



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE
PHILIPPINES,
Plaintiff,

SB-17-CRM-0254 to 0260
For: Violation of Section 3 (e) of
Republic Act (R.A.) No. 3019 in
relation to R.A. No. 9184

-versus-

EVELYN CATHARINE O.
SILAGON and RICHARD
MARAYA RAVACIO,
Accused,

PRESENT:

FERNANDEZ, SJ¹, *J., Chairperson*
MIRANDA, &
MUSNGI², *JJ.*

Promulgated:

NOV 17 2017 

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¹ J. Ponferrada, Chairperson of the 6th Division when the present incident was submitted for resolution, retired on September 13, 2017. J. Fernandez, SJ will participate in the resolution of the present incident in view of her assumption as Chairperson of the 6th Division on the same date. (As per Administrative Order (A.O.) No. 314-2017 dated September 13, 2017; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).

² At the time the present incident was submitted for resolution, J. Musngi was designated as a temporary member of the Sixth Division, in view of the vacancy therein (as per A.O. No. 124-2017 dated April 4, 2017; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).

RESOLUTION

MIRANDA, J.:

This resolves: 1) accused-movant Richard M. Ravacio's (Ravacio) Omnibus Motion dated June 23, 2017; and 2) the Prosecution's Comment/Opposition dated August 7, 2017.

In his omnibus motion, accused-movant seeks the following reliefs: 1) The quashal of the informations on the ground of the lack of jurisdiction of the Sandiganbayan over the cases because he is not a public officer; 2) The transfer of the cases to the proper Regional Trial Court (RTC) in Oroquieta City, Misamis Occidental; 3) The dismissal of the cases for non-exhaustion of administrative remedies; and 4) The consolidation of the cases into one information.

In its comment/opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), asserts that: 1) Local Water Districts (LWDs), such as the Oroquieta City Water District (OCWD), are not private corporations since they derive their existence from Presidential Decree (P.D.) No. 198 or the Provincial Water Utilities Act; 2) The Sandiganbayan has jurisdiction over the cases because the position of the accused-movant is one of the public officers enumerated by Section 4 of R.A. No. 8249; 3) The transfer of the cases to the RTC is unwarranted because they fall within the jurisdiction of the Sandiganbayan; 4) The rule on non-exhaustion of administrative remedies is not applicable to criminal cases; and 5) The defenses raised by the accused-movant are not grounds for a motion to quash.

The **motion to quash** on the ground of lack of jurisdiction of this Court is **denied**.

Accused-movant claims that there is nothing in the 1987 Constitution stating that officers of LWDs are "public officers". He explained that the nature and function of local waterworks are proprietary or patrimonial in nature and not governmental. As the general manager of OCWD, he is not deemed a "public officer". Since his salary grade is below 27, he contends that he does not fall within the jurisdiction of this Court.

Accused-movant's contentions deserve scant consideration.

The seven (7) informations filed against the accused-movant and his co-accused charge seven (7) counts of violation of Section 3 (e) of R.A. No.



3019. Section 2 (b) of the same law defines a **public officer** as one that “includes an elective and appointive official and employee, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government.” The terms “classified, unclassified, or exempt service” were categories of the positions in the civil service, which have been changed into Career and Non-Career service by P.D. 807.³ **Government** pertains to “the national government, the local governments, the government-owned and government-controlled corporations, and all other instrumentalities or agencies of the Republic of the Philippines and their branches.”⁴

Section 16, Article XII of the Constitution provides:

Sec. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or -controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.

The Constitution recognizes two classes of corporations: 1) Private corporations created under general law; and 2) Government-owned or -controlled corporations created by special charters. Congress cannot enact a law creating a private corporation with a special charter because private corporations may exist only under a general law. Under existing laws, the Corporation Code is the general law. However, the Constitution authorizes Congress to create government-owned or -controlled corporations through special charters.

In *Feliciano v. Commission on Audit*,⁵ the Supreme Court categorically held that LWDs are government-owned or -controlled corporations with special charters. They derive their legal existence and power from P.D. No. 198 or the Provincial Water Utilities Act of 1973. Sections 6 and 25 of P.D. No. 198 states:

Section 6. Formation of District. This Act is the source of authorization and power to form and maintain a district. For purposes of this Act, a district shall be considered as a quasi-public corporation performing public service and supplying public wants. As such, a

³ *Piclaro v. Sandiganbayan*, G. R. No. 110544, October 16, 1995.

⁴ Section 2 (a) of R.A. No. 3019.

⁵ G.R. No. 147402. January 14, 2004.

district shall exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed, under this Act.

Sec. 25. Authorization. The district may exercise all the powers which are expressly granted by this Title or which are necessarily implied from or incidental to the powers and purposes herein stated. For the purpose of carrying out the objectives of this Act, a district is hereby granted the power of eminent domain, the exercise thereof shall, however, be subject to review by the Administration.

Article IX-B, Section 2(1) of the Constitution provides that the Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or -controlled corporations with original charters. In *Mateo v. Court of Appeals*,⁶ the Supreme Court ruled that officers and employees of LWDs are covered by the Civil Service Law.

From the foregoing, it is undisputed that: 1) OCWD, a LWD, is a government-owned and -controlled corporation with original charter; 2) OCWD is covered by the Civil Service Law; 3) Accused-movant, the general manager of OCWD, receives compensation from the Government; and 4) Accused-movant is under the jurisdiction of the Civil Service. Accused-movant is, therefore, a "public officer" under the Constitution, laws and applicable jurisprudence.

It is of no moment that the accused-movant occupied a position lower than salary grade 27 at the time of the alleged commission of the offense. Section 2⁷ of R.A. No. 10660 states:

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

⁶ G.R. No. 113219 August 14, 1995.

⁷ Amends Section 4 of R.A. No. 8249.

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: x x x

"(g) Presidents, directors or trustees, or **managers of government-owned or -controlled corporations**, state universities or educational institutions or foundations." (Emphasis supplied)

While the first part of the above-quoted provision covers only officials of the Executive Branch with salary grade 27 and higher, the second part thereof specifically includes other executive officials whose positions may not be of grade 27 and higher but who are by express provision of law placed under the jurisdiction of the Sandiganbayan⁸. It is the position that accused-movant holds, not his salary grade, that determines the jurisdiction of the Sandiganbayan.⁹ The position of a manager of a government-owned or -controlled corporation is one of those mentioned by the law. Therefore, accused-movant, the general manager of OCWD, who was indicted for an offense committed in relation to his office, is clearly within the jurisdiction of the Sandiganbayan.

In view of the foregoing, the **motion to transfer the cases to another court** is likewise **denied**.

Accused-movant contends that the cases filed against him must be tried before the proper RTC in Oroquieta City, Misamis Occidental because he is the only accused who has a salary grade below 27. Said contention is misplaced. As discussed above, the Sandiganbayan exercises exclusive original jurisdiction over cases involving a violation of R.A. No. 3019 committed by public officers enumerated in R.A. No. 10660. Accused-movant, being one of those public officers mentioned in the law and charged with seven (7) counts of violation of Section 3 (e) of R.A. No 3019, is without doubt within the Sandiganbayan's jurisdiction.

⁸ See *Geduspan v. People*, G.R. No. 158187, February 11, 2005.

⁹ *Ibid*.



The **motion to dismiss** on the ground of failure to exhaust administrative remedies is also **denied**.

Accused-movant claims that the Prosecution failed to exhaust administrative remedies before filing these cases in Court. The Commission on Audit (COA) should have been first given an opportunity to study and finalize its report on the alleged cash disbursements subject of these cases.

The contention of the accused-movant fails to persuade.

The rule requiring exhaustion of administrative remedies before a party may seek judicial review is not applicable to criminal cases. Only those decisions of administrative agencies made in the exercise of quasi-judicial powers are subject to this rule.¹⁰ Quasi-judicial or administrative adjudicatory power is the power of administrative agencies to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with standards laid down by the law itself.¹¹ Accused-movant cannot simply overstretch the application of this rule to criminal actions, such as in these cases.

The ruling in the case of *University of the Philippines (UP) v. Catungal, Jr., et al.*,¹² is inapplicable here. Private respondent therein was charged with an administrative complaint for Grave Misconduct under the University Rules and Regulations in the Discipline of Faculty Members and the Civil Service Law and Rule. He was tried before the UP Administrative Disciplinary Tribunal composed of the UP Chancellor, Vice Chancellors for Administration and Community Affairs and selected faculty members. The Supreme Court held that private respondent failed to exhaust administrative remedies when he did not appeal the denial of his Motion to Dismiss and the Letter-Motion to Dismiss to the President and the Board of Regents of UP before filing a complaint for injunction with the trial court.

The Court agrees with the Prosecution that the completion of the final report by COA on the transactions subject of these cases will not prevent the Office of the Ombudsman to conduct a separate and independent investigation on any complaint filed before it.

In *Dimayuga v. Ombudsman*,¹³ the Supreme Court held:

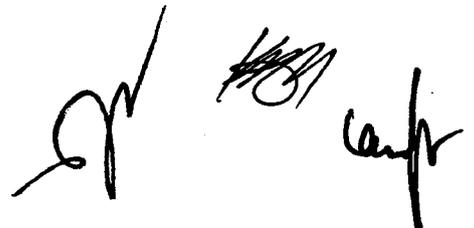
Although the Commission on Audit (COA) report may aid the Office of the Ombudsman in conducting its

¹⁰ *Association of the Philippine Coconut Dessicators v. Philippine Coconut Authority*, G. R. No. 110526, February 10, 1998.

¹¹ *Bedol v. Commission on Elections*, G.R. 179830, December 3, 2009.

¹² G. R. No. 121863, May 5, 1997.

¹³ G.R. NO. 129099, July 20, 2006.



preliminary investigation, such report is not a prerequisite. Both the Constitution and the Ombudsman Act of 1989 state that the Office of the Ombudsman may undertake an investigation on complaint or on its own initiative. Therefore, with or without the report from COA, the Ombudsman can conduct a preliminary investigation. This Court has declared that the findings in a COA report or the finality or lack of finality of such report is irrelevant to the investigation of the Office of the Ombudsman in its determination of probable cause.

On the **motion for the consolidation of cases**, the same is **denied** for patent lack of merit.

Accused-movant claims that the seven (7) counts of violation of Section 3 (e) of R.A. No. 3019 should be consolidated into one information to give him an opportunity to post bail for all counts. The consolidation prayed for, however, violates the rules of procedure.

Section 13, Rule 110, Rules of Court explicitly prohibits the duplicity or multiplicity of charges in one information, *to wit*:

SEC.13. Duplicity of the offense.—A complaint or information must charge only one offense, except when the law prescribes a single punishment for various offenses.

There is duplicity or multiplicity of charges when a single information charges more than one offense.¹⁴ The purpose of this rule is to avoid confusing an accused in preparing his defense.¹⁵ This rule admits of exceptions such as in complex crimes¹⁶ and special complex crimes¹⁷ in the Revised Penal Code.

Here, the Prosecution charged accused-movant and his co-accused with seven (7) counts of violation of Section 3 (e) of R.A. No. 3019, with each information charging only one offense. The cases do not qualify as complex crimes or special complex crimes. Hence, it is procedurally improper to invoke the consolidation of these cases into a single information.

¹⁴ *Loney v. People*, G.R. No. 152644, February 10, 2006.

¹⁵ *Ibid.*

¹⁶ In a complex crime, two or more crimes are actually committed. However, in the eyes of law and in the conscience of the offended, they constitute only one crime. Thus, only one penalty is imposed. (*People v. Nelmida*, G. R. No. 184500, September 11, 2012).

¹⁷ Where the law provides a single penalty for two or more component offenses, the resulting crime is called a special complex crime. Some of the special complex crimes under the R.P.C. are: 1) robbery with homicide; 2) robbery with rape; 3) kidnapping with serious physical injuries; 4) kidnapping with murder or homicide; and 5) rape with homicide. (*People v. Laog*, G. R. No. 178321, October 5, 2011).

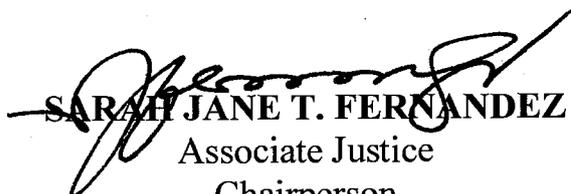
Finally, the accused-movant also alleges that he has a valid defense because he only acted under the pleasure of the Board of Directors, and that he gave proper warning to his co-accused Evelyn Catharine O. Silagon, the Chairman of the BOD, about the alleged illegal disbursements. These claims are, however, matters of defense. The innocence or guilt of the accused-movant for seven (7) counts of violation of Section 3 (e) of R.A. No. 3019, as charged in the informations, is subject to the evidence to be presented by the parties in the trial of these cases. The Court cannot decide on the sufficiency of the evidence of the Prosecution at this point.

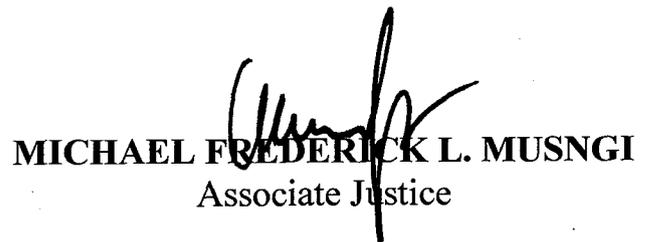
WHEREFORE, the Omnibus Motion dated June 23, 2017 of accused-movant Richard M. Ravacio is **DENIED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice