

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES,
Plaintiff,

CRIM CASE NO. SB-16-CRM-0417
to 0420

*For: Violation of Sec 3(e) of R.A. No.
3019, As Amended*

- versus -

CRIM CASE NO. SB-16-CRM-0421
to 0424

*For: Malversation under Article 217
of the Revised Penal Code*

RENO G. LIM, ET AL.,

Accused.

Present:

HERRERA, Jr., J., Chairperson
MUSNGI, J., Associate Justice
JACINTO, J., Associate Justice

February 21, 2022 ash
Promulgated

RESOLUTION

MUSNGI, J.:

The Court notes and resolves the *Manifestation with Ex-Parte Motion* filed by accused Reno G. Lim on 17 January 2022.

In his *Manifestation with Ex-Parte Motion*, the accused states that there is an urgent need for the original documents to be turned over to the Division Clerk of Court in order for the accused to have the same examined by the NBI Questioned Documents Division. Thus, the accused moves that the prosecution be directed to produce and submit all the original copies of the documents listed in the *Resolution* of the Court dated 10 December 2021.

On the other hand, the prosecution manifests in its *Comment* that the Commission on Audit ("COA") is the custodian of the subject original documents. The prosecution asserts that it presented and identified the certified true copies of the said documents, duly attested and identified by Ms. Lolita M. Soriano, Supervising Administrative Officer, Special Audits Office of the COA in her Judicial Affidavit dated 25 July 2018. Moreover, the prosecution argues that it has formally offered the certified true copies and the same were already admitted in evidence by the Court. The prosecution prays to be excused from the directive of the Court to produce the subject original

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documents since it is not the custodian thereof and that only mere photocopies of the marked exhibits were left in its possession.

In his *Reply*, the accused argues that even granting that the original copies of the original documents are not in the custody of the prosecution, the fact that the prosecution was specifically instructed by the Court to nevertheless still produce the same before the Division Clerk of Court would only mean that the prosecution was being charged or directed by the Court to avail of such remedies or means to secure and obtain the original documents from the party in possession thereof.

In its *Rejoinder*, the prosecution argues that it cannot compel the COA to submit the original documents to the Division Clerk of Court for NBI examination citing Section 26, Rule 132 of the 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC) on the irremovability of public record. The prosecution recommends that the defense should instead request for the issuance of a subpoena directing a scheduled NBI examination of the subject documents within the COA premises addressed to Assistant Commissioner Alexander B. Juliano, Special Services Sector, COA.

Ruling

After due consideration of the arguments presented by the parties, the Court denies the *Ex-Parte Motion* of accused Lim.

The Court previously directed the prosecution to produce the subject documents before the Division Clerk of Court in view of accused's Lim option to utilize the expertise of the NBI in presenting his defense. However, the prosecution manifested that the original documents are not in their custody and that it has already rested its case. The directive of this Court addressed to the prosecution to produce such record which is not within the prosecution's custody is withdrawn. Defense is hereby reminded to timely complete the presentation of its evidence in accordance with the rules.

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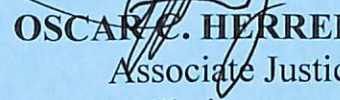
WHEREFORE, in view of the foregoing, the subject *Ex-Parte Motion* filed by accused Reno G. Lim is **DENIED**. The *Manifestation* is hereby **NOTED**.

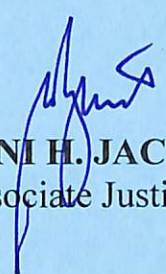
SO ORDERED.

Quezon City, Philippines.


MICHAEL FREDERICK L. MUSNGI
Associate Justice

We concur:


OSCAR C. HERRERA, JR.
Associate Justice
Chairperson


BAYANI H. JACINTO
Associate Justice