



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0288 to 0292
Plaintiff, For: Violation of Section 3(e)
of R.A. No. 3019

- versus -

**LUIS RAMON P. LORENZO,
ET AL.,**

Accused.

Present

FERNANDEZ, SJ, J.,
Chairperson
VIVERO, J. and
CORPUS-MAÑALAC,* J.

Promulgated:

125 MAY 2023 *May 25, 2023* *[Signature]*

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Tomas A. Guibani's *Manifestation & Motion*,¹ and the prosecution's *Comment (Re: Accused Tomas A. Guibani's Manifestation and Motion dated April 24, 2023)*.²

In his Motion, accused Guibani prays that the present cases be dismissed as to him, and that the hearing on April 27, 2023 be postponed indefinitely. He avers:

1. The instant cases were dismissed as to accused Luis Ramon P. Lorenzo and Arthur C. Yap, who were both public officers, pursuant to the Supreme Court's Decision in G.R. Nos. 242506-10 entitled *Luis Ramon P. Lorenzo v. Hon. Sandiganbayan (Sixth Division), et al.* and G.R. Nos. 242590-94 entitled *Arthur Cua Yap v. Sandiganbayan (Sixth Division)*.

* Special member in view of the inhibition of Justice Karl B. Miranda per Administrative Order No. 275-A-2018 dated May 9, 2018)

¹ Dated April 24, 2023; Record, Vol. 8, pp. 459-462

² Dated May 5, 2023; Record, Vol. 8, pp. 470-472

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2. The issue to be resolved in these cases is whether or not the accused violated Sec. 3(e) of Republic Act No. 3019, one of the elements of which is that the offender is a public officer.
3. He is not a public officer but a private individual. Considering that these cases were dismissed as to the principal accused public officers, these cases must also be dismissed as to him.

In its *Comment*, the prosecution does not oppose accused Guibani's Motion but merely manifests that in view of the Supreme Court's Decision dated September 14, 2022 in G.R. Nos. 242506-10 (*Luis Ramon P. Lorenzo v. Hon. Sandiganbayan [Sixth Division] and the People of the Philippines*), and G.R. Nos. 242590-94 (*Arthur Cua Yap v. Sandiganbayan [Sixth Division] and the People of the Philippines*), it is submitting accused Guibani's Motion to the Court's discretion.

THE COURT'S RULING

The Court resolves to deny accused Guibani's Motion.

The dispositive portion of the Supreme Court's Decision dated September 14, 2022 in *Lorenzo v. Sandiganbayan (Sixth Division)*³ and *Yap v. Sandiganbayan (Sixth Division)*⁴ reads:

WHEREFORE, premises considered, the Petitions are **GRANTED**. The assailed Resolutions dated August 9, 2018 and September 25, 2018 of the Sandiganbayan Sixth Division in Criminal Case Nos. SB-18-CRM-0288 to 0292 are **ANNULLED** and **SET ASIDE**. The Temporary Restraining Order issued by the Court on June 10, 2019 in these cases before the Sandiganbayan is hereby made **PERMANENT**. The Sandiganbayan is hereby ordered to **DISMISS** Criminal Case Nos. SB-18-CRM-0288 to 0292 for violation of the constitutional right to speedy disposition of cases of petitioners Luis Ramon P. Lorenzo and Arthur C. Yap.

SO ORDERED.

(underscoring supplied)

³ G.R. Nos. 242506-10

⁴ G.R. Nos. 242590-94

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Although the Supreme Court, in the said Decision, discussed at length, and held that the Sandiganbayan "committed grievous error in refusing to consider the evidence *aliunde* presented by petitioners in their motions to quash on the ground that the facts charged do not constitute an offense," as seen above, the Supreme Court ordered the Sandiganbayan to dismiss the present cases as to accused Luis Ramon P. Lorenzo and Arthur C. Yap solely on the ground of violation of their constitutional right to speedy disposition of cases.

Accused Guibani has not even averred, much less, shown, in his Motion that he is similarly situated as accused Lorenzo and Yap to justify the dismissal of these cases as to him for violation of his right to speedy disposition of cases. In his Motion, he merely argued that the cases were dismissed as to his co-accused public officers, and thus, these cases should also be dismissed as to him, considering that he is a not a public officer, but a private individual.

In *People v. Go*,⁵ the Supreme Court held that a private person who is alleged to have acted in conspiracy with a public officer may be indicted alone if circumstances exist where the public officer may no longer be charged in court, such as where the public officer had already died. The Supreme Court further explained that in an indictment for conspiracy, the conspirators are jointly responsible for any act done by any of them pursuant to the agreement. The death of one conspirator does not prevent the conviction of the survivor or survivors. *Viz.:*

The only question that needs to be settled in the present petition is whether herein respondent, a private person, may be indicted for conspiracy in violating Section 3(g) of R.A. 3019 even if the public officer, with whom he was alleged to have conspired, has died prior to the filing of the Information.

Respondent contends that by reason of the death of Secretary Enrile, there is no public officer who was charged in the Information and, as such, prosecution against respondent may not prosper.

The Court is not persuaded.

It is true that by reason of Secretary Enrile's death, there is no longer any public officer with whom respondent can be charged for violation of R.A. 3019. It does not mean, however, that the allegation of conspiracy between them can no longer be proved or that their alleged conspiracy is already expunged. The only thing extinguished by the death of Secretary Enrile is his criminal liability. His death did

⁵ G.R. No. 168539, March 25, 2014

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not extinguish the crime nor did it remove the basis of the charge of conspiracy between him and private respondent. Stated differently, the death of Secretary Enrile does not mean that there was no public officer who allegedly violated Section 3 (g) of R.A. 3019. In fact, the Office of the Deputy Ombudsman for Luzon found probable cause to indict Secretary Enrile for infringement of Sections 3 (e) and (g) of R.A. 3019. Were it not for his death, he should have been charged.

The requirement before a private person may be indicted for violation of Section 3 (g) of R.A. 3019, among others, is that such private person must be alleged to have acted in conspiracy with a public officer. The law, however, does not require that such person must, in all instances, be indicted together with the public officer. If circumstances exist where the public officer may no longer be charged in court, as in the present case where the public officer has already died, the private person may be indicted alone.

Indeed, it is not necessary to join all alleged co-conspirators in an indictment for conspiracy. If two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by each of them and it makes no difference whether the actual actor is alive or dead, sane or insane at the time of trial. The death of one of two or more conspirators does not prevent the conviction of the survivor or survivors. Thus, this Court held that:

...[a] conspiracy is in its nature a joint offense. One person cannot conspire alone. The crime depends upon the joint act or intent of two or more persons. **Yet, it does not follow that one person cannot be convicted of conspiracy. So long as the acquittal or death of a co-conspirator does not remove the bases of a charge for conspiracy, one defendant may be found guilty of the offense.**

In the present cases, accused Guibani is charged with conspiring with accused Lorenzo and Yap in committing Violation of Sec. 3(e) of R.A. No. 3019. After the dismissal of these cases as to accused Lorenzo and Yap, accused Guibani is the only remaining accused. However, the dismissal of the cases as to accused Lorenzo and Yap, which is tantamount to an acquittal,⁶ cannot be considered a ground for dismissing these cases as to accused Guibani because accused Lorenzo and Yap's acquittal was not based on the finding that no crime was committed or that they did not commit any crime, but was based on the violation of their right to speedy disposition of cases. Considering that the bases of the conspiracy charged have not been

⁶ Please see *Coscolluela v. Sandiganbayan*, G.R. Nos. 191411 and 191871, July 15, 2013

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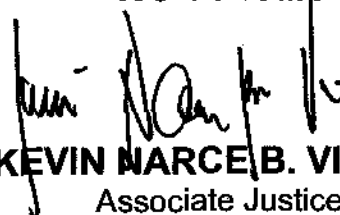
removed, there is no ground for outright dismissing these cases as to accused Guibani.

WHEREFORE, accused Guibani's Motion is hereby DENIED for lack of merit.

With respect to its *Motion for Postponement*,⁷ the prosecution is DIRECTED to submit, on or before May 26, 2023, if it intends to submit one or a manifestation to such effect if it does not intend to, its manifestation on its evaluation and examination of the implication of the Supreme Court's Decision dated September 14, 2022 in G.R. Nos. 242506-10 (*Luis Ramon P. Lorenzo v. Hon. Sandiganbayan [Sixth Division] and the People of the Philippines*), and G.R. Nos. 242590-94 (*Arthur Cua Yap v. Sandiganbayan [Sixth Division] and the People of the Philippines*) vis-à-vis the prosecution of the present cases.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:

KEVIN NARCE B. VIVERO
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice

⁷ Dated April 25, 2023; Record, Vol. 8, pp. 465-469