



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES, SB-10-CRM-0220**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

- versus -

*Present*

**FERNANDEZ, SJ, J.,**  
Chairperson

**MIRANDA, J. and**  
**TRESPESES,\* J.**

**GERRY J. MORALES, ET AL.**  
Accused.

*Promulgated:*

**APR 27 2018** *MY*

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Ex-parte Motion to Reopen and Modification of Sentence*<sup>1</sup> filed by accused Gerry J. Morales, Emeritos M. Jovilla and Francisco S. Jimenez, Jr.

In their Motion, accused Morales, Jovilla and Jimenez pray that (1) their sentence term be adjusted pursuant to Republic Act No. 10951 (R.A. No. 10951); (2) they be released after serving the minimum sentence term imposable under said law; (3) they be allowed to apply for probation if qualified under the Probation Law; and (4) their respective cash bonds be released. They aver:

1. They were charged and convicted for violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019), and were sentenced to

\* The incident was submitted for resolution on April 23, 2018, upon the filing of the prosecution's *Comment/Opposition*; In lieu of the vacancy in the Sixth Division (Per Administrative Order No. 071-2018 dated February 1, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule XII, Sec. 3)

<sup>1</sup> Dated March 18, 2018 and filed on March 23, 2018

*[Handwritten signatures and initials]*

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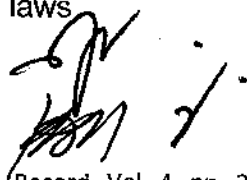
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suffer the penalty of imprisonment of six (6) years and one (1) day as minimum; to ten (10) years as maximum.<sup>2</sup>

2. The judgment against them has attained finality after the Supreme Court denied their Petition for Review on Certiorari.
3. They commenced serving their sentence on January 6, 2017.
4. In *Hernan v. Sandiganbayan*,<sup>3</sup> the case was reopened and the penalty imposed on therein accused was adjusted pursuant to the pertinent provision in R.A. No. 10951.
5. The Office of the Court Administrator issued Circular No. 245-2017<sup>4</sup> directing all judges of the first and second level courts to comply with the said Decision.
6. The amount involved in the present case is ₱105,000.00. Under R.A. No. 10951, the imposable penalty, as adjusted, ranges from *arresto mayor* as minimum to *prision correccional* as maximum, or as the court may determine.

In its *Comment/Opposition (To Accused Morales, Jovilla and Jimenez' Jr. Ex-parte Motion to Reopen and Modification of Sentence)*,<sup>5</sup> the prosecution counters:

1. In *Hernan*, the Supreme Court held that R.A. No. 10951 applies in cases where the imposable penalties of crimes such as theft, qualified theft, estafa, robbery with force upon things, malicious mischief, malversation and such other crimes, the penalty of which is dependent upon the value of the object in consideration thereof, have been reduced.
2. Accused Morales, Jovilla and Jimenez were convicted for violation of Sec. 3(e) of R.A. No. 3019, the penalty for which does not depend on the value of the object in consideration. Hence, the ruling in *Hernan* does not apply.
3. R.A. No. 10951 applies only to specific crimes punishable under the Revised Penal Code. There is nothing in said law allowing the suppletory application of its provisions to crimes punished under special penal laws



<sup>2</sup> Decision dated November 12, 2014 (Record, Vol. 4, pp. 253-276); Resolution dated March 30, 2015 denying their respective motions for reconsideration (Record, Vol. 4, pp. 301-309).

<sup>3</sup> G.R. No. 217874, December 5, 2017

<sup>4</sup> Dated December 27, 2017; Re: *Hernan v. Sandiganbayan*, in Relation to Republic Act No. 10951

<sup>5</sup> Dated April 20, 2018 and filed on April 23, 2018

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4. Given the non-applicability of R.A. No. 10951 in the present case, the penalties imposed on accused Morales, Jovilla and Jimenez cannot be adjusted. The other reliefs prayed for, being anchored on the applicability of R.A. No. 10951, should also be denied.

### THE COURT'S RULING

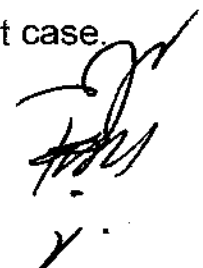
The Motion of accused Morales, Jovilla and Jimenez is grounded on the Supreme Court's ruling in *Hernan v. Sandiganbayan*.<sup>6</sup> A brief background of the said case is in order.

In that case, petitioner Ophelia Hernan, Disbursement Officer of the Department of Transportation and Communications, Baguio City, was found guilty beyond reasonable doubt of Malversation. The amount involved being ₱11,300.00, she was sentenced by the Regional Trial Court to suffer imprisonment of seven (7) years, four (4) months, and one (1) day of *prision mayor*, as minimum, to eleven (11) years, six (6) months and twenty-one (21) days of *reclusion temporal*, as maximum. Upon appeal to the Sandiganbayan, the penalty was modified to six (6) years and one (1) day of *prision mayor* as minimum, to eleven (11) years, six (6) months and twenty-one (21) days of *prision mayor* as maximum. The judgment of conviction became final and executory after the denial of her motion for reconsideration. Subsequently, the Sandiganbayan denied her motion to reopen and petition for reconsideration, which were considered as second and third motions for reconsideration, and therefore, prohibited. Thereafter, she filed a petition for certiorari with the Supreme Court.

The Supreme Court held that Hernan's motion to reopen was crippled, it having been filed after the finality of the judgment of conviction. However, it was necessary to reopen the case and recall the entry of judgment because R.A. No. 10951 reduced the penalty imposed for Malversation involving amounts not exceeding ₱40,000.00 to *prision correccional* in its medium and maximum periods. Applying the Indeterminate Sentence Law and the taking into consideration the presence of one (1) mitigating circumstance, the Supreme Court modified the penalty imposed to six (6) months of *arresto mayor*, as minimum, to three (3) years, six (6) months and twenty (20) days of *prision correccional* as maximum.

The ruling in *Hernan* finds no application in the present case.

<sup>6</sup> *Supra*. Note 3



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R.A. No. 10951, entitled *An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code" as Amended*, amended certain provisions of the Revised Penal Code (RPC) only, having no effect on special penal laws such as R.A. No. 3019.

Accused Morales, Jovilla and Jimenez were convicted for violation of Sec. 3(e) of R.A. No. 3019, and not under any of the affected provisions of the RPC. Thus, there is no ground for the modification of the sentence imposed upon them. Their prayer that (1) they be released after serving the minimum sentence term, and (2) they be allowed to apply for probation, being grounded on the adjustment of their sentence, must necessarily be denied.

This Court, however, grants their prayer for the release of their respective cash bonds. Rule 114, Sec. 22 of the Rules of Court provides:

**Sec. 22. Cancellation of bail. – x x x**

The bail shall be deemed automatically cancelled upon acquittal of the accused, dismissal of the case, or execution of the judgment of conviction.

x x x

(underscoring supplied)

It appearing that accused Morales, Jovilla and Jimenez commenced the service of their sentence on January 6, 2017, the release of their respective bail bonds is warranted.

**WHEREFORE**, the Motion of accused Morales, Jovilla and Jimenez is hereby **PARTIALLY GRANTED**. As prayed for, let their respective bonds be **RELEASED**, subject to the usual accounting and auditing procedure. Their prayer for other reliefs are **DENIED** for lack of merit.

SO ORDERED

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**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**ZALDY V. TRESPESES**  
Associate Justice