



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

Fifth Division

PEOPLE OF THE  
PHILIPPINES,

*Plaintiff-Appellee*,

Crim Case No. SB-23-AR-0088

For: Violation of Sec. 3(e) of R.A.  
3019, as amended

- versus -

*Present:*

LAGOS, J., Chairperson,  
MENDOZA-ARCEGA, and  
CORPUS-MAÑALAC, JJ.

BENJAMIN C. BONGON, ET  
AL.

*Accused-Appellant.*

*Promulgated:*

October 17, 2023

*Gezyl J. Gran*

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RESOLUTION

**LAGOS, J.:**

Before the Court is an appeal with respect to the conviction of herein appellants Benjamin C. Bongon and Roger T. Ang in Criminal Case No. CBU-65329<sup>1</sup> before the Regional Trial Court, 7<sup>th</sup> Judicial Region, Branch 23, Cebu City, for violation of Sec. 3(e) of RA 3019, also known as the Anti-Graft and Corrupt Practices Act. It is to be noted that the same appellants were acquitted on a companion case for Estafa thru Falsification of Public Document under Art. 315 (2) (a), in relation to Art. 171 of the Revised Penal Code, docketed as CBU-65330. The court *a quo* rendered the subject decision dated December 1, 2017, the dispositive part thereof reads, as follows:

WHEREFORE, premises considered, the Court finds both accused, Atty. Benjamin Bongon and Roger T. Ang **GUILTY BEYOND REASONABLE DOUBT** of violation of Sec. 3 (e) of R.A. 3019 for which

<sup>1</sup> Records, p. 2, "People of the Philippines versus Benjamin C. Bongon and Roger T. Ang"

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both are hereby sentenced to suffer a penalty of Six (6) Years and One (1) month[,] as minimum[,] to Seven (7) Years[,] as maximum. They are further ordered to pay the Republic of the Philippines the amount of Php 10, 859, 063.00 (sic) and to pay the costs. Accused Bongon is further disqualified from holding public office.

On ground of reasonable doubt, both accused Atty. Benjamin Bongon and Roger T. And are hereby **ACQUITED** of the crime of Estafa thru Falsification of Public Documents (Art. 315 (2) (a) in relation to Article 171, RPC).

**SO ORDERED.**<sup>2</sup>

Following the promulgation of the said judgment on December 18, 2017,<sup>3</sup> both accused filed their respective motions for reconsideration which the court *a quo* denied on 7 August 2017.<sup>4</sup> Subsequently, both accused filed their respective notices of appeal.

Accused Bongon's Notice of Appeal partly reads:

**NOTICE OF APPEAL**

COMES NOW, accused BENJAMIN C. BONGON, by the undersigned attorney[,] and hereby files notice of appeal from the decision of this Honorable Court in the above-entitled case dated and promulgated in open court on December 18 2017 and its Order dated August 17, 2018, denying the Motion for Reconsideration of which copy was received on June 26, 2019[,] and appeals the same to the Court of Appeals.<sup>5</sup> (underscoring supplied)

Accused Ang's notice of appeal partly reads:

**NOTICE OF APPEAL**

**ACCUSED, ROGER T. ANG**, by the undersigned counsel, respectfully files this Notice of Appeal from the Decision of this Honorable Court in the above-entitled case dated **01 DECEMBER 2017** to the COURT OF APPEALS. (underscoring supplied)

Record shows that herein accused has timely filed a Motion For Reconsideration way back and as long ago on 19 December 2017 and said Motion for Reconsideration was denied by this Honorable Court on **07**

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<sup>2</sup> Records, pp. 28-29; emphasis in the original.

<sup>3</sup> Id., p. 30, see Order dated December 18, 2017. On even date, both accused posted cash bonds for their provisional liberty, as required by the court *a quo*.

<sup>4</sup> Id., p. 33, Order dated August 7, 2018

<sup>5</sup> Id., p. 40

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**August 2018.** However, the Order of Denial was dated 07 August 2018 was only served today, **25 June 2019.**<sup>6</sup>

The court *a quo*, through a pairing judge, issued a corresponding order, viz.:

**ORDER**

The Notice of Appeal filed by accused Benjamin C. Bongon and Roger T. Ang, through counsel having been filed within the reglementary period, the same is hereby given due course.

Let therefore the entire record of the above-captioned case be forwarded to the Court of Appeals, Cebu City.

SO ORDERED.

Cebu City, Philippines, February 12, 2020.<sup>7</sup>

In letter dated February 21, 2020, the court *a quo* through its OIC Branch Clerk forwarded to the CA a “true, correct and complete record” of the subject appealed case, consisting of 1,555 pages, together with 103 pages of documentary exhibits in the case. The Court of Appeals received the foregoing transmittal on **February 26, 2020.**

In the Court of Appeals (Cebu City), the case was docketed as CA-G.R. CR NO. 03693. After belaboring on the facts of the case, on the decision of the court *a quo*, and on appellants’ “assigned errors,” the Court of Appeals (Twentieth Division) in its extended 18-page Decision, promulgated on **June 27, 2022**, ruled in relevant parts, as follows:

The Court’s Ruling

This Court does not have jurisdiction over the subject matter.

As correctly argued by the People, through the Office of the Solicitor General, it is the Sandiganbayan which has jurisdiction over these appeals<sup>8</sup>....

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<sup>6</sup> Record, p. 34; emphasis in the original. Additionally, accused Roger T. Ang subsequently filed an Amended Notice of Appeal to clarify that, “Regrettably, however, in the Notice of Appeal, the docket number was indicated as Crim. Case No. CBU- 65329-30 when it should have been only Crim. Case No. CBU-65329 which is the docket number corresponding to the case for violation of Sec. 3(e) of RA 3019. Obviously, the Notice of Appeal is only with respect to Crim. Case No. CBU-65329 and does not include Crim. Case No. CBU-65330 for which accused was acquitted.” (Underscoring supplied.)

<sup>7</sup> Id., p. 41

<sup>8</sup> Id., p. 77.

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However, the error in this case cannot be solely attributed to the clerk of the court. The accused appellants' separate notices of appeal both expressly stated that they are appealing the case to the Court of Appeals.

But there was also error on the part of the Pairing Judge. In its Order dated February 12, 2020 which gave due course to the notices of appeal, the Pairing Judge ordered that the record of this case be forwarded to the Court of Appeals. This may have been due to the fact that the appealed Decision is captioned as one for estafa, "etc.," or because of the statement of the accused-appellants as to where they were taking their appeal. Nevertheless, the serious nature of the duties of a judge and a clerk of court behooves them to be more circumspect, conscientious, diligent, and thorough in the performance of their functions, especially in this case where the life, liberty, and public funds are on the line.

All told, this Court can only remand the case records to the RTC which shall transmit the same to the Sandiganbayan.

**WHEREFORE**, premises considered, the Archives Unit, having custody of terminated original records, is **DIRECTED** to immediately **REMAND** the case records to the Regional Trial Court, Branch 23, Cebu City which shall transmit the same to the Sandiganbayan, with utmost dispatch.

SO ORDERED.<sup>9</sup> (Underscoring supplied)

As directed by the Court of Appeals (20<sup>th</sup> Division), the court *a quo* forwarded the "entire records" of the subject case in a letter dated August 30, 2023, to this Court which received the same on September 25, 2023.

Since the appealed case involves a violation of Sec. 3(e) of R.A. 3019, the Sandiganbayan, not the Court of Appeals, had jurisdiction over the same. R.A. 10660, Sec. 2, provides in part:

"The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided."

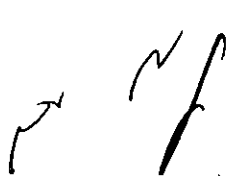
Section 2, Rule 50 (Dismissal of Appeal) of the Rules of Court, unequivocally provides:

**Sec. 2. Dismissal of improper appeal to the Court of Appeals. –**

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<sup>9</sup> Record, pp. 80-81



**An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.**  
(Emphasis supplied.)

The error in taking the subject appeal to the Court of Appeals is patently clear but was only belatedly acknowledged by that appellate court. The proscription against the “transfer” of cases embodied in Sec. 2, Rule 50, is also clear, direct, and unambiguous. It gives the Court of Appeals no alternative choice in that an erroneous appeal, as happened in this case, should have been dismissed **outright**, with no exception given. Simply put, outright means “completely, instantaneously; being exactly what is stated.”<sup>10</sup> Thus, the Court of Appeals’ order directing its Archives Unit to immediately remand the case records to the Regional Trial Court, Branch 23, Cebu City for transmittal of the same to the Sandiganbayan, violated the aforementioned rule against transfer of erroneous appeals. The Court of Appeals should have dismissed that appeal immediately. It is unfortunate that it took more than two (2) years and four (4) months for the Court of Appeals only to just transfer the records of the case, when clearly it had no jurisdiction over the same.

In *Melencion v. Sandiganbayan, et al.*<sup>11</sup>, the Supreme Court ruled:

The Sandiganbayan’s act of returning the records of the present case to the Court of Appeals can be justified by Melencion’s earlier erroneous filing of his appeal before the Court of Appeals. The Sandiganbayan merely accorded the Court of Appeals with the courtesy due to a co-equal judicial body when the Sandiganbayan returned the records of Melencion’s case. The Sandiganbayan gave the Court of Appeals the opportunity to rectify its error in transferring the case to the Sandiganbayan instead of dismissing the case outright.

The Court of Appeals committed a grave error in issuing its resolution to transfer Melencion’s case to the Sandiganbayan, Melencion filed his Appellant’s Brief before the Court of Appeals on 1 April 1999, Republic Act No. 8249 (RA 8249), which further defined the jurisdiction of the Sandiganbayan, took effect in 1997. Paragraph 3, Section 4(c) of RA 8249 reads:

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provide.

Paragraph 3, Section 4(c) of RA 8249 is clear. There is nothing in said paragraph which can conceivably justify the filing of Melencion’s appeal before the Court of Appeals instead of the Sandiganbayan. The Court of Appeals hesitance to dismiss Melencion’s appeal, as evidenced by the

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<sup>10</sup> Webster’s *All-In-One* Dictionary & Thesaurus (2008 ed.)

<sup>11</sup> G.R. No. 150684, June 12, 2008

issuance of its resolutions to transfer Melencion's appeal to the Sandiganbayan, compounded Melencion's erroneous filing. Mere invocation of substantial justice as a ground for relaxation of the rules does not suffice to cover up Melencion's fatal error. Section 18, Rule 124 of the 1985 Rules on Criminal Procedure reads as follows:

*Application of certain rules in civil to criminal cases.* -- The provisions of Rule 46 to 56 relating to procedure in the Court of Appeals in original as well as appealed civil cases shall, insofar as they are applicable and not inconsistent with the provisions of this Rule, be applied to criminal cases.

Melencion cannot rely on our ruling in *Moll v. Hon. Buban*, where we held that the rule requiring a party to specify the court where the appeal is being taken is merely directory. An error in designating the appellate court is not fatal to the appeal. However, the correction in designating the proper appellate court should be made within the 15-day period to appeal. Once made within the said period, the designation of the correct appellate court may be allowed even if the records of the case are forwarded to the Court of Appeals. Otherwise, the second paragraph of Section 2, Rule 50 of the Rules of Court would apply. The second paragraph of Section 2, Rule 50 of the Rules of Court reads:


An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

In the present case, the supposed correction of the error in filing the appeal came from the Court of Appeals after the expiration of the period to appeal. The trial court promulgated its decision on 8 July 1998. Melencion filed his notice of appeal on the same day. The Court of Appeals issued a resolution declaring its lack of jurisdiction on 30 May 2001, clearly beyond the 15-day period of appeal.

Here, the Court need not transfer this case back to the Court of Appeals and will instead dismiss the same in accordance with the *Melencion* ruling, as clearly no correction of the appellate court designation was made within the 15-day period to appeal.

**WHEREFORE**, this appeal is ordered **D<sup>S</sup>ISS<sup>S</sup>ED**. *led*

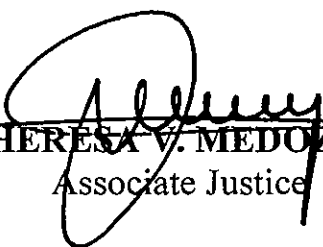
**SO ORDERED.**

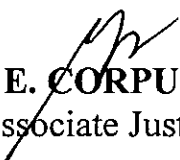
  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

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**WE CONCUR:**

  
**MARIA THERESA V. MEDOZA-ARCEGA**  
Associate Justice

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