



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
QUEZON CITY

FIFTH DIVISION

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**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**CRIM. CASE NO.**  
**SB-18-CRM-0011**

- versus -

**For: Violation of Sec. 67,**  
**Book V, EO 292, in**  
**relation to Sec. 121 of the**  
**RRACCS**

**RAMONITO D. DURANO III,**  
*Accused.*

Present:  
**Lagos, J.,** Chairperson,  
**Mendoza-Arcega, J.,** and  
**Corpus-Mañalac, J.**

*Promulgated:*  
September 04, 2018 *lal*

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**RESOLUTION**

**MENDOZA-ARCEGA, J.:**

This resolves accused's Ramonito Durano III's Motion for Reconsideration dated 04 July 2018 of the Resolution promulgated last 19 June 2018 and the prosecution's Objection during the hearing set on 20 July 2018.

Accused Durano now pleads that the Motion to Quash Information and the Motion to Admit Additional Evidence be reversed and vacated based on the following grounds: (1) that this Court failed to rule categorically whether or not the accused has the sole control and exclusive power over the implementation of the decision of the Civil Service Commission more particularly as to the aspect of disbursing public funds to pay the back salaries

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of the concerned employees; (2) the Resolution failed to rule categorically whether or not the COA clearance, the entry of final judgment and the issuance of writ of execution are pre-requisites or *sine-quantons* before backsalaries or claims against the public funds can lawfully be executed.

In essence, accused Durano implores this Court to make a position on the aforementioned issues to put the case to rest in order to quash the questioned Information.

The accused reiterates that there has to be an allegation in the Information as to the ultimate fact of when the Decision became final and executory and the period to implement the same had already lapsed. Thereby, the accused maintains that the charge of delay or neglect of implementation is time bound, thus, a specific time or period must have lapsed to determine delay or neglect in doing a duty.

The accused posits that the ultimate facts are not matters of evidence but they are essential elements of the crime charged, the absence of which means no crime was committed. Citing *Dimaano*<sup>1</sup>, the accused pointed-out that the facts and circumstances necessary to be included in the Information must determine by reference to the definitions and essentials of the specified crimes.

In sum, the accused insists that for failure of the Information to allege these ultimate facts rendered the Information deficient, and thereby violates the accused's Constitutional rights to be informed of the nature of the accusations against him.

By way of Objection to the Motion for Reconsideration, the prosecution raised the following grounds: (1) he has not yet received a copy of the said motion; (2) that upon perusal thereof from the court's record, the grounds raised by movant in his Motion for Reconsideration are mere reiteration of the grounds raised in the Motion to Quash; (3) the grounds raised in the Motion for Reconsideration are not one of those mentioned in Rule 117, Section 3 of the Rules of Court; and (4) no new issues were raised by the movant to warrant the reversal of the assailed resolution. Accordingly, the prosecution manifested that it will adopt the Comment dated 28 February 2018 as its Comment for the present Motion.

The accused failed to persuade the Court.



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<sup>1</sup> People vs. Dimaano, G.R. No. 168168, September 14, 2005.

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We upheld the sufficiency of the Information to charge the accused. To emphasize this point, the ruling of the Supreme Court in the case of *People vs. Sandiganbayan*<sup>2</sup> is relevant. In assailing the efficacy of the Information on the ground that the facts charged do not constitute an offense, the Court need not go beyond the allegation of the Information whose truth and veracity are hypothetically admitted<sup>3</sup>, accordingly:

The main purpose of an Information is to ensure that an accused is formally informed of the facts and the acts constituting the offense charged. Where insufficient, an accused in a criminal case can file a motion to have the Information against him quashed and/or dismissed before he enters his plea. A motion to quash challenges the efficacy of an Information and compels the court to determine whether the Information suffices to require an accused to endure the rigors of a trial. Where the Information is insufficient and thus cannot be the basis of any valid conviction, the court must drop the case immediately and save an accused from the anxiety and convenience of a useless trial.

A motion to quash an Information on the ground that the facts charged do not constitute an offense should be resolved on the basis of the allegation in the Information whose truth and veracity are hypothetically admitted. The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters *aliunde*. In proceeding to resolve this issue, courts must look into three matters: (1) what must be alleged in a valid Information; (2) what the elements of the crime charged are; and (3) whether these elements are sufficiently stated in the Information.<sup>4</sup>

We have settled the issue on whether the ultimate facts constituting the offense have been properly alleged in the Information. Pertinently, the assailed Resolution stated the elements to be charged for violation of Section 121 of the Revised Rules of Administrative Cases in the Civil Service (RRACCS), and accordingly these elements were stated with particularity in the Information, to wit:

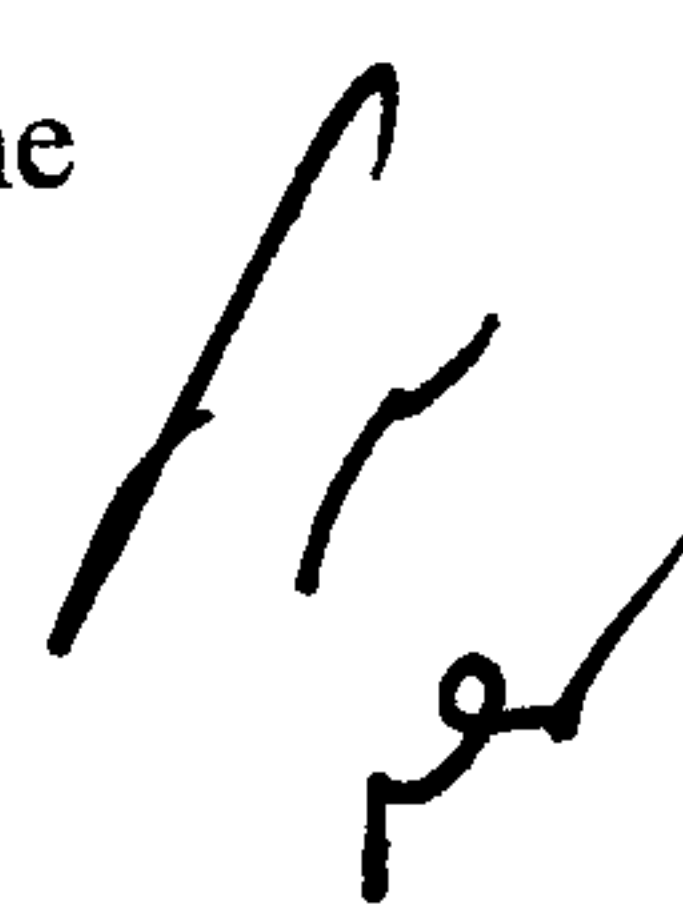
To be properly indicted under Section 121 of RRACCS the following elements must be alleged in the Information:

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<sup>2</sup> *People vs. Sandiganbayan*, G.R. No. 160619, September 9, 2015.

<sup>3</sup> *Id.*, *People v. Ferrer* 101 SCRA 234

<sup>4</sup> *Supra* note 2.



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- (1) The accused must be a public officer or employee;
- (2) He willfully refuses or fails to implement the final resolution, decision, order, or ruling of the CSC; and
- (3) His action caused prejudice to public service and the affected party.

In the present case, there is no dispute as to the fact that accused-movant is a public officer being the Mayor of Danao City, Cebu at the time of the commission of the offense. *He failed to implement the final resolution and decision promulgated by the Civil Service Commission Regional Office No. VII dated 14 August 2014 and 28 October 2014, respectively. These issuances directed the accused-movant to reinstate certain employees of Danao City and consequently, pay their backwages. Despite the fact that these issuances became final and executory, he refused and failed to implement them causing prejudice to public service and to the affected employees.*

From the said rules and pronouncements of the Supreme Court and upon re-examination of the questioned Information, We maintain that the Information has substantially complied with requirements set by law, and therefore, sufficient. (emphasis supplied)

Above all, the Court cannot agree that there is a need to rule categorically on whether the accused has the exclusive power to order the disbursement of funds for the payment of back salaries, among others. These are matters of defense which are better threshed out in a full-blown trial. To rule on the matter would require the prosecution to include all the relevant evidence in the Information and to present evidence even prior to arraignment. This counters the remedy of a motion to quash which is afforded to the accused before commencement of the trial. In sum, the Information needs only to aver the ultimate facts constituting the offense, not the finer details of why and how. The fundamental test is whether or not the facts alleged in the information, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law.<sup>5</sup>

Certainly, the arguments raised by the accused in the present motion are mere reiteration of those set forth in the Motion to Quash. For the Court, these matters had been sufficiently considered and passed upon in the assailed resolution.

In view of the foregoing, the Court finds no reason to set aside the assailed Resolution.

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<sup>5</sup> Lazarte vs. Sandiganbayan 581 SCRA 432.

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**WHEREFORE**, premises considered, the Motion for Reconsideration filed by accused Ramonito D. Durano III is **DENIED** for lack of merit.

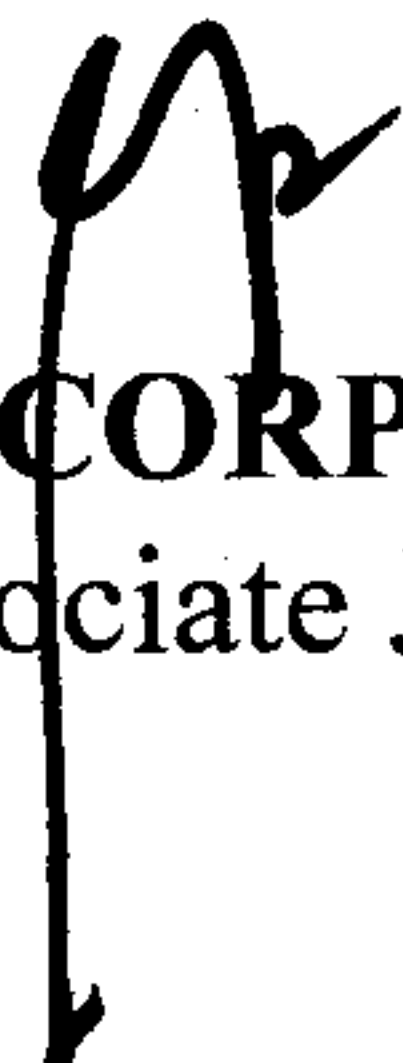
**SO ORDERED.**



MARIA THERESA V. MENDOZA-ARCEGA  
Associate Justice



**RAFAEL R. LAGOS**  
Chairperson  
Associate Justice



**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice