



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Case No. SB-15-CRM-0092

-versus -

**MARIANO M. MALONES, EDNA M.
MADARICO and MA. THERESA TAN
DELOS REYES (A.K.A. MARITES S.
TAN DELOS REYES),**

Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

Case No. SB-15-CRM- 0093

-versus -


**MARIANO M. MALONES and MA.
THERESA TAN DELOS REYES
(A.K.A. MARITES S. TAN DELOS
REYES),**

Accused.

Present:

Gomez-Estoesta, J.,
Chairperson
Trespeses, J. and
Hidalgo, J.

Promulgated:

June 13, 2023 

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RESOLUTION

TRESPESES, J.:

Submitted to the court for its consideration are the following:

1. Accused Mariano Malones's "MANIFESTATION AND MOTION TO DISMISS" dated 26 May 2023 with attached

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Certified True Copy of the Supreme Court's Entry of Judgment in G.R. Nos. 26887 – 88;¹

2. The Supreme Court's "LETTER OF TRANSMITTAL" dated 28 April 2023 with attached "DECISION" promulgated on 20 July 2022;² and
3. The Supreme Court's "ENTRY OF JUDGMENT" dated 1 December 2022.³

BRIEF SUMMARY OF PERTINENT FACTS

The instant cases, SB-15-CRM-0092 to 0093, were initially raffled to the Sandiganbayan's Third Division.

On 20 January 2016, the prosecution filed a motion for suspension *pendente lite* of accused Malones,⁴ to which Malones and Madarico responded with an opposition and motion to dismiss.⁵

In its Resolution dated 7 June 2016, the court granted the prosecution's motion.⁶ Accused Malones and Madarico moved to reconsider⁷ the 7 June 2016 Resolution, but their motion was denied in a Resolution dated 6 September 2016.⁸

Accused Malones and Madarico questioned the court's ruling via a Petition under Rule 65 with the Supreme Court dated 20 September 2016.⁹ The petition was raffled to the Supreme Court's Third Division and docketed as G.R. Nos. 226887-88 entitled "*Mariano Malones y Malificio and Edna M. Madarico v. Sandiganbayan (Third and Seventh Divisions) and People of the Philippines.*"

Meanwhile the instant cases were re-raffled to the Seventh Division of the Sandiganbayan. As no temporary restraining order was received by it from the Supreme Court, the Sandiganbayan Seventh Division continued to hear the case as its duty demanded pursuant to *Cojuangco, Jr. v. Sandiganbayan*,¹⁰ citing *Republic v. Sandiganbayan*.¹¹ In the said case, the Sandiganbayan was reminded that it should continue with its proceedings when its interlocutory orders are on challenge before the Supreme Court, but no Temporary Restraining Order (TRO) or Writ of Preliminary Injunction has been issued

¹ Record, Vol. 6, pp. 100-102.

² Id. at pp. 106-122.

³ Id. at pp. 123-124.

⁴ Record, Vol. 1, pp. 221-224.

⁵ Id. at pp. 242-253.

⁶ Id. at pp. 304-311.

⁷ Id. at pp. 316-336.

⁸ Id. at pp. 374-377.

⁹ Record, Vol. 2, pp. 35-60.

¹⁰ G.R. No. 247982, 28 April 2021.

¹¹ 525 Phil. 804 (2006).

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and there is no strong probability that the issues raised before the Supreme Court would be rendered moot and moribund.

After trial on the merits concluded, the Sandiganbayan Seventh Division issued a Decision dated 23 October 2020, convicting Malones and Delos Reyes of violation of RA 3019 Sec. 3 (e) and Falsification of Public Documents, but acquitting Madarico of the charges.

On 12 and 19 January 2021, the Sandiganbayan gave due course to the respective Notices of Appeal filed by Malones¹² and Delos Reyes,¹³ and elevated the entire record of the cases to the Supreme Court.

In a Notice furnished this court dated 14 July 2021,¹⁴ the Supreme Court First Division noted the records of the cases elevated to it by the Sandiganbayan, which had been docketed as G.R. No. 255048 entitled "*People of the Philippines v. Ma. Theresa Tan Delos Reyes a.k.a. Marites S. Tan Delos Reyes.*"¹⁵

Thereafter, the Supreme Court Third Division in G.R. Nos. 226887-88 issued a Decision dated 20 July 2022, the dispositive portion of which reads:

WHEREFORE, the petition is GRANTED. The Resolutions dated June 7, 2016 of the Sandiganbayan, Third Division, in Criminal Case Nos. SB-15-CRM-0092 and SB-15-CRM-0093 are hereby ANNULLED and SET ASIDE. For violation of their constitutional right to speedy disposition of cases, the charges against petitioners MARIANO MALONES y MALIFICIO and EDNA M. MADARICO are ordered DISMISSED.

When the Sandiganbayan Seventh Division received a copy of the Supreme Court's Decision on 11 November 2022,¹⁶ it held a clarificatory hearing on 29 November 2022.

In an Order of even date,¹⁷ the Sandiganbayan Seventh Division resolved that it would have to wait for the Supreme Court's transmittal of the original copy of the Entry of Judgment ordering the Sandiganbayan Third and Seventh Divisions to dismiss the cases in favor of Malones before it can act on the order for the dismissal of the cases against Malones.

¹² Record, Vol. 6, p. 17.

¹³ Id. at p. 18.

¹⁴ Id. At p. 47.

¹⁵ In contrast, the records are bereft of any notices from the Supreme Court regarding the appeal filed by accused Malones.

¹⁶ Record, Vol. 6, pp. 65-73.

¹⁷ Id. at p. 82.

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MALONES'S MANIFESTATION AND MOTION TO DISMISS

In his Manifestation and Motion to Dismiss, Malones stated the summary of the pertinent facts, attached a certified true copy of the Supreme Court's Entry of Judgment dated 1 December 2022 for G.R. No. 226887-88, and prayed that:

- a. This Honorable Court take cognizance of the Order of the Supreme Court in G.R. No. 226887-88 directing the dismissal of the above cases as far as Malones is concerned.
- b. The portion of the decision convicting accused Malones of the above cases be reversed and set aside and another one be made ordering the dismissal of the cases against him.
- c. Rendering the appeal by accused Malones as moot and academic in view of the dismissal of the above cases.

OUR RULING

In the present case, the Supreme Court **Third Division** in its Decision found that petitioners Malones and Madarico's right to the speedy disposition of their cases was violated, thus:

Thus, the period that must be used in order to determine the presence of inordinate delay, following *Cagang*, is reckoned from the date of filing of PACPO's formal complaint on March 12, 2012.

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Xxx. As it stands, the Ombudsman issued its Resolution finding probable cause against petitioners one year and 20 days after it received the last counter-affidavit which was filed by Madarico. Worse, the Ombudsman filed the Informations against petitioners 11 months and 29 days after the issuance of its August 29, 2013 Resolution.

Xxx. The failure of the prosecution to provide an adequate explanation for the Ombudsman's inordinate delay on the conduct of the preliminary investigation all but confirms that there was indeed a violation of petitioners' constitutional right to the speedy disposition of the cases filed against them.¹⁸

Accordingly, in its 20 July 2022 Decision, the **Third Division** of the Supreme Court annulled and set aside the Resolution dated 7 June 2016 and 6 September 2016 of the Sandiganbayan Third Division and directly dismissed the instant cases against Malones and Madarico.

¹⁸ Supreme Court Decision in *Malones and Madarico v. Sandiganbayan (Third & Seventh Divisions) and People of the Philippines*, G.R. Nos. 226887-88, 20 July 2022, pp. 10-13.

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Meanwhile, this court is in receipt of the Letter of Transmittal from the Supreme Court transmitting a photocopy of the said Decision, as well as a photocopy of the entry of judgment made therein.

On the basis thereof, Malones's **first prayer** is for this court to take cognizance of the Decision of the Supreme Court in G.R. No. 226887-88 dismissing the above cases as far as Malones is concerned.¹⁹ His related **second prayer** is for this court to reverse and set aside its Decision convicting accused Malones of the above cases and to issue a new Decision ordering the dismissal of the cases against him.

There is no question that the Supreme Court had, in fact, dismissed the charges against accused Malones in the present cases. However, *at this point in time*, this court has no authority to act on Malones's particular prayers.

Section 7, Rule 120 of the Revised Rules of Criminal Procedure clearly provides that the trial court may modify or set aside a judgment of conviction upon motion of the accused only before it becomes final or before the appeal is perfected:

Section 7. Modification of judgment. — A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. xxx

Corollary, the court loses the power to modify or set aside its judgment of conviction once the appeal is perfected.

From the moment the appeal is perfected and thereafter, the trial court and appellate court's jurisdiction and the duration thereof are further discussed in *Villareal v. People*²⁰ as follows:

Xxx. Jurisdiction over a case is lodged with the court in which the criminal action has been properly instituted. If a party appeals the trial court's judgment or final order, jurisdiction is transferred to the appellate court. The execution of the decision is thus stayed insofar as the appealing party is concerned. The court of origin then loses jurisdiction over the entire case the moment the other party's time to appeal has expired. Any residual jurisdiction of the court of origin shall cease — including the authority to order execution pending appeal — the moment the complete records of the case are transmitted to the appellate court. Consequently, it is the appellate court that shall have the authority to wield the power to hear, try, and decide the case before it, as well as to enforce its decisions and resolutions appurtenant thereto. That power and authority shall remain with the appellate court until it finally disposes of the case. Jurisdiction cannot be

¹⁹ Insofar as the dismissal of the same cases against Madarico is concerned, we note that this becomes unnecessary in view of Madarico's earlier acquittal in our 23 October 2020 Decision.

²⁰ G.R. No. 151258, 1 December 2014.

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ousted by any subsequent event, even if the nature of the incident would have prevented jurisdiction from attaching in the first place.

According to Article 78 of the Revised Penal Code, "[n]o penalty shall be executed except by virtue of a final judgment." A judgment of a court convicting or acquitting the accused of the offense charged becomes final under any of the following conditions among others: after the lapse of the period for perfecting an appeal; when the accused waives the right to appeal; upon the grant of a withdrawal of an appeal; when the sentence has already been partially or totally satisfied or served; or when the accused applies for probation. When the decision attains finality, the judgment or final order is entered in the book of entries of judgments. If the case was previously appealed to the CA, a certified true copy of the judgment or final order must be attached to the original record, which shall then be remanded to the clerk of the court from which the appeal was taken. The court of origin then reacquires jurisdiction over the case for appropriate action. It is during this time that the court of origin may settle the matter of the execution of penalty or the suspension of the execution thereof, including the convicts' applications for probation.

A perusal of the case records reveals that the CA had not yet relinquished its jurisdiction over the case when Caloocan City RTC Branch 130 took cognizance of the Applications for Probation of Tecson et al. It shows that the accused filed their respective applications while a motion for reconsideration was still pending before the CA and the records were still with that court. The CA settled the motion only upon issuing the Resolution dated 30 August 2002 denying it, or about seven months after Tecson et al. had filed their applications with the trial court. In September 2002, or almost a month before the promulgation of the RTC Order dated 11 October 2002 granting the probation applications, the OSG had filed Manifestations of Intent to File Petition for Certiorari with the CA and this Court. Ultimately, the OSG assailed the CA judgments by filing before this Court a Petition for Certiorari on 25 November 2002. We noted the petition and then required respondents to file a comment thereon. After their submission of further pleadings and motions, we eventually required all parties to file their consolidated memoranda. The records of the case remained with the CA until they were elevated to this Court in 2008.

For the foregoing reasons, we find that RTC Branch 130 had no jurisdiction to act on the probation applications of Tecson et al. It had neither the power nor the authority to suspend their sentence, place them on probation, order their final discharge, and eventually declare the case against them terminated. This glaring jurisdictional faux pas is a clear evidence of either gross ignorance of the law or an underhanded one-upmanship on the part of RTC Branch 130 or Tecson et al., or both — to which this Court cannot give a judicial imprimatur.²¹ (Footnotes omitted.)

In sum, the jurisdiction of the trial court over the case is transferred to the appellate court when the party appeals the trial court's judgment. Even the

²¹ *Villareal v. People*, G.R. No. 151258, 1 December 2014.

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trial court's residual jurisdiction²² shall cease the moment the complete records of the case are transmitted to the appellate court.

From this moment on until it finally disposes of the case, it is the appellate court which shall have the authority to wield the power to hear, try and decide the case before it, including the power to enforce its decisions and resolutions appurtenant thereto. It cannot be ousted of jurisdiction by any subsequent event, even if the nature of the incident would have prevented jurisdiction from attaching in the first place.

The court of origin only reacquires jurisdiction over the case for appropriate action when the appellate court's final decision is entered in the Book of Entries of Judgments and a certified true copy of its judgment or final order is attached to the original record and remanded to the clerk of court from which the appeal was taken.

In the instant cases, the Sandiganbayan Seventh Division had already transmitted the records of these cases to the **First Division** of the Supreme Court where the appeal was raffled. This followed as a matter of procedure after the Sandiganbayan Seventh Division convicted accused Malones and Delos Reyes of the crimes charged (but acquitted Madarico) and gave due course to the latter's consequent Notices of Appeal.

Clearly, the jurisdiction over these cases has already been transferred from the Sandiganbayan Seventh Division to the Supreme Court First Division. Hence, Sandiganbayan Seventh Division may neither reverse or modify its 23 October 2020 Decision, nor issue a resolution effecting the dismissal of these cases.

The Supreme Court division where the appeal is now pending is the proper court to enforce all decisions or resolutions related to these cases, including the Supreme Court Third Division's dismissal of the charges against accused Malones.

As with the first two prayers, this court has no authority to grant Malones's **third prayer** for this court to declare that his appeal is now moot and academic in view of the dismissal of the above cases.

In *Philippine Bank of Communications v. Court of Appeals*,²³ the Supreme Court explained that the trial court may not dismiss an appeal from

²² Under the concept of "residual jurisdiction," the trial court retains jurisdiction in order to issue protective orders, approve compromises, permit appeals of indigent litigants, order execution pending appeal, and allow the withdrawal of the appeal. (*Development Bank of the Philippines v. Carpio*, 805 Phil. 99-116 [2017]) However, this residual jurisdiction of the trial court is available only upon the perfection of appeal or approval of the records on appeal, and prior to the transmittal of the original records. (*Angeles v. Court of Appeals*, 742 Phil. 818-828 [2014]).

²³ 805 Phil. 964-977 (2017).

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its own judgment on the ground that it has become moot and academic, because this devolves upon the appellate court:

His Honor was apparently incognizant of the principle that dismissals of appeals from the judgment of a Regional Trial Court by the latter are authorized only in the instances specifically set forth x x x in Section 13, Rule 41 of the Rules of Court. The succeeding provision, Section 14 of said Rule 41, provides that "(a) motion to dismiss an appeal may be filed in the (Regional Trial) Court x x x prior to the transmittal of the record to the appellate court;" and the grounds are limited to those "mentioned in the preceding section," *i.e.*, Section 13 to wit: where "the notice of appeal, appeal bond, or record on appeal is not filed within the period of time herein provided x x x."

These two (2) sections clearly establish "that unless the appeal is abandoned, the only ground for dismissing an appeal in the trial court is the failure of the appellant to file on time the notice of appeal, appeal bond, or record on appeal x x x. (A) trial court may not dismiss an appeal as frivolous, or on the ground that the case has become moot and academic, such step devolving upon the appellate courts. Otherwise, the way would be opened for (regional trial) courts x x x to forestall review or reversal of their decisions by higher courts, no matter how erroneous or improper such decisions should be."

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Dismissals of appeal may also be had upon the grounds specified by Rule 50 of the Rules of Court; but it is the Court of Appeals, not the trial court, which is explicitly authorized to dismiss appeals on said grounds. Generally, these grounds do not include matters which go into the merits of the cause or to the right of the plaintiff or defendant to recover. Case law has come to recognize other grounds for dismissal, by way of exception, e.g., that the cause has become moot, or the appeal is frivolous or manifestly dilatory. But, to repeat, authority to dismiss an appeal on the ground that it is frivolous or taken manifestly for delay "is not certainly with the court a quo whose decision is an issue, but with the appellate court." (Underscoring supplied; citations omitted)

WHEREFORE, considering that these cases are currently pending appeal before the Supreme Court and consequently, this court has no authority to act thereon, the Manifestation and Motion To Dismiss filed by accused Mariano M. Malones is merely **NOTED**.

SO ORDERED.


ZALBY V. TRESPESES
Associate Justice

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WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson


GEORGINA D. HIDALGO
Associate Justice

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