

RESOLUTION

People vs. Jardin

SB-23-CRM-0054 and 0055

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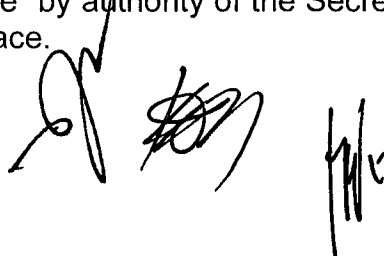
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- a. Two (2) administrative cases against him—one before the Department of Transportation (DOTr) and the other before the Office of the Ombudsman—were based on the same photocopy of the *Sinumpaang Salaysay* of Michelle Sapangila.
- b. The Ombudsman’s Resolution finding probable cause to indict him in court was based on the case records of the DOTr case. However, in the DOTr case, Michelle Sapangila testified that there was no giving of money, black bag or envelope. Thus, there is no accusation nor crime.
- c. The phrase “who made arrangement for a third party applying for the issuance of a Certificate of Public Convenience (CPC) or Route Measured Capacity (RMC)” in the two Informations has no basis. In the photocopy of Michelle Sapangila’s *Sinumpaang Salaysay*, she declared:

3. Bago pa ang March 27, 2019, kausap at ka text ko si Madam Lolit. Aming napagkasunduan na ako ay magbibigay ako [sic] ng pera para ako ay mabigyan na ng RMC.

The “third party” was added in the Informations as an afterthought to avoid the undisputed facts that Michelle Sapangila has no financial capacity and her alleged ₱4.6 million is a figment of her imagination, and that there is no consideration for the alleged money.

- d. The phrase “for the issuance of a Certificate of Public Convenience (CPC)” alleged in the Informations has no basis. The *Sinumpaang Salaysay* mentions “RMC” or route measured capacity, which is not a permit or a license.
- e. There was no solicitation or receipt of money because Sapangila had no transaction with his office. In the DOTr case, she testified that she talked to him only once—in the hallway on March 27, 2019.
- f. The Ombudsman relied on the void and unauthorized DOTr Resolution dated December 13, 2019. DOTr OIC-USec. Tuazon had no disciplinary authority and authority to dismiss him because he (the accused) was a presidential appointee. The resolution was unauthorized because the phrase “by authority of the Secretary” does not appear on its face.



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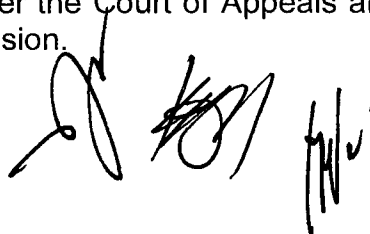
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- h. An Information filed with the Sandiganbayan may be quashed upon motion where there is a clear absence of probable cause, as when the facts show that the respondent could not have committed the crime alleged in the Information.
 - i. Sapangila's *Sinumpaang Salaysay* appears to be sworn to before a notary public, but there is no showing that a prosecutor or a government official authorized to administer oath was absent or unavailable. Furthermore, Atty. Angeline P. Rogel, the notary public, did not certify that she personally examined the affiant and that she is satisfied that Sapangila voluntarily executed and understood her affidavit.
 - j. The said *Salaysay* should have been dismissed outright because it does not contain a certification of non-forum shopping required by Sec. 11, Rule 3, of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).
3. More than one offense is charged for one set of facts.
- a. Two or more offenses arising from the same act are not the same if one provision of law requires proof of an additional fact or element which the other does not.
 - b. Here, it was not shown that Violation of Sec. 3(c) of R.A. No. 3019 requires proof of an additional fact or element which Violation of Sec. 7(d) of R.A. No. 6713 does not. He will be twice put in jeopardy of punishment for the same offense.
4. The proceedings should be suspended on the ground of prejudicial question.
- a. In the Decision dated December 22, 2022 in OMB-C-A-20-0027, an administrative case, the Office of the Ombudsman found substantial evidence against him for violation of Sec. 7(d) of R.A. No. 6713 and Sec. 50 (A) (8) of the 2017 RACCS.
 - b. The said administrative case involved the same facts upon which the instant criminal prosecution is based.
 - c. The said administrative case is pending appeal with the Supreme Court, after the Court of Appeals affirmed the Ombudsman's Decision.



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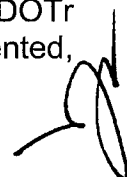
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- d. The case pending before the Supreme Court poses a prejudicial question because if the Supreme Court rules that there is no substantial evidence against him, then proof beyond reasonable doubt could not be had in these cases. The resolution of the issues raised in the petition before the Supreme Court will necessarily determine his guilt or innocence.

In its *Comment/Opposition*, the prosecution counters:

1. The factual allegations in the Informations constitute Violation of Sec. 3(c) of R.A. No. 3019 and Violation of Sec. 7(d) of R.A. No. 6713.
 - a. The determinative test in appreciating a motion to quash on the ground that the facts charged do not constitute an offense is the sufficiency of the averments in the Information, that is, whether the facts alleged, if hypothetically admitted, would establish the essential elements of the offense as defined by law without considering matters *aliunde*.
 - b. A cursory reading of the Informations would clearly show that the material averments therein, if hypothetically admitted, sufficiently allege all the elements constitutive of Violation of Sec. 3(c) of R.A. No. 3019 and Violation of Sec. 7(d) of R.A. No. 6713.
 - c. The matters raised by the accused, *i.e.*, (a) Ms. Sapangila testified in the DOTr case that there was no giving of money, black bag, or envelope to him; (b) she had no transaction with his office; (c) she is not a public utility operator and has no financial capacity; (d) an RMC is not a permit or a license; and (e) the DOTr Resolution dated December 13, 2019 is void and unauthorized, are matters *aliunde*, which should not be considered in determining the propriety of a motion to quash on the ground that the facts charged do not constitute an offense. Further, such matters are evidentiary in nature and are matters of defense, which may be passed upon in a full-blown trial on the merits.
 - d. The indictments are not merely based on Ms. Sapangila's *Sinumpaang Salaysay*, but on the totality of evidence adduced by both parties during the preliminary investigation.
 - e. With respect to the accused's claim that the DOTr Resolution dated December 13, 2019 was not presented,



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identified, marked, and formally offered during the preliminary investigation, the provisions under Rule 132 of the Rules of Court do not apply in a preliminary investigation, which is merely an inquisitorial proceeding.

2. The Informations conform substantially with the prescribed form.

a. Sec. 6, Rule 110 of the Rules of Court provides:

Sec. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

b. The Informations would show that the name of the accused, the offenses charged against him, the acts complained of as constituting the offense, the name of the offended party, the approximate date of the commission of the offense, and the place where the offense was committed, are present. The accused's claim that the complaint and Informations do not conform substantially to the prescribed form is patently without basis.

3. The accused's indictment for Violation of Sec. 7(d) of R.A. No. 6713 is in addition to his indictment for Violation of Sec. 3(c) of R.A. No. 3019.

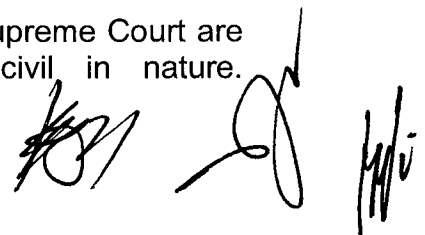
a. Sec. 3 of R.A. No. 3019 expressly sanctions indicting an accused for violation thereof, in addition to acts or omissions of public officers already penalized by existing law.

b. The said provision is in consonance with the rule that the same set of facts may give rise to two or more separate and distinct offenses.

4. The pendency of the administrative aspect of the cases before the Supreme Court does not constitute a prejudicial question to the present cases.

a. Sec. 7, Rule 111 of the Rules of Court provides for the elements of a prejudicial question.

b. Here, the cases pending before the Supreme Court are not [sic] administrative and not civil in nature.



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Furthermore, the administrative cases were not instituted prior to, but simultaneous with, the criminal cases before the Office of the Ombudsman.

- c. More importantly, administrative cases are independent from criminal actions for the same act or omission. An absolution from an administrative charge is not a bar to a criminal prosecution, or vice versa.

THE COURT’S RULING

The Court resolves to deny the accused’s *Motion to Quash and Motion to Suspend Proceedings*.

Motion to Quash

In *People v. Sandiganbayan (Fourth Division)*,⁴ the Supreme Court instructs that 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 allegations in the Information whose truth and veracity are hypothetically admitted. Matters *aliunde* or facts outside the Information are not considered. The Supreme Court further discussed what must be alleged for an Information to be considered sufficient. *Viz.:*

A motion to quash an Information on the ground that the facts charged to not constitute an offense should be resolved on the basis of the allegations 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.

Sufficiency of Complaint or Information

Sections 6 and 9 of Rule 110 of the Rules of Court are relevant. They state —

Sec. 6. *Sufficiency of complaint or information.* – A complaint or information is sufficient if it states the name of the accused; the

⁴ G.R. No. 160619, September 9, 2015

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designation of the offense given by the statute; **the acts or omissions complained of as constituting the offense**; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

x x x

Sec. 9. *Cause of the accusation.* – The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but **in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.**

In *Lucman v. People*,⁵ it was held that the elements of Violation of Sec. 3(c) of R.A. No. 3019 are as follows:

As may be gleaned from above, the elements of the crime are as follows: (1) the offender is a public officer; (2) [the offender] has secured or obtained, or would secure or obtain, for a person any government permit or license; (3) [the offender] directly or indirectly requested or received from said person any gift, present or other pecuniary or material benefit [for himself or herself,] or for another; and (4) [the offender] requested or received the gift, present or other pecuniary or material benefit in consideration for help given or to be given.

The Information in SB-23-CRM-0054, for Violation of Sec. 3(c) of R.A. No. 3019, alleges that the accused, then the Executive Director of the Land Transportation Franchising and Regulatory Board (LTFRB), directly or indirectly requested and received the amount of more or less ₱4,600,000.00 from Michelle Sapangila, for whom he will secure or obtain the issuance by the LTFRB of a Certificate of Public Convenience (CPC), in consideration for assistance, facilitation or help to be given by him. The accusatory portion of the said Information reads:

*That on or about 27 March 2019, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officer **SAMUEL ALOYSIUS MAGDADARO JARDIN**, being then the Executive Director of the Land Transportation Franchising and Regulatory Board (LTFRB), a high-ranking public official with Salary Grade 28, while in the performance of his administrative and/or official functions,*

⁵ G.R. No. 238815, March 18, 2019

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*and committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously request and receive, directly or indirectly, for himself and/or for another the amount of more or less **FOUR MILLION SIX HUNDRED THOUAND PESOS (PHP4,600,000.00)** from Michelle Sapangila, in consideration for the assistance, facilitation or help to be given by the accused to said Michelle Sapangila who made arrangement for a third party applying for the issuance of a Certificate of Public Convenience (CPC) or Route Measured Capacity (RMC) for the operation of public utility or transport vehicles, said accused, in his official capacity will secure or obtain the issuance by the LTFRB of said CPC.*

In *People v. Gelacio*,⁶ it was held that the elements of Violation of Sec. 7(d) of R.A. No. 6713 are as follows:

To sustain a conviction under the said provision, the prosecution must sufficiently establish the following elements:

- (a) that the accused is a public official or employee;
- (b) that the accused solicited or accepted any loan or anything of monetary value from any person; and
- (c) that the said act was done in the course of the accused's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office.

The Information in SB-23-CRM-0055, for Violation of Sec. 7(d) of R.A. No. 6713, alleges that the accused, then the Executive Director of the LTFRB, solicited and accepted from Michelle Sapangila the amount of more or less ₱4,600,000.00 in the course of his official duties or in connection with any operation being regulated by the LTFRB, or in relation to any transaction which may be affected by the functions of his office. The accusatory portion of the said Information reads:

*That on or about 27 March 2019, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officer **SAMUEL ALOYSIUS MAGDADARO JARDIN**, being then the Executive Director of the Land Transportation Franchising and Regulatory Board (LTFRB), a high-ranking public official with Salary Grade 28, while in the course of his official duties or in connection with any operation being regulated by the LTFRB, or in relation to any transaction which may be affected by the functions of his office, and*

⁶ G.R. Nos. 250951 and 250958, August 10, 2022

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committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously solicit and accept, directly or indirectly, the amount of more or less **FOUR MILLION SIX HUNDRED THOUSAND PESOS (PHP4,600,000.00)** from Michelle Sapangila who made arrangement for a third party applying for the issuance of a Certificate of Public Convenience (CPC) or Route Measured Capacity (RMC) for the operation of public utility or transport vehicles, said operation being regulated by accused's office.


Clearly, the Information in these cases sufficiently allege the acts constituting the elements of Violation of Sec. 3(c) of R.A. No. 3019 and Violation of Sec. 7(d) of R.A. No. 6713.

This Court is not unaware that there have been instances where the Supreme Court allowed inquiry into facts outside the Information. In *Valencia v. Sandiganbayan*,⁷ citing *People v. Navarro*,⁸ the Supreme Court held that, as an exception, the court may look into matters outside the Information if the prosecution does not object to the presentation of extraneous facts. In the more recent case of *Lorenzo v. Sandiganbayan (Sixth Division)*,⁹ the Supreme Court held that the exception may apply, notwithstanding opposition from the prosecution, if there are facts that are apparent from the records and are admitted, directly or impliedly, or not denied by the prosecution, which destroy the *prima facie* truth accorded to the allegations of the Information which are hypothetically admitted.

Here, the accused claims that (1) in the Department of Transportation (DOTr) case, Sapangila testified that there was no giving of money, black bag or envelope, and that she had no transaction in his office; (2) Sapangila is not a public utility operator and has no financial capacity to be one; (3) the Route Measured Capacity (RMC) is not a permit or a license; and (4) that the DOTr Resolution dated December 13, 2019 is void. The prosecution did not deny the accused's aforementioned assertions in its *Comment/Opposition*. Instead, it merely argued that these are matters *aliunde*, which should not be considered in resolving the accused's motion to quash on the ground that the facts charged do not constitute an offense.


⁷ G.R. No. 141336, June 29, 2004


⁸ G.R. Nos. L-1 & L-2, December 4, 1945


⁹ G.R. Nos. 242506-10, September 14, 2022

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Notwithstanding the fact that the prosecution did not deny the accused's assertions, the Court finds that the exception will still not apply because even if the Court considers the said accused's assertions as facts admitted by the prosecution, the same will not destroy the *prima facie* truth accorded to the allegations of the Informations.

The accused then contends that the Informations do not conform substantially to the prescribed form. According to the accused, the Informations are defective because Graft Investigation and Prosecution Officer (GIPO) III Michelle V. Villabesa did not certify that she personally examined complainant DOTr, represented by Sec. Tugade, and its witnesses. Furthermore, Michelle Sapangila's *Sinumpaang Salaysay* was a mere photocopy, which is inadmissible in evidence. The Court is not persuaded.

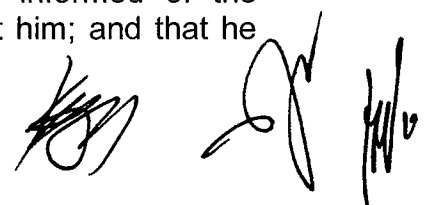
Sec. 6, Rule 112 of the Rules of Court provides for what a criminal Information must contain to be sufficient in form and substance. *Viz.:*

Sec. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

x x x

A cursory reading of the Information in these cases would show that all the parts of the Information enumerated in the aforequoted provision are present. With respect to GIPO III Michelle V. Villabesa's Certification in the Informations, this Court finds that, indeed, it does not fully comply with Sec. 4, Rule 112 of the Rules of Court. The first paragraph of the said provision reads:

Sec. 4. Resolution of investigating prosecutor and its review.
– If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he



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was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

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On the other hand, the Certification in the Informations reads:

This is to certify that a preliminary investigation was conducted in this case; that there is sufficient ground to engender a well-founded belief that the crime charged was committed and that the accused is probably guilty thereof.

There is no question that some clauses or phrases required under Sec. 4, Rule 112 do not appear in the Certification. However, this will not invalidate the Informations. In *People v. Lapura*,¹⁰ the Supreme Court held that it is a settled rule that the said certification is not an indispensable part of an Information. Even the absence of such certification will not invalidate an Information. *Viz.:*

Relative to the claim that the certification did not fully comply with the requirements of Sections 4, Rule 112, of the Rules of Court, we need merely to reiterate the settled rule that such certification is not an indispensable part of, let alone invalidate even by its absence, an information. In *People v. Marquez*, the Court has had occasion to explain:

"x x x. It should be observed that Section 3 [now Section 4] of Rule 110 defines an information as nothing more than 'an accusation in writing charging a person with an offense subscribed by the fiscal and filed with the court.' Thus, it is obvious that such certification is not an essential part of the information itself and its absence cannot vitiate it as such. True, as already stated, Section 14 of Rule 112 enjoin that 'no information x x x shall be filed, without first giving the accused a chance to be heard in a preliminary investigation,' but, as can be seen, the injunction refers to the non-holding of the preliminary investigation, not the absence of the certification. In other words, what is not allowed is the filing of the information without a preliminary investigation having been previously conducted, and the injunction that there should be a certification is only a consequence of the requirement that a preliminary investigation should first be conducted."

As the Court has also said in *Pecho vs. Sandiganbayan* –

"If the absence of a certification would not even invalidate the information, then its presence, although deficient because of some missing clauses or phrases required under Section 4, Rule 112 of the Rules of Court, can do no worse than the former."

¹⁰ G.R. No. 94494, March 15, 1996

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The other matters raised by the accused on this point pertain to the regularity of the preliminary investigation. But even assuming that there was indeed an irregularity in the conduct of the preliminary investigation, the same will not render the Informations void nor impair their validity. In *De Lima v. Reyes*,¹¹ the Supreme Court explained:

A preliminary investigation is “merely inquisitorial,” and is only conducted to aid the prosecutor in preparing the information. It serves a two-fold purpose: first, to protect the innocent against wrongful prosecutions; and second, to spare the state from using its funds and resources in useless prosecutions. In *Salonga v. Cruz-Paño*:

x x x

Moreover, a preliminary investigation is merely preparatory to a trial. It is not a trial on the merits. An accused’s right to a preliminary investigation is merely statutory; it is not a right guaranteed by the Constitution. Hence, any alleged irregularity in an investigation’s conduct does not render the information void nor impair its validity. x x x

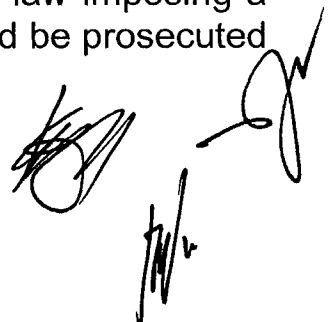
Finally, the accused contends that the Informations should be quashed because more than one offense is charged for one set of facts. Such contention is bereft of merit.

First, charging an accused with more than one offense for one set of facts is not among the grounds for quashing an Information under Rule 117 of the Rules of Court. Second, Sec. 3 of R.A. No. 3019 expressly provides that “[i]n addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful: x x x.” Thus, an accused may be charged with Violation of Sec. 3 of R.A. No. 3019 and other offenses even if such offenses arose from a single set of facts.

Although there is no ground for quashing the Information in these cases, the Court finds that there is ground to dismiss SB-23-CRM-0055, charging the accused with Violation of Sec. 7(d) of R.A. No. 6713. In *People v. Gelacio*,¹² the Supreme Court held that if an accused is charged with violation of R.A. No. 6713 and another law imposing a higher penalty for the same act(s), the accused should be prosecuted

¹¹ G.R. No. 209330, January 11, 2016

¹² *Supra*. Note 6



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under the latter statute, and the charge for violation of R.A. No. 6713 should be dismissed. The pertinent portion of the Supreme Court’s Decision reads:

However, it must be pointed out Sec. 11(a) of R.A. No. 6713 provides that if the violation under R.A. No. 6713 is punishable by a heavier penalty under another law, then the offender shall be prosecuted under the said statute. The provision states:

SECTION 11. Penalties. – (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months’ salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. **If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute.** Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office. (Emphasis and underscoring supplied)

Verily, the statutory provision clearly states that if the violation of R.A. No. 6713 is punishable by a heavier penalty under another law, the offender shall be prosecuted under the latter statute. The use of the word “shall” in a statute or rule expresses what is mandatory and compulsory, hence, the obligatory language of Sec. 11(a) of R.A. No. 6713 should have been observed and followed by the Sandiganbayan.

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In this case, the Sandiganbayan should not have allowed accused-appellant to be prosecuted for both Sec. 3(e) of R.A. No. 3019 and Sec. 7(d) of R.A. No. 6713 in view of the mandatory import of Sec. 11(a) of R.A. No. 6713. The Court notes that accused-appellant was charged under two separate Informations – one for Sec. 3(e) of R.A. No. 3019 and one for Sec. 7(d) of R.A. No. 6713 – which allege substantially the same facts and are identical to the other.

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A comparison of the two readily shows that both violations consist of the same acts, *i.e.*, the extortion or solicitation from private complainant of the total amount of P120,000.00 and a whole tuna fish in exchange for provisional remedies in private complainant’s favor.

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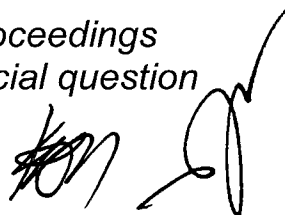
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Sec. 3(e) of R.A. No. 3019 penalizes a public officer who causes undue injury to any party by giving unwarranted benefits or advantages, while Sec. 7(d) of R.A. No. 6713 penalizes a public official soliciting or accepting any gifts or anything of monetary value in connection with any operation or transaction which may be affected by the functions of their office. x x x. These same acts of the offender are used as basis to prosecute accused-appellant for the identical violation of Sec. 7(d) of R.A. No. 6713. Evidently, both laws essentially penalize the same violation of accused-appellant.

Again, if the violation under R.A. No. 6713 is punishable by a heavier penalty under another law, such as Sec. 3(e) of R.A. No. 3019, the offender shall be prosecuted under the latter statute. The prescribed penalty for violation of Sec. 3(e) in R.A. No. 3019 is imprisonment of not less than six (6) years and one (1) month nor more than 15 years; while violation of Sec. 7(d) in R.A. No. 6713 prescribes the penalty of imprisonment not exceeding five (5) years or a fine not exceeding P5,000.00, or both. As Sec. 3(e) of R.A. No. 3019 prescribes a heavier penalty, accused-appellant may only be prosecuted under the said law. The criminal charge against accused-appellant for violation of Sec. 7(d) in R.A. No. 6713 should be dismissed. He must be acquitted of that particular charge.

Herein accused is similarly charged with Violation of Sec. 3 of R.A. No. 3019 and Violation of Sec. 7(d) of R.A. No. 6713. As seen in this Court's previous discussion, the Information in the two (2) cases allege substantially the same acts, i.e., soliciting and accepting from Michelle Sapangila the amount of more or less ₱4.6 million in his official capacity. As the Supreme Court discussed in *Gelacio*, the prescribed penalty for Violation of Sec. 7(d) of R.A. No. 6713 is imprisonment not exceeding five (5) years or a fine not exceeding ₱5,000, or both. On the other hand, the prescribed penalty for the acts punishable by Sec. 3 of R.A. No. 3019 is imprisonment of not less than six (6) years and one (1) month nor more than fifteen (15) years.¹³ The accused may only be prosecuted under R.A. No. 3019, which provides for the heavier penalty.

*Motion to suspend proceedings
on the ground of prejudicial question*



¹³ R.A. No. 3019. Sec. 9. Penalties for violations. – (a) Any public officer or private person committing any of the unlawful acts or omission enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income. x x x



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SB-23-CRM-0054 and 0055

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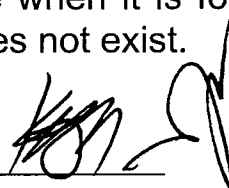
In his Motion, the accused argues that the proceedings must be suspended on the ground of prejudicial question. According to him, he appealed the Ombudsman's Decision in the administrative case against him to the Court of Appeals, and after the latter affirmed the Ombudsman's Decision and Joint Order, he elevated the matter to the Supreme Court, where it is now pending appeal. The accused contends that the resolution of the issues in the case before the Supreme Court will necessarily determine his guilt or innocence. This Court disagrees.

Sec. 7, Rule 111 of the Rules of Court provides for the elements of a prejudicial question. To wit:

Sec. 7. Elements of prejudicial question. – The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.

Here, there was no previously instituted civil action involving an issue similar or intimately related to the issue raised in the subsequent criminal action. The case before the Supreme Court arose from an administrative case which was instituted simultaneously with the criminal case before the Office of the Ombudsman. More importantly, the resolution of the issue in the case before the Supreme Court will not necessarily determine whether the present criminal cases may proceed.

In *Pahkiat v. Office of the Ombudsman-Mindanao*,¹⁴ the Supreme Court explained that the three (3) kinds of remedies available against a public officer, *i.e.*, civil, criminal, and administrative, may proceed independently because of the differences in the quantum of evidence required in each case. The Supreme Court clarified that the dismissal of an administrative case will not necessarily result in the dismissal of the parallel criminal case and vice versa because the evidence presented in the administrative case may not necessarily be the same evidence to be presented in the criminal case. However, the dismissal of an administrative case may result in the dismissal of the criminal case when it is found that the act from which the liability is anchored does not exist.



¹⁴ G.R. No. 223972, November 3, 2020

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It cannot be said that the second element of a prejudicial question is present because even if the administrative case and the criminal case are based on the same facts and involve the same issues, the dismissal of an administrative case will not necessarily result in the acquittal of an accused in the criminal case, and a finding of administrative liability will not necessarily result in the conviction of an accused. Both elements of a prejudicial question being absent, there is no basis for suspending the present proceedings on such ground.

WHEREFORE, the accused's *Motion to Quash and Motion to Suspend Proceedings* is hereby DENIED for lack of merit. However, **SB-23-CRM-0055**, for Violation of Sec. 7(d) of R.A. No. 6713, is hereby DISMISSED without prejudice.

Let the hold departure order against the accused by reason of SB-23-CRM-0055 only, be lifted and set aside, and his bond pertaining to the said case be released, subject to the usual accounting and auditing procedure.

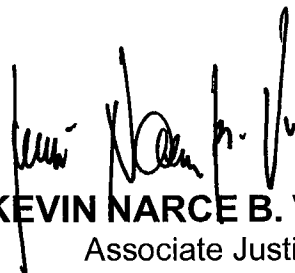
The accused's *Reply (To Plaintiff's Comment/Opposition dated 23 May 2023 [to accused Jardin's Motion to Quash and Motion to Suspend Proceedings])*¹⁵ is NOTED.¹⁶

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

¹⁵ Dated May 29, 2023 and filed on May 30, 2023

¹⁶ 2018 Revised Internal Rules of the Sandiganbayan. **Rule VII, Sec. 4. Period to comment and to resolve.** – x x x Reply and memorandum shall not be allowed.