



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 6 February 2024.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson

Justice ZALDY V. TRESPESES ----- Associate Justice

Justice BAYANI H. JACINTO¹ ----- Associate Justice

Crim. Case No. SB-17-CRM-2414 to 2415 - People vs. Isabelo J. Maquino, et al.,

This resolves the following:

1. Accused Felix Gurrea's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE" with attached "DEMURRER TO EVIDENCE" both dated 17 January 2024;²
2. Accused Isabelo Maquino, Lyndofer Beup, Noel Jaspe and Ma. Negenia Araneta's "MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE" with attached "DEMURRER TO EVIDENCE WITH LEAVE OF COURT" both dated 22 January 2024;³
3. Accused Raymund Taguba's "Motion for Leave of Court to File Demurrer to Evidence" with attached "DEMURRER TO EVIDENCE WITH LEAVE OF COURT" both dated 22 January 2024;⁴
4. The prosecution's "OPPOSITION" dated 29 January 2024;⁵
5. Accused Maquino, et al.'s "COMMENT (TO THE PROSECUTION'S OPPOSITION DATED 29 JANUARY 2024 TO THE MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE DATED 22 JANUARY 2024)" dated 2 February 2024;⁶
6. Accused Raymund Tabuga's "REPLY (TO THE PROSECUTION'S OPPOSITION DATED 29 JANUARY 2024 TO THE MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE DATED 22 JANUARY 2024)" dated 2 February 2024;⁷ and
7. Accused Felix Gurrea's "REPLY To The Prosecution's Opposition To The Motions For Leave Of Court To File Demurrer To Evidence with MOTION For Leave To File, And For The Admission Of The Same" dated 5 February 2024.⁸

¹ In lieu of J. Georgina D. Hidalgo, per A.O. No. 021-2024 dated 6 February 2024.

² Record, Vol. 8, pp. 294-328.

³ Record, Vol. 8, pp. 341-373.

⁴ Record, Vol. 8, pp. 375-412.

⁵ Record, Vol. 8, pp. 425-428.

⁶ Record, Vol. 8, pp. 438-440.

⁷ Record, Vol. 8, pp. 442-445.

⁸ Record, Vol. 8, pp. 449-454.

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TRESPESES, J.

Before the court are the respective motions for leave of court to file demurrer to evidence filed by accused Felix Gurrea ("Gurree"), Raymund Tabuga ("Tabuga"), Isabelo Maquino, Lyndofer Beup and Ma. Negenia Araneta ("Maquino, et al."), as well as the prosecution's opposition thereto.

Accused Maquino, et al., accused Tabuga and accused Gurree additionally filed their respective comments/replies to the prosecution's opposition to their motions for leave to file demurrer to evidence.

ACCUSED GURREA'S MOTION

In his motion, accused Felix Gurree claims that the prosecution failed to prove his guilt beyond reasonable doubt for violation of Section 65(B)(3) of R.A. No. 9184. Accused Gurree alleges that the prosecution failed to prove beyond reasonable doubt the existence of conspiracy between and among all the accused by positive and conclusive evidence. He also asserts that the prosecution failed to prove beyond reasonable doubt the existence of the essential element of the offense that Topmost Development and Marketing Corporation ("TDMC") and F. Gurree Construction, Inc. ("FGCI") had entered into an agreement which calls for the withdrawal of bids already submitted. Finally, he avers that the prosecution failed to prove beyond reasonable doubt the existence of the alleged letters of "withdrawal" of TDMC and FGCI, or the fact that TDMC and FGCI actually withdrew some of their respective bids for the subject projects.

Likewise, accused Gurree argues that the prosecution failed to prove his guilt beyond reasonable doubt for violation of Section 3(e) of R.A. No. 3019. He reiterates that the prosecution failed to prove beyond reasonable doubt the existence of conspiracy between and among the accused by positive and conclusive evidence. He adds that the prosecution likewise failed to prove beyond reasonable doubt that any undue injury was suffered by the Municipality of Santa Barbara, Iloilo. Finally, he states that the prosecution was unable to prove that the acts of accused public officers, with whom he is alleged to have conspired, were attended by manifest partiality, evident bad faith, or gross, inexcusable negligence.

Accused Gurree attached a copy of his Demurrer to Evidence to his motion.

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ACCUSED MAQUINO, BEUP, JASPE AND ARANETA'S MOTION

In their Motion for Leave of Court to File Demurrer to Evidence, accused Maquino, et al. basically claim that the prosecution still failed to prove the allegations in the Informations despite the admission of certain prosecution evidence.

Likewise, accused Maquino, et al. attached to their motion a copy of their Demurrer to Evidence.

ACCUSED TABUGA'S MOTION

In his Motion for Leave of Court to File Demurrer to Evidence, accused Tabuga also claims that, notwithstanding the admission of various prosecution exhibits in evidence, the prosecution failed to prove the allegations in the Informations.

Attached to accused Tabuga's motion is a copy of his Demurrer to Evidence with Leave of Court.

THE PROSECUTION'S OPPOSITION

In its Opposition, the prosecution argues that the accused have only made general statements that the prosecution's evidence is insufficient. However, they have not indicated any specific ground on why the prosecution's evidence is insufficient, contrary to the holding in *Lizarraga Hermanos v. F.M. Yap Tico, et al.*,⁹ to wit:

The reason for this is plain. It is not fair to the plaintiff to interpose to a complaint the simple objection that it does not state facts sufficient to constitute a cause of action. Neither is it fair to the court. Neither the plaintiff nor the court should be left to make, possibly a long and tiresome examination and investigation and then, perhaps, finally be compelled to guess. The grounds of the objection should be pointed out so that all may see. A demurrer was not invented to make useless work for a court, or to deceive or delude a plaintiff. Its purpose was to clarify all ambiguities; to make certain all indefinite assertions; to bring the plaintiff to a clear and clean expression of the precise grievance which he has against the defendant; to aid in arriving at a real issue between the parties; to promote understanding and prevent surprise. To that end, a demurrer should specify, for the benefit of the plaintiff and the court as well, the very weakness which the demurrant believes he sees in the complaint. It should be so presented and handled as to bring to a quick determination the question whether the plaintiff has, at bottom, a legal claim against the defendant. To attain this

⁹ 24 Phil. 504-548 (1913).

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object, the demurrer should be clear, specific, definite, and certain as to the precise weakness of the complaint. Being an instrument to cure imperfections, it should not itself be imperfect.

The prosecution also claims that the accused's argument that the prosecution failed to prove the charges against them just because the court excluded a number of documentary exhibits is off tangent.

It expounds that the cases herein hinge on the law, specifically, whether or not the acts of TDMC and FGCI, which culminated in the withdrawal of their bids in the subject projects, amounted to a violation of the law on procurement and on graft and corruption.

On this score, the prosecution asserts that it was able to establish that none of the accused denied that the withdrawal of TDMC's bid in two (2) projects resulted in FGCI's favor while the withdrawal of FGCI's bid in three (3) projects resulted in TDMC's favor. The withdrawals were too coincidental. In addition, the BAC allowed the verbal withdrawal of bids by AFG Construction. These related acts show a deliberate rigging of the bidding process.

Finally, the prosecution contends that accused's claim, i.e., that their acts show only non-participation in the bidding rather than withdrawal of bids, is a matter of defense which accused should substantiate by presenting their own evidence. Hence, it is only proper to continue the trial of these cases.

ACCUSED MAQUINO, ET AL.'S COMMENT

In their subsequent comment, Maquino, et al. point out that the prosecution's reliance on *Lizarraga Hermanos v. Yap Tico* is misplaced because the latter was based on Section 91 of the Code of Civil Procedure, while the instant case is a criminal case.

They further claim that the specifics of the ground they rely upon in their motion for leave of court to file demurrer are thoroughly discussed in the Demurrer to Evidence attached to their motion.

ACCUSED TABUGA'S REPLY

In his Reply, accused Tabuga argues that he specifically averred the specific ground available to him, i.e., insufficiency of evidence. He adds that the specific circumstances of such insufficiency were thoroughly discussed in the demurrer to evidence attached to his motion.

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Accused Tabuga also asserts that *Lizarraga Hermanos v. Tap Tico* is inapplicable herein, as it was a ruling for a civil case based on Section 91 of the Code of Civil Procedure.

ACCUSED GURREA'S REPLY

In his Reply, accused Gurrea sought leave of court to file his reply to the prosecution's opposition to his motion for leave to file demurrer.

Accused Gurrea insists that that *Lizarraga Hermanos v. Yap Tico* pertains to a Supreme Court ruling on Section 91 of the Code of Civil Procedure, which has long been superseded by the provisions of the Rules of Civil Procedure and had pertained to demurrers to complaints in civil cases. Accused Gurrea argues that the said case is inapplicable herein because what is at issue is the sufficiency of the evidence of the prosecution in a criminal case, and not the allegations of a civil complaint.

Accused Gurrea claims that he raised very specific grounds when he alleged that the prosecution failed to prove beyond reasonable doubt the existence of conspiracy among the accused, the existence of the alleged agreement calling for withdrawal of bids, the existence of the alleged letters of withdrawal of TDMC and FGCI or that the two actually withdrew some of their bids, the undue injury suffered by the municipality and the manifest partiality, evident bad faith or gross inexcusable negligence of the accused public officers. He adds that he thoroughly expounded upon these matters in his demurrer proper.

OUR RULING

We resolve to deny all the accused's motions for leave to file demurrer to evidence.

A demurrer to 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 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 the indictment or support a verdict of guilt.¹⁰

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

¹⁰ *People v. Sandiganbayan (2nd Division)*, G.R. No. 197953, 5 August 2015.

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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 therefor.

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

The accused allege in their motion that the grounds mentioned in their motions are fleshed out in the Demurrers to Evidence attached to their respective motions for leave of court to file demurrer.

However, simply attaching the Demurrers to the accused's motions falls short of the requirement of the Rules.

First, it is plainly stated in the rule that the motion for leave of court to file a demurrer to evidence, not any other document attached thereto, must "specifically state" the grounds relied upon for the grant of the motion.

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On this score, we echo the pronouncement in *Sebastian v. Morales*¹¹ that every case must be prosecuted in accordance with the prescribed procedure:

xxx Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes. Hence, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.

Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules.

In particular, the governing rules on demurrer to evidence is a fundamental component of criminal procedure that judges have the obligation to observe.¹²

Second, leave has not yet been granted to file the demurrers. Hence, the court is not bound to consider the contents of the attached demurrers in the resolution of the present motions.

Third, the accused's failure to specify the grounds in the motion for leave to file demurrer makes it impossible to ascertain whether it is merely filed to stall proceedings. Meanwhile, it has been held that the 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.¹³

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

Notwithstanding the denial of their motions, the Rules provide that accused may still file their demurrers without leave of court. However, in consequence, accused shall waive their right to present evidence and submit these cases for judgment on the basis of the evidence adduced by the

¹¹ 445 Phil. 595-609 (2003).

¹² *Osumo v. Serrano*, A.M. No. RTJ-00-1607 (Resolution), 429 Phil. 626-634 (2002).

¹³ *Bernardo v. Court of Appeals*, 344 Phil. 335-347 (1997).

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prosecution. This is clear from a reading of paragraph 2, Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, 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.

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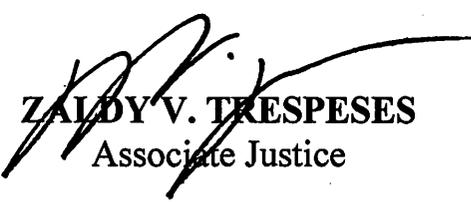
If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

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.)

WHEREFORE, premises considered, the court **DENIES** the respective motions for leave of court to file demurrers to evidence filed by accused Felix Gurrea, Raymund Tabuga, Isabelo Maquino, Lyndofer Beup and Ma. Negenia Araneta in SB-17-CRM-2414 and 2415.

Considering that the said accused's demurrers to evidence are attached to their respective motions, the court **DIRECTS** all the accused to file within five (5) days from notice a written manifestation on whether their attached demurrers should be considered by the court as their demurrers filed without leave.

SO ORDERED.


ZALDY V. TRESPESES
Associate Justice

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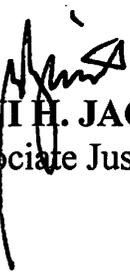
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WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson


BAYANI H. JACINTO
Associate Justice

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