants herein palpably failed to specify the grounds for their respective motions for leave to file demurrer to evidence. Perusal of the motions for leave to file demurrer to evidence only shows general assertions to the effect that the prosecution failed to prove the allegations in the *Informations* despite the admission of certain prosecution evidence. The grounds

⁴ *People vs. Sandiganbayan (2nd Division), et al.*, G.R. No. 197953, 05 August 2015.

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not being specifically stated in the motions, the Court is left with no other recourse but to deny the same.

In the case of *Jalandoni v. Office of the Ombudsman*,⁵ the Supreme Court explained the function of a demurrer to evidence, viz.:

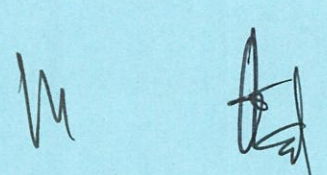
When a demurrer to evidence is filed, the trial court ascertains whether there is competent or sufficient evidence to issue a judgment. Thus, a demurrer's resolution belongs to the court's sound discretion. In *People v. Sandiganbayan*:

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)**

Consistent with our ruling regarding previous motions for leave to file demurrer to evidence by the other accused, this Court also finds no cogent reason to grant leave to file Demurrer to Evidence of the accused-movants. This Court reiterates 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.

Accordingly, at this point of the trial, there being sufficient evidence to sustain the indictment for the crime charged, the accused-movants now bear the evidentiary burden to controvert the evidence of the prosecution which should properly be made during the presentation of their evidence in chief. Accused-movants' assertions in their Motions for Leave of Court to File Demurrer to Evidence are matters of defense which should be ventilated during the trial on the merits of the case.

⁵ G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, 10 May 2021 (Citations Omitted).



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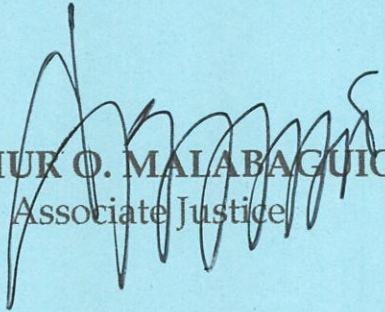
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Evidently then, the accused-movant's motions must be denied.


WHEREFORE, the premises considered, the Court hereby resolves to **DENY** the *Motions for Leave to File Demurrer to Evidence* separately filed by accused Bella Tiotangco and Jesus Tan.

SO ORDERED.

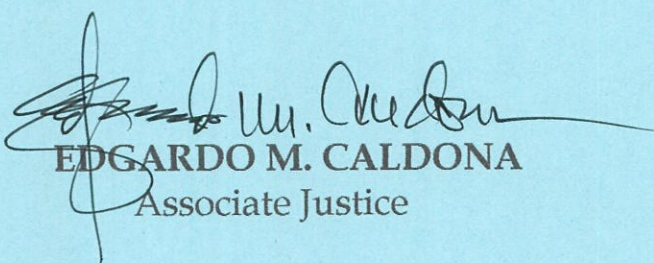


ARTHUR O. MALABAGUITO
Associate Justice

WE CONCUR:



OSCAR C. HERRERA, JR.
Chairperson/ Associate Justice



EDGARDO M. CALDONA
Associate Justice