



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SPECIAL SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-CRM-17-0736 - 0737

For: Violation of Sec. 3 (e) of R.A. No. 3019, and Malversation of Public Funds through Falsification of Public Document

-versus-

PROCESO MALIGALIG,

LAWAS
Accused,

PRESENT:

FERNANDEZ, SJ, J.,¹ Chairperson
MIRANDA, J., &
MUSNGI, J.²

Promulgated:

NOV 17 2017

X-----X

RESOLUTION

MIRANDA, J.:

This resolves: 1) Accused Proceso L. Maligalig's Motion for Reconsideration dated October 17, 2017; and 2) The Prosecution's Comment/Opposition (On the Motion for Reconsideration dated October 17, 2017) dated October 23, 2017.

In his motion for reconsideration, the accused alleges that the Sandiganbayan has no jurisdiction over the case and over the person of the

¹ J. Ponferrada, Chairperson of the 6th Division when the resolution sought to be reconsidered was promulgated, 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 Special Member in view of the vacancy in the 6th Division as per Administrative Order No. 124-2017 dated April 4, 2017 when the resolution sought to be reconsidered was promulgated.

accused because Bataan Shipyard and Engineering Company (BASECO) is a private corporation and he is a private individual.

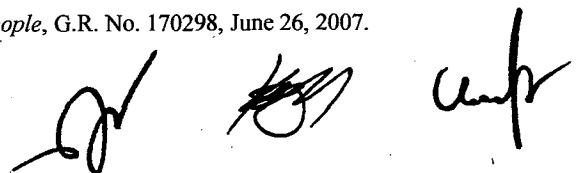
In its comment/opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), contends that the Sandiganbayan has jurisdiction over the case and over the person of the accused, and that the grounds raised by the accused were already discussed and passed upon by the Court in the assailed resolution.

After a restudy of the ground raised in the motion for reconsideration, the Court finds no valid reason to reconsider its Resolution dated October 10, 2017 denying the motion to quash of the accused. The issues and arguments raised by the accused in his motion for reconsideration are a mere rehash and a repetition of the same issues and arguments raised in his Alternative Motion to Quash or to Suspend Proceedings (*Ex Abudanti Ad Cautelam*) dated May 12, 2017. These issues and arguments have already been considered and passed upon by the Court in the assailed Resolution dated October 10, 2017. There being no new matters or issues raised to warrant a reversal thereof, the Court **denies** the motion for reconsideration of the accused.

To reiterate, the jurisdiction of a court over criminal cases is determined by the allegations in the complaint or information. Once jurisdiction is shown, the court may validly take cognizance of the case.³ Since both informations state that the accused is a public officer, being then the President and a member of the Board of Directors of BASECO, a GOCC, the Court clearly has jurisdiction over the cases and over the person of the accused. BASECO is a GOCC supervised by the Presidential Commission on Good Government (PCGG) per the Classification of GOCCs by Sectors of the Governance Commission for Government-Owned or -Controlled Corporations. The accused also admitted being appointed by former President Gloria Macapagal-Arroyo.

The position of the accused as the President and member of the Board of Directors of BASECO, and the charges of violation of Section 3(e) of R.A. No. 3019 and Malversation of Public Funds through Falsification of Public Documents under Section 217, in relation to Section 171(4), of the Revised Penal Code, are included in the enumeration of public officers and cases falling under the jurisdiction of the Sandiganbayan pursuant to P.D. No. 1606, as further amended by R.A. No. 10660. The Sandiganbayan, therefore, has jurisdiction over these cases and the person of the accused.

³ *Treas v. People*, G.R. No. 195002, January 25, 2012, citing *Isip v. People*, G.R. No. 170298, June 26, 2007.




Moreover, the Supreme Court stated in *Cojuangco v. Roxas*⁴ that the business of BASECO belonged to the government or its capitalization came from public funds, but which landed in private hands. In *Republic v. COCOFED*,⁵ the Supreme Court stated that BASECO was owned and controlled by then President Ferdinand Marcos, through nominees, during his administration, by taking undue advantage of his public office and/or using his powers, authority, or influence, and that it was by and through the same means that BASECO had taken over the business and/or assets of the National Shipyard and Engineering Co., Inc. and other government-owned or -controlled entities.

By filing the motion to quash, the accused also hypothetically admitted the facts alleged in the informations, and that facts contrary thereto are matters of defense which may be raised only during the presentation of evidence.⁶ The accused cannot now be allowed to contradict these facts by arguing that BASECO is not a GOCC and that he is not a public officer. These are matters of defense which should be threshed out in a full-blown trial on the merits.


WHEREFORE, the Motion for Reconsideration dated October 17, 2017 of accused Proceso L. Maligalig is **DENIED**. The Resolution of the Court promulgated on October 10, 2017 is **AFFIRMED**. Arraignment and pre-trial shall proceed as scheduled.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

⁴ G.R. No. 91925, April 16, 1991, citing *BASECO v. PCGG*, L-75885, May 27, 1987.

⁵ G.R. No. 147062-64, December 14, 2001.

⁶ *Antone v. Beronilla*, G.R. No. 183824, December 8, 2010.