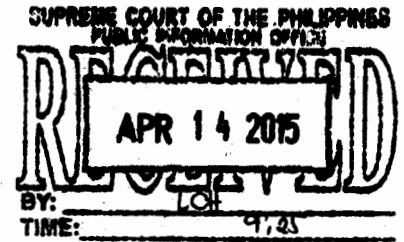




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **18 March 2015** which reads as follows:

"G.R. No. 206328 – Gilbert G. Guy v. Asia United Bank.

This is a petition for review on *certiorari* seeking to reverse and set aside the September 6, 2012 Decision¹ and the March 13, 2013 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 34190, which reversed and set aside the Order³ of the Regional Trial Court, Branch 67, Pasig City (RTC), dismissing Criminal Case Nos. 131883 and 131884 filed against petitioner Gilbert Guy (Guy).

The Facts

Sometime in July and August 2004, respondent Asia United Bank (AUB) and 3D Industries, Inc. (3D), represented by its President, Paulino Delfin Pe (Pe), entered into a trust receipt agreement for the latter to secure a loan totalling \$216,391.26 or ₱12,148,816.90. The purpose of the loan was to facilitate the purchase of raw materials for the manufacture of finished products such as electric fans, washing machines and stoves, which were to be delivered to 3D's exclusive distributor, Northern Island Co., Inc. (NICI).

Upon maturity of the trust receipts, 3D failed to account for, deliver or return, the goods which remained unsold and to pay the loan amounting to at least ₱11,287,264.56. A final demand was made on 3D and its Vice-President for Operations, Guy, to remit the proceeds of the sale of goods or to return the same if unsold, but the same was unheeded.

This prompted AUB to file a complaint-affidavit⁴ before the Office of the City Prosecutor (OCP) of Pasig City, charging Guy for the crime of Estafa under Article 315, paragraph 1 (b) of the Revised Penal Code (RPC), in relation to the Trust Receipts Law or Presidential Decree (P.D.) No. 115.

¹ Penned by Associate Justice Noel G. Tijam, with Associate Justice Manuel M. Barrios and Associate Justice Victoria Isabel A. Paredes, concurring; *rollo* (Volume 1), pp. 33-49.

² Id. at 51-54.

³ Penned by Presiding Judge Amorfin Cerrado-Cezar; id. at 552-555.

⁴ Id. at 97-109.

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(122[b])URES

In its complaint, AUB alleged that Guy, in order to induce the bank, guaranteed the corporation's obligation under the Trust Receipt Agreement to the extent of ₱30,000,000.00 by executing the "Continuing Guaranty." It further claimed that Guy's concurrent positions, as 3D's Vice President, member of the Board of Directors and controlling stockholder, undoubtedly made him responsible for the corporation's obligation.

Guy controverted the charges against him in his Counter-Affidavit.⁵ He emphasized that he was never a signatory in the Trust Receipt Agreement. He explained that the goods covered by the trust receipts were delivered to NICI, which, however, failed to pay the proceeds on the items. Before 3D could withdraw the goods, the CA issued a resolution, which ordered the surrender of the items of 3D to Simny Guy, Geraldine Guy, Gladys Yao, and Emilia Tabugadir. In view of these, 3D was unable to acquire possession of the goods as well as the proceeds of any sale thereof and to return the goods and/or sales proceeds to AUB, despite its best efforts.

In its October 13, 2005 Joint Resolution,⁶ the OCP found probable cause and filed two (2) Informations against Guy for the crime of Estafa under Article 315, par. 1 (b) of the RPC in relation to P.D. No. 115, before the RTC, docketed as Criminal Case Nos. 131883-84.

On November 9, 2005, Guy questioned the October 13, 2005 Joint Resolution of the OCP through a petition for review⁷ before the Department of Justice (*DOJ*). The DOJ initially denied the said petition for review in its December 22, 2005 Resolution.⁸

In its April 20, 2006 Resolution,⁹ however, the DOJ gave due course to the belatedly filed motion for reconsideration and *reversed* its earlier resolution.¹⁰ In granting the motion, the DOJ found that the goods subject of the trust receipts were indisputably in the possession and control of another entity and other persons (*NICI, Simny Guy, et al.*), whose possession thereof was clearly against the will of 3D. The dispositive portion reads:

WHEREFORE, the Petition for Review filed by respondent-appellant Gilbert G. Guy is hereby GRANTED, and the assailed Resolution dated October 13, 2005 of the Pasig City Prosecutor's Office is hereby REVERSED and SET ASIDE, and both complaints against respondent-appellant Gilbert G. Guy are hereby DISMISSED. Further, the City Prosecutor of Pasig is hereby ordered to file the corresponding motion to withdraw the

⁵ Id. at 110-124.

⁶ Id. at 86-93.

⁷ Id. at 60-85.

⁸ Id. at 291-292.

⁹ Id. at 303-311.

¹⁰ Id. at 293-302.

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Informations in the instant cases for the crime of Estafa under Article 315 (b) of the Revised Penal Code in relation to P.D. 115, and report the action taken thereon within five (5) days from receipt thereof.

SO ORDERED.¹¹

Aggrieved, AUB questioned the said DOJ resolution via a petition for *certiorari*¹² before the CA. In its September 25, 2006 Decision,¹³ the CA ruled that the DOJ acted without jurisdiction in issuing the April 20, 2006 Resolution, as it was released long after the previous December 22, 2005 Resolution had already become final and executory. It was clear that Guy failed to file a motion for reconsideration within the 10-day reglementary period.

Meanwhile, the RTC issued a warrant of arrest, dated August 29, 2006, against Guy. On February 26, 2007, Guy was arraigned and he pleaded "not guilty" to the offense charged. Pre-trial and preliminary conferences were scheduled on June 4, 2007 and May 3, 2007, respectively.

Guy then assailed the CA decision by filing a petition for review on *certiorari*¹⁴ before this Court, docketed as G.R. No. 174874.

On October 4, 2007, the Court rendered a decision,¹⁵ granting the petition and reinstating the DOJ's April 20, 2006 resolution. The Court explained that the Secretary of Justice possessed sufficient latitude of discretion in his determination of what constituted probable cause. The act of accepting a motion for reconsideration belatedly filed showed liberality, which was within the competence of the DOJ Secretary to make. Absent compelling proof that the DOJ Secretary acted out of whim, the Court loathed to disturb the same.

The Court added that the withdrawal of the Informations against Guy in Criminal Case Nos. 131883 and 131884 was a matter addressed to the sole discretion of the RTC, consistent with the ruling in *Crespo v. Mogul*.¹⁶ The decretal portion of the Court's decision reads:

¹¹ Id. at 311.

¹² Id. at 312-368.

¹³ Id. at 369-381.

¹⁴ Id. at 382-431.

¹⁵ Id. at 433-448.

¹⁶ 235 Phil. 465 (1987).

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WHEREFORE, the petition is GRANTED. Accordingly, the Decision of the Court of Appeals dated September 25, 2006 in CA-G.R. SP No. 94361 is NULLIFIED and SET ASIDE and the Resolution of the Secretary of Justice dated April 20, 2006 is REINSTATED.

No pronouncement as to costs.

SO ORDERED.¹⁷

AUB filed a motion for reconsideration, but it was denied in the Court's July 28, 2008 Resolution¹⁸ which attained finality on September 24, 2008.

On August 20, 2010, AUB filed its Compliance with Motion to Revive Proceedings¹⁹ in Criminal Case Nos. 131883-84 before the RTC. Guy, on the other hand, filed his Motion to Withdraw Information²⁰ on September 29, 2010, based on the October 4, 2007 Decision of the Supreme Court.

Ruling of the RTC

In its Order,²¹ dated November 8, 2010, the RTC denied the motion to revive proceedings filed by AUB and granted the motion to withdraw Informations filed by Guy. Considering that the October 4, 2007 decision of the Court already attained finality, the RTC granted the relief sought by Guy. The dispositive portion of the said Order states:

WHEREFORE, in view of all the foregoing and pursuant to the Decision rendered by the Honorable Supreme Court, Criminal Cases No. 131883 and 131884 are hereby DISMISSED.

Accordingly, the Informations filed against accused Gilbert Guy are ordered WITHDRAWN.

SO ORDERED.²²

AUB filed a motion for reconsideration, but the same was denied in the RTC's February 18, 2011 Order.²³

¹⁷ *Rollo* (Volume 1), p. 447.

¹⁸ *Id.* at 495.

¹⁹ *Id.* at 496-500.

²⁰ *Id.* at 521-525.

²¹ *Id.* at 552-555.

²² *Id.* at 555.

²³ *Rollo* (Volume II), pp. 627-628.

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On March 28, 2011, AUB filed its notice of appeal. It had the conformity of the OCP, but not the authority of the Office of the Solicitor General (*OSG*).

Ruling of the CA

On September 6, 2012, the CA granted AUB's appeal in its assailed decision. The CA ruled that the RTC failed to make an independent assessment and evaluation of the merits of the case in dismissing the criminal case because it relied solely on the recommendation of the DOJ. In other words, the trial court became a mere surrogate of the DOJ. The RTC should have made its own pronouncement on the existence or non-existence of probable cause based on the affidavits and counter-affidavits, documents, or evidence appended to the Informations.

The CA also stated that AUB had the personality to file the appeal and cited the general rule that only the OSG may represent the People or the State in criminal proceedings before this Court and the CA. The CA, however, cited two exceptions: (1) when there was denial of due process of law; and (2) when the private offended party questioned the civil aspect of a decision of a lower court. The CA was of the view that AUB was denied due process when the RTC withdrew the Informations by basing it solely on the DOJ resolution. The dispositive portion reads:

WHEREFORE, the appeal is GRANTED. The assailed November 8, 2010 and February 18, 2011 Orders of the Regional Trial Court of Pasig City, Branch 67, in Criminal Cases Nos. 131883-84 are hereby REVERSED and SET ASIDE. Instead, the case is REMANDED to the Regional Trial Court of Pasig City, Branch 67, for trial on the merits. No costs.

SO ORDERED.²⁴

On September 26, 2012, Guy filed his motion for reconsideration²⁵ before the CA, while the OSG filed its Manifestation²⁶ on January 23, 2013. The OSG stated, among others, that it did not consent to the appeal of AUB and that the RTC order granting the withdrawal of the Informations was valid because it relied on the October 4, 2007 decision of the Court.

²⁴ *Rollo* (Volume I), pp. 48-49.

²⁵ *Rollo* (Volume II), pp. 772-790.

²⁶ *Id.* at 957-961.

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Despite the Manifestation of the OSG, in its March 13, 2013 resolution, the CA denied the motion for reconsideration filed by Guy.

Hence, this petition.

STATEMENT OF ISSUES

I

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN TAKING COGNIZANCE OF AND GRANTING PRIVATE COMPLAINANT AUB'S APPEAL OF THE DISMISSAL OF CRIMINAL CASE NOS. 131883-84 WHEN ONLY THE OFFICE OF THE SOLICITOR GENERAL MAY FILE SUCH APPEAL IN BEHALF OF THE STATE.

II

THE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN REVERSING THE TRIAL COURT'S ORDER WITHDRAWING THE INFORMATIONS AGAINST PETITIONER GUY ON THE GROUND THAT SUCH ORDER VIOLATED RESPONDENT AUB'S RIGHT TO DUE PROCESS OF LAW WHEN SUCH DISMISSAL OF THE CHARGE IS PURSUANT TO THE HONORABLE COURT'S DECISION DATED OCTOBER 4, 2007 IN G.R. NO. 174874.²⁷

Guy contends that AUB is not authorized to prosecute the case on appeal because it failed to secure the conformity or authorization of the OSG; that the CA erred in applying the exception because AUB did not even allege in its Appellant's Brief that it was deprived of due process; that the proper remedy to contest the lack of due process would be a petition for *certiorari*, and not an appeal; that assuming *arguendo* that the appeal was properly taken, the same must still be denied; and that the RTC order was made, not in deference to the Secretary of Justice, but to the Court decision.

In its Comment,²⁸ dated July 3, 2013, AUB averred that Guy failed to provide any applicable jurisprudence contradictory to the ruling of the CA; that appeal was the proper remedy because there was no double jeopardy and it was deprived of its right to due process; and that the RTC erred in solely relying on the October 4, 2007 decision of the Court because it only dealt with the jurisdiction of the DOJ.

²⁷ *Rollo* (Volume I), p. 13.

²⁸ *Rollo* (Volume II), pp. 972-1040.

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On November 15, 2013, Guy filed his Reply,²⁹ reiterating that AUB did not have a personality to appeal, as the RTC was not required to perform an independent determination of the existence of probable cause because the Court had already made such determination in its October 4, 2007 decision.

On November 25, 2014, AUB filed its Memorandum,³⁰ where it asserted that the October 4, 2007 decision of the Court expressly directed the trial court to conduct its own independent evaluation of the evidence and that, in any event, the trial court's duty to independently assess and evaluate the evidence to determine the existence of probable cause must be properly threshed out during the trial on the merits.

On February 4, 2015, Guy filed his Memorandum,³¹ insisting that the CA should have summarily dismissed the appeal because it did not have the conformity of the OSG. Guy further stated that the RTC order to withdraw the Informations only showed the trial court's adherence to the Court's decision because in the hierarchy of courts, lower courts owed obedience to the decisions of the High Court.

The Court's Ruling

The petition lacks merit.

The OSG, as legal counsel of the government, has the exclusive right to appeal a criminal case; Exceptions

In a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor General. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.³²

²⁹ *Rollo* (Volume III), pp. 1379-1398.

³⁰ *Id.* at 1420-1484.

³¹ *Id.* at 1509-1548.

³² *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 537.

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In the case at bench, AUB filed its notice of appeal with the conformity of the OCP, but without the permission of the OSG. In its manifestation before the CA, the OSG elaborated on its opposition against the appeal filed by AUB. It stated that the DOJ was its client and it was its duty to uphold and defend the position of the DOJ. The OSG admitted that there were indeed occasions wherein it took a position adverse to the People or the prosecution, but it respectfully submitted that such exception was not obtaining in the case.

In the assailed decision, the CA was of the view that AUB had the personality to file the appeal because there was denial of due process of law, which was one of the two exceptions laid down by jurisprudence as to when a private complainant or offended party in a criminal case may directly file a petition with this Court. In *Heirs of Delgado v. Gonzales*,³³ the Court cited two exceptions: (1) when there is denial of due process of law to the prosecution and the State or its agents refuse to act on the case to the prejudice of the State and the private offended party; and (2) when the private offended party questions the civil aspect of a decision of a lower court.

There are several cases which applied the first exception. In *Merciales v. CA*,³⁴ the Court granted the petition because the trial court denied the offended party its right to due process. In the said case, the public prosecutor who handled the case deliberately failed to present an available witness which led the trial court to declare that the prosecution had rested its case. The offended party was deprived of her day in court so she was allowed to question the order of dismissal without the conformity of the OSG.

Similarly, in *Perez v. Hagonoy Rural Bank*,³⁵ the Court allowed the offended party to appeal the trial court's order of dismissal. After the Information was filed in court, the public prosecutor filed a motion to dismiss the case against one of the accused because there was lack of probable cause. The trial court granted the dismissal of the criminal case without an independent evaluation or assessment of the merits of the case. The offended party filed a petition for *certiorari* and *mandamus* without the conformity of the OSG. The Court ruled therein that a private complainant had legal personality to assail the dismissal of the criminal case against the accused on the ground that the order of dismissal was issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

³³ *Heirs of Delgado v. Gonzales*, 612 Phil. 817, 844 (2009).

³⁴ 429 Phil. 70 (2002).

³⁵ 384 Phil. 322 (2000).

In this case, the RTC denied AUB its right to due process when it ordered the dismissal of the case without independently evaluating and assessing the merits of the case. AUB was deprived of its opportunity to have a fair and objective assessment of the lack or existence of probable cause. As will be discussed later, the trial court should have exercised its own discretion in determining the existence of probable cause. For said reason, as the private complainant, AUB can question the order of the RTC before the appellate court even without the conformity of the OSG.

The Court is mindful that AUB used the wrong procedural remedy when it filed an ordinary appeal under Rule 41 instead of a petition for *certiorari* under Rule 65. Nevertheless, the Court is willing to set aside such procedural mistake due to the gravity of error committed by the RTC. The appeal filed by AUB shall be considered as an independent action of *certiorari* which assails the grave errors done by the RTC when it issued the order of dismissal.

The RTC failed to independently evaluate and assess the merits of the case

Once a criminal information has been filed with the court, any motion to dismiss or to withdraw information of any party must be subject to the independent and sound discretion of the court. This has been the consistent rule established since *Crespo v. Mogul (Crespo)*,³⁶ where the Court declared:

The preliminary investigation conducted by the fiscal for the purpose of determining whether a *prima facie* case exists warranting the prosecution of the accused is terminated upon the filing of the information in the proper court. In turn, as above stated, the filing of said information sets in motion the criminal action against the accused in Court. Should the fiscal find it proper to conduct a reinvestigation of the case, at such stage, the permission of the Court must be secured. After such reinvestigation, the finding and recommendations of the fiscal should be submitted to the Court for appropriate action. While it is true that the fiscal has the quasi-judicial discretion to determine whether or not a criminal case should be filed in court or not, once the case had already been brought to court whatever disposition the fiscal may feel should be proper in the case thereafter should be addressed for the consideration of the court. 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 to due process of law.

³⁶ 235 Phil. 465 (1987).

Whether the accused had been arraigned or not and whether it was due to a reinvestigation by the fiscal or a review by the Secretary of Justice whereby a motion to dismiss was submitted to the court, the court in the exercise of its discretion may grant the motion or deny it and require that the trial on the merits proceed for the proper determination of the case.³⁷

The doctrine in *Crespo* has been reiterated in numerous cases. Recently, in *Co v. Lim*,³⁸ the Court elucidated on how the trial court can make an independent assessment of the merits of the case, to wit:

Once a case is filed with the court, any disposition of it rests on the sound discretion of the court. 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. Reliance on the resolution of the Secretary of Justice alone would be an abdication of its duty and jurisdiction to determine a prima facie case. The trial court may make an independent assessment of the merits of the case based on the affidavits and counter-affidavits, documents, or evidence appended to the Information; the records of the public prosecutor, which the court may order the latter to produce before the court; or any evidence already adduced before the court by the accused at the time the motion is filed by the public prosecutor.³⁹

Here, Guy contends that when the RTC ordered the dismissal of the criminal case, it did not act as a mere surrogate of the DOJ, but rather it acted in deference to the Court. On the other hand, AUB avers that the trial court did not follow the directive of the Court in making its own independent evaluation and assessment of the existence of probable cause. The pertinent portion of the October 4, 2007 decision of the Court reads:

We must make it clear, however, that **the withdrawal of the Informations** against the petitioner in Criminal Case Nos. 131883 and 131884 of Branch 67 of the RTC of Pasig City, as directed in the April 20, 2006 Resolution of the DOJ Secretary, **is a matter addressed to the sole discretion of that court**, consistent with our ruling in *Crespo v. Mogul*.⁴⁰ (Emphases supplied)

The Court clearly ordered the RTC to exercise its own discretion in determining whether the Informations against Guy in Criminal Case Nos. 131883 and 131884 must be withdrawn. Notably, the Court itself never made a determination of probable cause, as was logical because the High Court cannot make a pronouncement as to the existence or lack of probable

³⁷ Id. at 474-475.

³⁸ 619 Phil. 704 (2009).

³⁹ Id. at 714.

⁴⁰ *Rollo* (Volume I), p. 447.

cause. Its duty in an appropriate case is confined to the issue of whether the executive or judicial determination, as the case may be, of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion amounting to want of jurisdiction.⁴¹ There are, however, exceptions⁴² to this rule, but none of which was obtaining in the case. Thus, it was remanded to the trial court for its objective finding of probable cause.

A cursory reading of the November 8, 2010 Order of the RTC clearly shows that it did not conduct its own independent evaluation and assessment. In the said order, the trial court resolved the motion to withdraw the Informations filed by Guy in this wise:

Records will bear that the Honorable Supreme Court affirmed the resolution of the Department of Justice dated April 20, 2010, to wit:

x x x x

when it rendered the decision dated October 4, 2007, to wit:

“WHEREFORE, the petition is GRANTED. Accordingly, the Decision of the Court of Appeals dated September 25, 2006 in CA-G.R. SP No. 94361 is NULLIFIED and SET ASIDE and the Resolution of the Secretary of Justice dated April 20, 2006 is REINSTATED.”

Considering that the aforesaid decision has attained the stage of finality, the Court is inclined to grant the relief sought for by the accused Gilbert G. Guy.

When the law is clear, there is no room for interpretation. Refusal to obey it is clearly a violation of the order of, and a manifest disrespect towards a court of superior jurisdiction. xxx.

⁴¹ *Alawiya v. CA*, 603 Phil. 264, 276 (2009).

⁴² See *Roberts, Jr. v. CA*, 324 Phil. 568, 615 (1996).

1. To afford adequate protection to the constitutional rights of the accused;
2. When necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions;
3. When there is a prejudicial question which is sub judice;
4. When the acts of the officer are without or in excess of authority;
5. Where the prosecution is under an invalid law, ordinance or regulation;
6. When double jeopardy is clearly apparent;
7. Where the court has no jurisdiction over the offense;
8. Where it is a case of persecution rather than prosecution;
9. Where the charges are manifestly false and motivated by the lust for vengeance;
10. When there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied; and
11. Preliminary injunction has been issued by the Supreme Court to prevent the threatened unlawful arrest of petitioners.

The Supreme Court is clothed with ample authority to review matters, even if they are not assigned as errors in the appeal, if it finds that their consideration is necessary in arriving at a just decision of the case. xxx.

By tradition and in our system of judicial administration, the Supreme Court has the last word on what the law is, and that its decisions applying or interpreting the Constitution and Laws form part of the country's legal system. xxx.

Moreover, as clearly stated in *Roberts Jr. vs. CA*, 254 SCRA 307, not only is the Supreme Court clothed with authority to review matters, it is also the constitutional duty of the Supreme Court in criminal litigations to insulate from the start the innocent from unfounded charges. Hence, the constitutional policy of speedy adjudication of cases demand that the Supreme Court now affirms or reverses the judicial findings of probable cause to hold the petitioners for trial instead of remanding the case to the Department of Justice for another executive determination of the issue of probable cause.

In view of the foregoing jurisprudential pronouncements, the Court finds the private complainant's Motion to Revive Proceedings untenable, and grant the relief sought for by the accused.⁴³

Plainly, the said RTC Order lacked an independent evaluation and assessment of the merits of the case. It did not review the motion to withdraw Informations based on the evidence on record of the prosecution. It blindly relied on the *fallo* without considering the body of the Court decision. It merely stated that because the decision of the Court had attained finality, then the trial court must grant the relief sought by Guy. It continued by citing jurisprudential doctrines without dwelling on the merits of the case or the sufficiency of the prosecution evidence in finding probable cause. The RTC did not resolve the motion to withdraw Informations based on its own discretion, contrary to the mandate of the Court.

The RTC even admitted that it did not exercise its own judgment in resolving the motion to withdraw Informations. In its February 18, 2011 Order, which denied the motion for reconsideration by AUB, the RTC stated that:

The resolution rendered by the Department of Justice which was affirmed by the Honorable Supreme Court is very clear and explicit. The same was affirmed in toto, hence, **the Court is left without any discretion to rule otherwise.**⁴⁴ (Emphasis supplied)

⁴³ *Rollo* (Volume 1), pp. 553-555.

⁴⁴ *Rollo* (Volume II), p. 627.

For failing to make an independent evaluation and assessment of the merits of the case in dismissing the Informations, the CA correctly set aside the November 8, 2010 and February 18, 2011 Orders of the trial court.

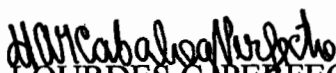
RTC must make an independent evaluation and assessment as to the determination of probable cause

AUB insists that the trial on the merits should continue. To recognize Guy's constitutional right to speedy trial, however, the Court orders the RTC to first make a proper pronouncement as to the existence of probable cause. It must exercise its own discretion and consider the merits of the case before arriving in its conclusion. The trial court must evaluate the sufficiency of the case based on the affidavits and counter-affidavits, documents, or evidence appended to the Informations; the records of the public prosecutor; or any evidence already adduced before the court by the accused at the time the motion was filed by the public prosecutor. After its objective assessment of the merits, and the RTC still finds that there is no probable cause, then it must dismiss the criminal cases against Guy. Otherwise, trial shall proceed.

WHEREFORE, the petition is **DENIED**. The September 6, 2012 Decision and the March 13, 2013 Resolution of the Court of Appeals in CA-G.R. CR No. 34190 are **AFFIRMED with MODIFICATION**. The case is **REMANDED** to the Regional Trial Court of Pasig City, Branch 67, which is ordered to **make an independent evaluation and assessment as to the existence of probable cause based on the records of the case**, not "trial on the merits." (*Brion, J., on leave; Velasco, Jr., J., designated Acting Member, per Special Order No. 1951, dated March 18, 2015*)

SO ORDERED.¹

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *per 4/1*

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Regional Trial Court, Branch 67
Pasig City
(Crim. Case Nos. 131883 and 131884)

JUDGMENT DIVISION (x)
Supreme Court, Manila

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

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