



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

***SIXTH DIVISION***

**PEOPLE OF THE PHILIPPINES,**

*Plaintiff,*

SB-15-CRM-0087

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

SB-15-CRM-0088

For: Malversation of Public Funds  
(Article 217 of the Revised Penal  
Code)

-versus-

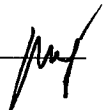
**LORETO LEO S. OCAMPOS AND  
FOAD AKHAVAN,**

*Accused.*

PRESENT:

FERNANDEZ, S.J.<sup>1</sup>, *J., Chairperson*  
MIRANDA, &  
MUSNGI<sup>2</sup>, *JJ.*

Promulgated:

*October 2, 2017* 

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<sup>1</sup> J. Ponferrada, Chairperson of the 6<sup>th</sup> Division when the present incident was submitted for resolution, retired on September 13, 2017. J. Fernandez, SJ will participate in the resolution of the present incident in view of her assumption as Chairperson of the 6<sup>th</sup> Division on the same date. (As per Administrative Order (A.O.) No. 314-2017 dated September 13, 2017; Revised Internal Rules of the Sandiganbayan,

**RESOLUTION**

MIRANDA, J.:

This resolves the Prosecution's Motion dated May 3, 2017: 1), For Reconsideration of the Order dated March 23, 2017; 2), To Include Two Additional Witnesses; 3), To Order the Parties to Enter into a Stipulation of Facts; and 4), To Cancel Hearings scheduled in June 2017, and accused Loreto Leo S. Ocampos (Ocampos) and Foad Akhavan's (Akhavan) Motion to Dismiss dated June 16, 2017.

In its motion, the Prosecution, through the Office of the Special Prosecutor (OSP), seeks the following reliefs: 1), the reconsideration of the Order dated March 23, 2017 giving the parties a non-extendible period of sixty (60) days to submit the judicial affidavits of their witnesses; 2), the presentation of Atty. Irene T. Zapatos (Zapatos) and Danilo A. Sescon as additional witnesses for the Prosecution; 3), the setting of a date for the joint stipulation of facts between the Prosecution and the Defense; and 4), the cancellation of the hearings in June 2017.

In their motion, accused Ocampos and Akhavan invokes the immediate dismissal of these cases for failure to prosecute and the violation of the accused's constitutional right to speedy trial.

In asking for the reconsideration of the Order dated March 23, 2017, the OSP seeks the submission of the judicial affidavits of their witnesses at least five (5) days before the presentation of their witnesses. This motion is now moot because the judicial affidavits of six (6) prosecution witnesses<sup>3</sup> are now part of the Court's records. In fact, all of them have already completed their testimonies in court.<sup>4</sup> To prevent manifest injustice, the Court will allow the submission of the judicial affidavits of the remaining prosecution

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<sup>3</sup> Judicial Affidavit of Atty. Irene T. Zapatos dated June 19, 2017; Judicial Affidavit of Rebecca Chua-Ozaraga dated June 20, 2017, Judicial Affidavit of Francisco T. Paylaga, Jr. dated June 19, 2017, Judicial Affidavit of Othella G. Arbon dated July 12, 2017, Judicial Affidavit of Celso L. Vocal dated August 30, 2017, and Judicial Affidavit of Jimmy Regalado dated September 4, 2017.

<sup>4</sup> Atty. Irene T. Zapatos on June 19, 2017; Rebecca Chua-Ozaraga on August 7 & 8, 2017; Othella G. Arbon

witnesses listed in the pre-trial order<sup>5</sup>, namely: Oscar R. Visitacion, Atty. Helen E. Tenchavez<sup>6</sup>, and Mary Ann Sicam, provided that they are filed with the Court and served on the accused at least five (5) days before trial. In case of failure to submit the required affidavits on time and in the absence of a valid reason, the Prosecution shall be deemed to have waived their submission and the presentation of said witnesses.<sup>7</sup>

Since Atty. Zapatos, an additional witness, has already completed her testimony last June 19, 2017<sup>8</sup>, the Court will also allow the presentation of Danilo A. Sescon as the second additional witness for the Prosecution. His judicial affidavit must also be submitted to the Court and served on the accused at least five (5) days before trial.

To avoid further delay in the proceedings, the setting of a date for the conduct of a joint stipulation of facts between the Prosecution and the Defense is denied. However, the parties are not prevented from entering into stipulations of facts during the trial, if they so desire.

The motion for the cancellation of the June hearings has also become moot. Trial shall proceed as scheduled and parties are enjoined to prevent needless delays in the disposition of these cases.

Accused Ocampos and Akhavan's motion to dismiss for failure to prosecute is likewise denied for being moot. Based on the records, the Prosecution is already in the midst of prosecuting the cases. Although accused Ocampos and Akhavan may have reiterated their motion to dismiss after the testimony of Atty. Zapatos<sup>9</sup>, they never raised any objection to the presentation of the other prosecution witnesses in court. In fact, they agreed to stipulate and admit to the purpose of the testimony of Atty. Zapatos.<sup>10</sup> As a result, accused Ocampos and Akhavan are deemed to have acquiesced to the continuation of the trial of these cases.



<sup>5</sup> Atty. Helen E. Tenchavez is a common witness for the Prosecution and the Defense. Her Judicial Affidavit dated May 19, 2017, which is in the Court's records, was submitted by the Defense.

<sup>6</sup> Pre-Trial Order dated March 23, 2017, Records, Vol. II, pp. 380A- 380F.

<sup>7</sup> Section 10 of the Judicial Affidavit Rule.

<sup>8</sup> Order dated June 19, 2017, Records, Vol. III, p. 101A.

<sup>9</sup> ...



**WHEREFORE**, the Motion dated May 3, 2017 of the Prosecution is **PARTIALLY GRANTED**, and the Motion to Dismiss dated June 16, 2017 of accused Leo S. Ocampos and Foad Akhavan is **DENIED**.

**SO ORDERED.**

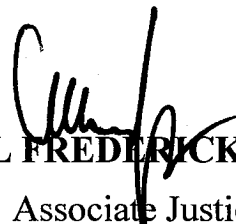
  
**KARL B. MIRANDA**

Associate Justice

WE CONCUR:

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice

Chairperson

  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice