



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

**FIRST DIVISION**

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*


-versus-

MOISES B. VILLASEÑOR,  
*Accused.*

SB-18-CRM-0125  
For: Violation of Sec. 7, in  
relation to Section 56 of  
R.A. No. 4136, as  
amended

Present:  
DE LA CRUZ, J., *Chairperson*  
ECONG, J. and  
CALDONA, J.

PROMULGATED:

JUN 20 2018 

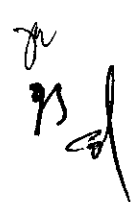
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**RESOLUTION**

Econg, J:

This resolves the following pending incidents of this case:

1. Motion to Withdraw Information dated 26 March 2018 of the prosecution (the "Motion");
2. Comment (Re: Prosecution's Motion to Withdraw Information dated 26 March 2018) with Omnibus Motion to Quash Information and to Dismiss the Case dated 11 April 2018 of the accused (the "Comment");
3. Comment/Opposition (To the Comment Re: Prosecution's Motion to Withdraw Information dated 26 March 2018) with Omnibus Motion to Quash Information and to Dismiss the Case dated 27 April 2018 of the prosecution (the "Prosecution's Comment"); and



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4. Comment/Opposition [Re: Motion to Withdraw Information dated 26 March 2018] dated 30 April 2018 of complainant Celso Olivier T. Dator (“Dator’s Comment”).

In the Motion, the prosecution states that “[a]fter thorough review of the records and the evidence of this case, it appears that the offense for violation of Sec. 7, in relation to Sec. 28 of R.A. No. 4136, has already prescribed.” The prosecution attached to the said Motion the Ombudsman’s Memorandum dated 16 March 2018 effecting such withdrawal.

The accused in his Comment states that “[c]onsidering x x x the records on hand and the admission of the Prosecution that indeed that offense charge against the accused has already prescribed, Accused’s humble position is to move to quash the information and for the DISMISSAL of the instant case on the ground” of prescription. This argument is hinged on the belief that the notarization of the Deed of Sale in question, being done in 2005, was the reckoning date for the prescriptive period on the case.

To the above, the prosecution replied through the Prosecution’s Comment, stating that:

1. The Motion to Quash the Information of the accused is prematurely filed, considering that it should await the resolution of the Court on the pending Motion to Withdraw the Information;
2. The grounds relied upon by the accused is erroneous, pointing out that the rule that once a criminal complaint or Information is filed in court, “any disposition thereof x x x rests in the sound discretion of the Court;” and
3. Complainant Dator discovered the alleged commission of the offense only in 2012, and the reckoning period for prescription starts then, not on the date of the notarization of the Deed of Sale in question.

In Dator’s Comment, he prays for the denial of the Motion of the prosecution, stating that since the Information had already been filed in this Court, the latter “acquires jurisdiction over the case” and that “it is not the fiscal or the prosecutor, which has control over it.”

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Recently, in *Santos v. Orda, Jr.*,<sup>1</sup> the Supreme Court reiterated the well-established doctrine that once a “criminal complaint or an information is filed in court, any disposition or dismissal of the case or acquittal or conviction of the accused rests within the jurisdiction, competence, and discretion of the trial court.” It was held that:

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, the Court should not rely solely and merely on the findings of the public prosecutor or the Secretary of Justice. As emphasized by the Supreme Court in *Martinez v. Court of Appeals*,<sup>2</sup> the trial court must make an independent evaluation or assessment of the merits of the case and the evidence on record of the prosecution:

In other words, the grant of the motion to dismiss was based upon considerations other than the judge’s own personal individual conviction that there was no case against the accused. Whether to approve or disapprove the stand taken by the prosecution is not the exercise of discretion required in cases like this. The trial judge must himself be convinced that there was, indeed, no sufficient evidence against the accused, and this conclusion can be arrived at only after an assessment of the evidence in the possession of the prosecution. What was

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<sup>1</sup> G.R. No. 158236, 1 September 2004, 437 SCRA 504, 514-515.

<sup>2</sup> *Martinez v. Court of Appeals*, 237 SCRA 575 (1994).

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imperatively required was the trial judge's own assessment of such evidence, it not being sufficient for the valid and proper exercise of judicial discretion merely to accept the prosecution's word for its supposed insufficiency.

As aptly observed by the Office of the Solicitor General, in failing to make an independent finding of the merits of the case and merely anchoring the dismissal on the revised position of the prosecution, the trial judge relinquished the discretion he was duty bound to exercise. In effect, it was the prosecution, through the Department of Justice which decided what to do and not the court which was reduced to a mere rubber stamp in violation of the ruling in *Crespo v. Mogul*.

x x x

Indeed, it bears stressing that the trial court is not bound to adopt the resolution of the Secretary of Justice since it is mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the recommendation of the Secretary of Justice. Reliance alone on the resolution of the Secretary of Justice would be an abdication of the trial court's duty and jurisdiction to determine a prima facie case.

After an independent assessment of this case, it is clear that the Information states that "in February 2005, or prior or subsequent thereto x x x accused MOISES B. VILLASEÑOR" was alleged to "willfully, unlawfully and criminally fail[ed] to register and/or cause the transfer of the registration in the name of the municipality the Toyota Hi-Ace passenger van x x x which the municipality had acquired x x x." The alleged criminal act that accused committed is the failure to register or cause the transfer of the registration in favor of the local government unit.

The Government's right to file charges against an individual is bound by prescription. And, looking into the matter of prescription, the accused and the prosecution have two differing theories as to when the prescriptive period started. The accused, understandably favoring the reckoning date that is more than a decade ago, argues that the starting point was the notarization of the Deed of Absolute Sale in question, which was way back in 2005. The prosecution, on the other hand, contends that the reckoning date is the discovery of the anomaly, which is 2012 when the private complainant unearthed this fact as a result of his investigation.

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The prescriptive period of the failure to register or cause the transfer of registration under R.A. No. 4136, a special penal law, is governed by Act No. 3326. Section 2 of Act No. 3326, states that:

SEC. 2. Prescription **shall begin to run from the day of the commission of the violation of the law**, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy. (**Emphasis ours**)

In the case of *People v. Duque*,<sup>3</sup> the Supreme Court construed the above as follows:

In our view, the phrase "institution of judicial proceedings for its investigation and punishment" may be either disregarded as surplusage or should be deemed preceded by the word "until." Thus, Section 2 may be read as:

"Prescription shall begin to run from the day of the commission of the violation of the law; and if the same be not known at the time, from the discovery thereof;"

or as:

"Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and *until* institution of judicial proceedings for its investigation and punishment."

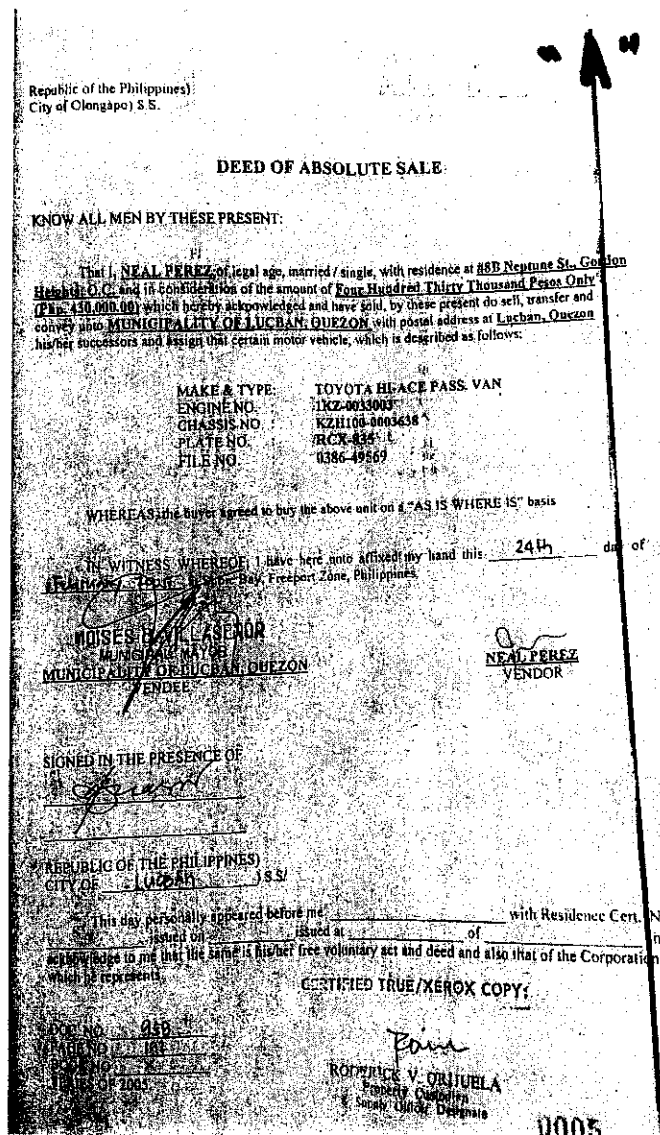
Though there appears to be some merit in the allegation that the execution of the Deed of Absolute Sale serves as constructive notice as of the time of its notarization, however, a review of this document reveals that it was indeed not appropriately notarized. The jurat or the subscription portion of the document have blanks and does not contain the needed details. The deed appears to have not been notarized as it does not have the stamp and signature of a duly authorized notary

<sup>3</sup> G.R. No. 100285, August 13, 1992, 212 SCRA 607.

*TC*  
*TSJ*

X-----X

public, as well as the name of the person who executed the deed, his residence certificate, date and place of issue, as shown in the picture below:



The jurat is also not appropriate and the deed should have been acknowledged before a notary public. Hence, the concept of constructive notice does not apply in this case. This being the case, the logical reckoning period for prescription to run should be from the date of discovery of the alleged crime, which is in 2012, when upon private complainant's investigation, the failure to registration or cause the transfer of registration of the motor vehicle was made known.

There is no question that both the accused and the prosecution recognize that the private complainant filed his complaint through a Complaint-Affidavit dated 26 November 2015 or at least three (3) years from the discovery of the alleged crime in 2012.

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Moreover, the crime charged, which is violation of Sec. 7 of Republic Act No. 4136<sup>4</sup>, calls only for a fine.<sup>5</sup> This means that Section 2 of Act No. 3326 comes into play, mandating a one (1) year prescriptive period.<sup>6</sup> Hence, it is apparent and clear that the instant case has already prescribed.

Considering the above premises, the Court hereby finds that, indeed, the right of the Government to pursue and file a criminal case against accused for violation of Sec. 7, R.A. No. 4136 is already barred by prescription.

The basis therefore, for the prosecution in withdrawing the Information on the ground that the action is already barred by prescription is correct. And, after considering the long line of cases starting with the case of *Crespo vs. Mogul*, this Court is of the belief that the prosecution's motion to withdraw the Information is proper and should therefore, must be granted.

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<sup>4</sup> **Section 7. Registration Classification.** - Every motor vehicle shall be registered under one of the following described classifications:

(m) Government automobiles; (n) government trucks; and (o) government motorcycles. Motor vehicles owned by the Government of the Philippines or any of its political subdivisions shall be registered under these classifications. Motor vehicles owned by government corporations, by government employees or by foreign governments shall not be registered under this classification.

<sup>5</sup> **Section 56. Penalty for violation.** - The following penalties shall be imposed for violations of this Act:

(a) For registering later than seven days after acquiring title to an unregistered motor vehicle or after conversion of a registered motor vehicle requiring larger registration fee than that for which it was originally registered, or for renewal of a delinquent registration, the penalty shall be a fine fifty per cent of the registration fees corresponding to the portion of the year for which the vehicle is registered for use.

(l) For violation of any provisions of this Act or regulations promulgated pursuant hereto, not hereinbefore specifically punished, a fine of not less than ten or more than fifty pesos shall be imposed.

<sup>6</sup> Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) after eight years for those punished by imprisonment for two years or more, but less than six years; and (d) after twelve years for any other offense punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years. Violations penalized by municipal ordinances shall prescribe after two months.

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On the other hand, the accused's Motion to Quash has legal basis. Section 3(g), Rule 117 of the Revised Rules of Court, which states that:

Sec. 3. Grounds. – The accused may move to quash the complaint or information on any of the following grounds:

(a) x x x

(g) That the criminal action or liability has been extinguished;

x x x

It should be stressed that the prayers of the separate motions of the prosecution and the accused are both meritorious and both must, therefore, be granted. Anyway, both the withdrawal of the Information and its quashal will have the same effect—i.e, an Information that is defective by reason of prescription can no longer be filed by the Government against the accused.

On a final note, the Court deems it noteworthy to point out that the issue herein involves, in summary, a mere non-registration with the Land Transportation Office of a vehicle purchased by the municipality. Evidence suggests that the said vehicle is in the possession of the municipality of Lucban from its purchase until its eventual disposal. This being said, there is really no apparent harm done to the Government, especially highlighted by the fact that the Information does not really mention an amount of pecuniary damages and settled on the mere phrase of "to the detriment of public interest". Furthermore, do we really expect the mayor of the Municipality to drop all of his more important tasks and physically go to the LTO to register a vehicle? Is this not the task of the General Services Office of the Municipality or other technical officers of the municipality to take care of this? Why were these persons mandated by law to take care of these matters not even charged at all? We can call out any and all menial procedural infirmities and blame our officials for it, but maybe we can also consider how impractical these are considering the bigger picture of public service.



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**WHEREFORE**, the Motion to Withdraw Information dated 26 March 2018 of the prosecution is hereby **GRANTED** and the Omnibus Motion to Quash Information and to Dismiss the Case dated 11 April 2018 of the accused is also **GRANTED**. The Hold Departure Order dated March 2, 2018 issued against accused Moises B. Villaseñor is lifted and set aside.

SO ORDERED.

Quezon City, Metro Manila, Philippines.

*Geraldine Faith A. Econg*  
**GERALDINE FAITH A. ECONG**  
Associate Justice

WE CONCUR:

*EFREN N. DE LA CRUZ*  
**EFREN N. DE LA CRUZ**  
Associate Justice  
*Chairperson*

*Edgardo M. Caldona*  
**EDGARDO M. CALDONA**  
Associate Justice