

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,
Plaintiff,

Crim. Case No. SB-16-CRM-0085

For: Violation of Sec. 3(e) of
R.A. 3019, as amended

-versus-

Present:

Herrera, Jr., J. *Chairperson*

Musngi, J. &

Pahimna, J.

Raquel Austria Naciongayo,
Accused.

Promulgated:

June 6, 2017
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RESOLUTION

HERRERA, JR., J.:

For resolution of the Court is a ***Motion For Reconsideration (Of The Resolution Dated October 17, 2016)***¹ dated December 30, 2016, filed by accused Raquel Austria Naciongayo (Movant for short), through counsel, seeking reconsideration of the ***Resolution***² dated October 17, 2016 denying her ***Motion To Quash***³ dated May 30, 2016.

The plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed an ***Opposition (Re: Accused "Motion For Reconsideration" dated December 30, 2016,***⁴ to which movant filed a ***Reply***⁵ dated February 9, 2017.

Movant stands charged with ***Violation of Section 3(e) of Republic Act (R.A.) No. 3019***, also known as the ***Anti-Graft and Corrupt Practices Act***,

¹ Record, pp. 249-256

² Id, pp. 234-236

³ Id, pp. 179-185

⁴ Id, pp. 263-266

⁵ Id, pp. 267-274

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under an *Information*⁶ dated February 9, 2016, in her capacity as a public officer "holding the item City Environment Department Head II and being the Head of the City Environment and Natural Resources Office (CENRO), Office of the City Mayor, Pasig City (Salary Grade 26). xxx"⁷

In her instant *Motion For Reconsideration, etc.*, movant insists, as she did in the *Motion To Quash* she earlier filed, that the Court has no jurisdiction over the offense charged, because she is not among the city officials enumerated in *Presidential Decree (P.D.) No. 1606* and its amendatory laws who, if charged with *Violation of Section 3(e) of R.A. 3019*, shall fall under the exclusive original jurisdiction of the Sandiganbayan. She contends that the city officials referred to in *P.D. 1606* and its amendatory laws are those enumerated under *Section 454, paragraph (a) of R.A. 7160*, also known as the *Local Government Code of 1991*, which reads:

"Section 454. *Officials of the City Government.*

(a) There shall be in each city a mayor, a vice-mayor, Sangguniang Panlungsod members, a secretary to the Sangguniang Panlungsod, a city treasurer, a city assessor, a city accountant, a city budget officer, a city planning and development coordinator, a city engineer, a city health officer, a city civil registrar, a city administrator, a city legal officer, a city veterinarian, a city social welfare and development officer, and a city general services officer."

Movant contends that the position of City Environment and Natural Resources Officer II does not belong to the aforesaid class of city officials since her appointment is optional in nature, as provided under *Section 454, paragraph (b), and 484, paragraph (a) of R.A. 7160*.

Paragraph (b) of the same *Section 454*, on *Officials of the City Government*, provides:

"(b) In addition thereto, the City mayor may appoint a city architect, a city information officer, a city agriculturist, a city

⁶ Id, p. 123
⁷ Id, p. 1

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population officer, a city environment and natural resources officer, and a city cooperatives officer.”

Movant’s contention is incorrect.

Section 4 of Presidential Decree (P.D.) No. 1606 defined the exclusive original jurisdiction of the Sandiganbayan. **Republic Act (R.A.) No. 8249**, entitled **An Act Further Defining The Jurisdiction Of The Sandiganbayan, Amending For The Purpose Presidential Decree No. 1606, As Amended, Providing Funds Therefor, And For Other Purposes**, amended **P.D 1606**.

Section 4 of R.A. 8249 provides:

Sec. 4. Jurisdiction. – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

xxx.

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors engineers and **other city department heads;**”

The above-quoted provisions are reiterated in **Section 2 of R.A. 10660**.

Clearly, among the public officials over whom Sandiganbayan shall have exclusive original jurisdiction in cases of **Violation of R.A. 3019** are **‘other city department heads’**, and that includes movant who is holding the position of City Department Head II, being the head of the City Environment and Natural Resources Office.





As pointed out in the Court's *Resolution* of October 17, 2017:

"When R.A. 10660 was enacted by Congress, it amended the jurisdiction of this Court. However, the provision pertaining to the jurisdiction of this Court for violations of R.A. 3019 committed by the "City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads" remain the same. As a matter of fact, the pertinent provision in Sec. 4, R.A. 8249 and Sec. 4, R.A. 10660 are exactly the same xxx."

Movant's contention that the Court has no jurisdiction over the offense charged because the position of City Environment and Natural Resources Office in *paragraph (b) of Section 454 of R.A. 7160* is optional, unlike those in *paragraph (a)* of the law, is off-tangent. The positions mentioned in both *paragraphs (a) and (b), Section 454 of R.A. 7160* are all under the category of **Officials of the City Government**. They are all appointed by the City Mayor to head their respective departments and, therefore, are "city department heads" included in the enumeration of public officials in *P.D. 1606, R.A. 8249* and *R.A. 10660*.

WHEREFORE, the *Motion For Reconsideration (Of The Resolution Dated October 17, 2016)* dated December 30, 2016, filed by accused Raquel Austria Naciongayo, through counsel, is hereby denied.

SO ORDERED.


OSCAR C. HERRERA, JR.
Chairperson

We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice