



Republic of the Philippines  
*Sandiganbayan*  
Quezon City

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## SEVENTH DIVISION

*MINUTES of the proceedings held on September 5, 2017.*

*Present:*

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson  
ZALDY V. TRESPESES ----- Associate Justice  
BAYANI H. JACINTO<sup>1</sup> ----- Associate Justice

The following resolution was adopted:

**Crim. Cases No. 24337 and 24338 – People vs. CLARA M. AMBRAY,  
LEYMINDA R. VIOLAN, et al.**

This considers the following:

1. The Prosecution's "MANIFESTATION AND MOTION" dated August 24, 2017; and
2. The Prosecution's "MOTION FOR TIME" dated August 31, 2017.

By this time, the prosecution is ready to wrap up its evidence, as it has actually asked for time to file its formal offer of documentary exhibits by Order dated August 22, 2017.<sup>2</sup>

In the interim, a development occurred when accused's standing request *to withdraw* the charge for violation of Sections 3 (e) and (g) of R.A. 3019 under Criminal Case No. 24337 and offer to *plead guilty* to a lesser offense for Simple Falsification under Criminal Case No. 24338, was alleged to have finally met the *approval* of Ombudsman Conchita Carpio Morales. Proof of such approval, however, was never attached to prosecution's *Manifestation and Motion* for the Court to closely examine the reason or basis thereof. The same *Manifestation and Motion* also did not specifically pray for the withdrawal of Criminal Case No. 24337 for the Court to exercise its judicial discretion in contemplation of *Crespo v. Mogul*.<sup>3</sup> A legal quandary thus arose on the type of action the Prosecution wanted to effect at this instance. Certainly, the Court cannot initiate on its own the dismissal of the

<sup>1</sup> Per A.O. No. 284-2017 dated August 18, 2017

<sup>2</sup> Vide: Records, Volume 7, p. 34

<sup>3</sup> G.R. No

L-53373, June 30, 1987, 151 SCRA 462 (1987)

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charges, having already found at the outset the existence of probable cause to sustain the filing of the same. What the Court can do is well elucidated in the case of *Santos v. Orda, Jr.*,<sup>4</sup> viz:

In *Crespo v. Mogul*, the Court held that once a criminal complaint or information is filed in court, any disposition of the case or dismissal or acquittal or conviction of the accused rests within the exclusive jurisdiction, competence, and discretion of the trial court. The trial court is the best and sole judge on what to do with the case before it. **A motion to dismiss the case filed by the public prosecutor should be addressed to the court who has the option to grant or deny the same.** Contrary to the contention of the petitioner, the rule applies to a motion to withdraw the Information or to dismiss the case even before or after arraignment of the accused. The only qualification is that the action of the court must not impair the substantial rights of the accused or the right of the People or the private complainant to due process of law. **When the trial court grants a motion of the public prosecutor to dismiss the case, or to quash the Information, or to withdraw the Information in compliance with the directive of the Secretary of Justice, or to deny the said motion, it does so not out of subservience to or defiance of the directive of the Secretary of Justice but in sound exercise of its judicial prerogative.**

In resolving a motion to dismiss the case or to withdraw the Information filed by the public prosecutor on his own initiative or pursuant to the directive of the Secretary of Justice, either for insufficiency of evidence in the possession of the prosecutor or for lack of probable cause, the trial court should not rely solely and merely on the findings of the public prosecutor or the Secretary of Justice that no crime was committed or that the evidence in the possession of the public prosecutor is insufficient to support a judgment of conviction of the accused. As the Court emphasized in *Martinez v. Court of Appeals*, the trial court must make an independent evaluation or assessment of the merits of the case and the evidence on record of the prosecution: x x x.

As it is, no legal ground was presented by the prosecution why the dismissal of Criminal Case No. 24337 should be made. The purported *approval* given by Ombudsman Conchita Carpio-Morales, without discerning the reason given, is not enough for the Court to consider a dismissal. The Prosecution's reason/s for recommending the dismissal of Criminal Case No. 24337 should be submitted for the Court's evaluation.

Meantime, the approval of the plea bargaining made in Criminal Case No. 24338 *from* Falsification of Public Documents defined and penalized under Article 171 of the Revised Penal Code *to* Simple Falsification or Use of Falsified Documents defined and penalized under Article 172 of the same Code within the context of Section 2, Rule 116 of the Revised Rules of Criminal Procedure, is **NOTED**.

IN VIEW THEREOF:

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<sup>4</sup>G.R. No. 158236. September 1, 2004.]

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1. The Prosecution is directed to submit within ten (10) days from notice the written approval of Ombudsman Conchita Carpio Morales on the withdrawal of the charge under Criminal Case No. 24337 and, concomitant thereto, to file the necessary pleading whether it intends, on its own, to effect a withdrawal of the same charge;

2. The Prosecution is likewise directed to submit within ten (10) days from notice the written approval of Ombudsman Conchita Carpio Morales on the offer of accused Leyminda R. Violan to plead guilty to the lesser offense of Simple Falsification or Use of Falsified Documents under Criminal Case No. 24338; and

3. In the meantime that this incident is pending for consideration, the resolution of the *Motion for Time* filed by the Prosecution to extend the period of the filing of the formal offer is necessarily **DEFERRED**.


The reported death of private complainant Jose Robertino Elpa Gelvosa, as shown by his *Certificate of Death* attached to the *Manifestation and Motion*, is **NOTED**.

SO ORDERED.

GOMEZ-ESTOESTA, J., *Chairperson*



TRESPESES, J.



JACINTO, J.

