



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES, **Crim. Case No. 25285**

Plaintiff,

For: Violation of Sec. 3 (a) of
R.A. No. 3019, as amended

Present:

- versus -

Quiroz, J.
Pahimna, J.
Jacinto, J.

LEONSITA C. NAVIDAD and
PERFECTO BASAYA,

Promulgated:

Accused.

MAR 22 2022

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RESOLUTION

JACINTO, J.:

This resolves accused Leonsita C. Navidad's undated *Motion to Quash Information and to Defer Arraignment* filed on 8 June 2021¹ based on the following arguments: (i) the facts in the *Information* fail to constitute an offense; (ii) she was denied due process when she was not served processes in her residential address; and (iii) the Court has no jurisdiction over this case. She likewise asks that her arraignment be deferred until the resolution of this Motion.

Accused argues that the *Information* does not contain facts that constitute an offense in that it fails to specify how she exercised manifest partiality, bad faith, or gross inexcusable negligence. Further, Sec. 3(e) of Republic Act (R.A.) No. 3019 only applies to officers and employees of government offices or government corporations charged with the grant of licenses, permits, or other concessions. Being a mere Professor I at the Palawan State University, her position does not concur with said qualification. As in fact, while she is alleged to hold the position of Vice-President for Financial Management, official documents show otherwise.

She adds that payment for the transaction in question was made through a check paid directly to the supplier; hence, she could not have

¹ Record, pp. 93-104.

converted the fund for her personal use. Given these circumstances, she evidently did not participate, whether directly or otherwise, in the alleged overpayment of the construction materials procured, or receive any proceeds therefrom. She concludes that the inherent defects of the Information are apparent from these facts; hence, it should be quashed.

Accused next argues that she was deprived of due process since the summons from the Office of the Ombudsman (OMB), Commission on Audit (COA), the Palawan State University (PSU), and this Court were not served at her residential address; instead, all processes were served upon the PSU. Because of this, she only found out about the warrant issued against her through a family friend. She adds that due to the prosecution's failure to exert the necessary efforts to inform her of the actions against her and to prosecute this case, which concerns a transaction dating back to 1988, she was denied the opportunity to suitably prepare her defense and refute the charges against her.

Finally, she argues that the Court has no jurisdiction over this case given that, as Professor I, she only occupied a Salary Grade 24 position, while R.A. No. 10660² provides that the Court only has jurisdiction over R.A. No. 3019 cases where an accused occupies a position with the corresponding Salary Grade of 27 or higher.

The prosecution, for its part, did not comment on the arguments raised by accused³ but submits the view that the Sandiganbayan has lost its jurisdiction over the case in view of accused's Salary Grade (SG 21). However, instead of dismissing the case, the Court should remand it to the "proper court of jurisdiction" pursuant to Sec. 7 of R.A. No. 7975.⁴

The Court resolves to deny the motion.

The Information sufficiently alleges the facts necessary to establish the elements for Violation of Sec. 3(e) of R.A. No. 3019

In *Jalandoni v. Office of the Ombudsman*,⁵ the Supreme Court reminds that the function of a motion to quash an Information is to assail its

² AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN.

³ Comment dated 9 July 2021 filed on same date via email. Record, pp. 147-152.

⁴ AN ACT TO STRENGTHEN THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN.

⁵ G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, 10 May 2021.

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validity on points of law or for defects apparent on its face;⁶ matters *aliunde* are not considered.⁷ Corollary thereto, an Information is sufficient if the facts alleged therein, if hypothetically admitted, sufficiently establish the essential elements of the crime charged.⁸ It must suitably inform persons of common understanding of the law violated, as well as the circumstances constituting the alleged crime - this, in turn, allows accused persons to adequately prepare their defense and the courts to render the proper judgment.⁹

By accused's own admission, the arguments she raises are evidentiary in nature. *Radaza v. Sandiganbayan*¹⁰ provides that such are not proper matters for adjudication in a motion to quash and should instead be raised during trial:

xxx Such arguments already constitute as his full defenses against the criminal accusations against him that cannot be entirely and fairly weighed in a preliminary investigation proceeding. It cannot be expected that upon the filing of an Information in court, the prosecutor would have already considered all the evidence necessary to secure a conviction of the accused.¹¹ This is a matter of evidence that is within the province of a full-blown trial and indeterminable in a preliminary investigation.

The Information¹² in this case reads:

That on or about December 14, 1988 or sometime prior or subsequent thereto, in Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused Leonsita C. Navidad and Perfecto Basaya, being then the Vice-President for Financial Management and Property Custodian, respectively of Palawan State College, while in the performance of their official positions and committing the offense in relation to their respective functions, did then and there wilfully, unlawfully and criminally cause undue injury to the government, through evident bad faith or manifest partiality, by then and there purchasing in behalf of the said educational institution, construction materials for the repair and maintenance of the College of Arts and Sciences (CAS) and the College of Education (CED) buildings, for a total amount of P66,125.90, Philippine Currency, when in truth and it fact, the construction materials actually delivered were only worth P38,320.90, resulting in an overprice of P27,805.00 which accused converted into her own personal use and benefit, to the damage and prejudice of the government and the Palawan State College in particular, in the said amount of P27,805.00, Philippine Currency.

⁶ *Id.*, citing *Javier v. Sandiganbayan*, G.R. No. 147026-27, 11 September 2009.

⁷ *Id.*, with reference to *Domingo v. Sandiganbayan*, G.R. No. 109376, 20 January 2000.

⁸ *Id.*, with reference to *Caballero v. Sandiganbayan*, G.R. Nos. 137355-58, 25 September 2007.

⁹ *Id.*, citing *Lazarte, Jr. v. Sandiganbayan*, G.R. No. 180122, 13 March 2009. See also RULES OF COURT, Rule 110, Sec. 9.

¹⁰ G.R. No. 201380, 4 August 2021.

¹¹ *Id.*

¹² Dated 11 February 1999. Record, p. 1-2.

CONTRARY TO LAW.

A plain reading of the allegations therein shows that accused, in the exercise of her functions within the stated period, is charged for having exercised bad faith and manifest partiality relating to the purchase of construction materials for the repair and maintenance of the College of Arts and Science and College of Education buildings of Palawan State College amounting to PhP 66,125.90 given that said disbursement was overpriced by PhP 27,805.00. The overpriced amount is likewise deemed to have been converted to accused's personal use and benefit. As a result of said acts, Palawan State College suffered damage in the amount of the overprice. These factual allegations properly allege the elements of Violation of Sec. 3(e) of R.A. No. 3019, which are as follows:

- (i) The offender is a public officer;
- (ii) The act was done in the discharge of the public officer's official, administrative, or judicial functions;
- (iii) The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (iv) The public officer caused any undue injury to any party, including the government, or gave any unwarranted benefits, advantage or preference.¹³

On the other hand, accused's contention that her position does not concern the "grant of licenses or permits or other concessions," and therefore she cannot be charged under Sec. 3(e) of R.A. No. 3019 has been squarely addressed in *Mejorada v. Sandiganbayan*,¹⁴ and reiterated in *Cruz v. Sandiganbayan*,¹⁵ thus:

Petitioner's contention is flawed by the very premises holding it together. For, it presupposes that Section 3(e) of R.A. 3019 covers only public officers vested with the power of granting licenses, permits or similar privileges. Petitioner has obviously lost sight, if not altogether unaware, of our ruling in *Mejorada vs. Sandiganbayan*, where we held that a prosecution for violation of Section 3(e) of the Anti-Graft Law will lie regardless of whether or not the accused public officer is "charged with the grant of licenses or permits or other concessions". Following is an excerpt of what we said in *Mejorada*:

¹³ See *People v. Bacaltos*, G.R. No. 248701, 28 July 2020.

¹⁴ *Mejorada v. Sandiganbayan*, G.R. No. L-51065-72, 30 June 1987.

¹⁵ G.R. No. 134493, 16 August 2005.

Section 3 cited above enumerates in eleven subsections the corrupt practices of any public officers (sic) declared unlawful. Its reference to "any public officer" is without distinction or qualification and it specifies the acts declared unlawful. We agree with the view adopted by the Solicitor General that the last sentence of paragraph [Section 3] (e) is intended to make clear the inclusion of officers and employees of officers (sic) or government corporations which, under the ordinary concept of "public officers" may not come within the term. *It is a strained construction of the provision to read it as applying exclusively to public officers charged with the duty of granting licenses or permits or other concessions.* xxx (emphases in the original)

For these reasons, accused's argument that the *Information* may be quashed under Sec. 3(a), Rule 117 of the Rules of Court must fail.

Failure to serve summons at accused's residence is not a ground for quashal

Accused's claim that the OMB, COA, and PSU failed to serve summons against her at her residence is not a ground for a motion to quash. The OMB's failure to serve processes against her may be a ground to seek relief from said office to question its finding of probable cause; however, said circumstance does not invalidate the *Information* in this case.

The Court has jurisdiction over this case.

Presidential Decree (P.D.) 1486¹⁶ gave the Court original and exclusive jurisdiction over cases involving public officers or employees, including those employed in government-owned or controlled corporations, where they are charged with violation of R.A. No. 3019,¹⁷ R.A. No. 1379,¹⁸ Title VII of the Revised Penal Code (RPC), and other crimes or offenses.¹⁹

While P.D. 1486 underwent several revisions, with the passage of P.D. 1606,²⁰ P.D. 1629,²¹ P.D. 1822,²² B.P. No. 129,²³ P.D. 1860,²⁴ P.D. 1861,²⁵

¹⁶ CREATION OF THE SANDIGANBAYAN.

¹⁷ ANTI-GRAFT AND CORRUPT PRACTICES ACT.

¹⁸ LAW OF FORFEITURE OF ILL-GOTTEN WEALTH.

¹⁹ See P.D. 1486, Sec. 4.

²⁰ REVISING P.D. NO. 1486 RE: CREATION OF THE SANDIGANBAYAN.

²¹ AMENDMENT TO P.D. NO. 1486 RE: CREATION OF SANDIGANBAYAN.

²² TRIAL BY COURTS-MARTIAL OF MEMBERS OF THE ARMED FORCES CHARGED WITH OFFENSES RELATED TO THEIR DUTIES.

²³ THE JUDICIARY REORGANIZATION ACT OF 1980.

²⁴ AMENDMENTS TO P.D. NO. 1606 AND B.P. BLG. 129 RE: JURISDICTION OF THE SANDIGANBAYAN.

²⁵ AMENDING P.D. NO. 1606 AND B.P. BLG. 129 RE: JURISDICTION OF THE SANDIGANBAYAN.

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P.D. 1952,²⁶ E.O. No. 14,²⁷ E.O. 14-A,²⁸ E.O. 101,²⁹ and E.O. 184,³⁰ the Court's criminal jurisdiction remained premised mainly on the fact that the accused is a public officer, without qualification as to salary grade. Rather, said jurisdiction was modified only on two points: (i) the inclusion of cases falling within its exclusive appellate jurisdiction; and (ii) the condition that if the imposable penalty for a charge falls below *prision correccional*, then it shall be tried by the Regional Trial Court.

In 1997, R.A. No. 7975 was passed. It significantly amended the Court's original jurisdiction by limiting it to cases against high-ranking public officials (those with Salary Grade 27 and above) and those concerning officers specifically enumerated in the said law. The provisions concerning the Court's original jurisdiction are as follows:³¹

Sec. 4. *Jurisdiction.* The *Sandiganbayan* shall exercise original jurisdiction on 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 of the Revised Penal Code, where one or more of the principal 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:

(a) Provincial governors, vice-governors, members of the *sangguniang panlalawigan*, and provincial treasurers, assessors, engineers, and other provincial department heads;

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

(c) Officials of the diplomatic service occupying the position of consul and higher;

²⁶ AMENDING SECTION 1 OF P.D. NO. 1850 RE: TRIAL BY COURTS-MARTIAL OF INP MEMBERS.

²⁷ JURISDICTION OVER CASES INVOLVING THE ILL-GOTTEN WEALTH OF FORMER PRESIDENT FERDINAND E. MARCOS.

²⁸ AMENDING E.O. NO. 14 (MAY 7, 1986) RE: ILL-GOTTEN WEALTH OF FORMER PRESIDENT FERDINAND MARCOS.

²⁹ AMENDMENT TO P.D. NO. 1486 AS AMENDED RE: CREATION OF SANDIGANBAYAN.

³⁰ AMENDING SEC. 3 OF P.D. NO. 1606 RE: DIVISION OF COURTS AND QUORUM IN THE SANDIGANBAYAN.

³¹ R.A. No. 7975, Sec 2.

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(d) Philippine army and air force colonels, naval captains, and all officers of higher ranks;

(e) PNP chief superintendent and PNP officers of higher rank;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

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

(2) Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;

(3) Members of the Judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A.

In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129.

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Following R.A. No. 7975, R.A. No. 8249³² and R.A. No. 10660³³ were passed in 1997 and 2015, respectively. All three laws provide that cases pending before the Court wherein trial has not yet commenced shall be

³² DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, REPUBLIC ACT NO. 8249.

³³ AMENDMENT TO P.D. NO. 1606 (FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN).

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referred to the proper court for disposition,³⁴ with the qualification in R.A. No. 10660 that the changes provided therein relating to jurisdiction shall only apply to cases arising from offenses committed after the effectivity of the said act. Considering this, R.A. No. 8249 applies in this case.

While both accused and the prosecution agree that accused's public position during the subject period appears to fall below the Salary Grade 27 requirement under R.A. No. 8249, they neglect to consider that the same law provides that other officials are included in the Court's jurisdiction regardless of salary grade.

*People v. Dapitan*³⁵ held that the position of Vice President for Finance in a state university falls within the ambit of "manager" under Sec. 4 of P.D. 1606, as amended by R.A. No. 8249.³⁶

At the outset, the Court notes that the SB correctly assumed jurisdiction over the instant criminal case for Malversation of Public Funds against Dapitan, pursuant to Section 4 of RA 8249, the applicable law at the time of the commission of the offense. As aptly ratiocinated by the SB, Dapitan's function as VP for Finance, Administration, and Resource Generation of SKSU is to assist the University President in the general supervision of the fiscal and administrative affairs of the university, thereby placing his rank within the same category, or even higher, than that of a "manager" as explicitly mentioned in the aforesaid provision. In this regard, Dapitan's claim that he was merely designated in the foregoing position is of no moment, as Section 4 of RA 8249 covers all officials occupying positions in the government, whether in a permanent, acting, or *interim* capacity. (citations omitted)

Dapitan likewise acknowledges that the post of Vice President in state universities are designations rather than appointments, meaning that the officials so designated retain their official positions. As in this case, accused remained a Professor I according to her civil service record regardless of her designation as Vice President for Finance. As further explained in the said

³⁴ See R.A. No. 7975, Sec. 7, R.A. No. 8249, Sec. 7, and R.A. No. 10660, Sec. 5.

³⁵ G.R. No. 253975, 27 September 2021.

³⁶ Particularly, the case refers to Sec. 4(a)(1)(g) of R.A. No. 8249, which amends Sec. 4 of P.D. 1606 and provides: "Sec. 4. *Jurisdiction.* — The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, other 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:

xxxx

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

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case, the law puts greater import on the public official's functions and how it capacitated him/her to perform the acts complained of – thus it is irrelevant whether an accused was acting in a permanent, acting, or interim capacity. This determines the Court's jurisdiction, not the amount of remuneration received by an accused for performing his/her functions.

In sum, contrary to the arguments set forth by the prosecution and accused, the Court has jurisdiction over this case. For these reasons, accused's Motion to Quash must fail.

However, given the prolonged pendency of this case, and considering the prosecution's manifestation regarding its difficulty in securing its evidence and possible witnesses, it is directed to pursue its efforts diligently and with reasonable dispatch and to file the proper manifestation if it can no longer pursue the charges against accused.

WHEREFORE, considering the foregoing, accused Leonsita C. Navidad's undated *Motion to Quash* is **DENIED** for lack of merit. The prosecution is given a period of fifteen (15) days from receipt of this resolution to file the proper manifestation regarding its intent to pursue this case.

In the meantime, accused's arraignment and pre-trial is tentatively set on 8 April 2022 at 1:30 in the afternoon.

SO ORDERED.



BAYANI H. JACINTO

Associate Justice

WE CONCUR:



ALEX L. QUIROZ

Associate Justice

Chairperson



LORIFEL LACAP PAHIMNA

Associate Justice