

ALICIA V. ALVIA, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. L-51923-25. June 19, 1985

Ponente: RELOVA, J.

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RELOVA, J.:

Petitioner Alicia V. Alvia is charged with one hundred eighteen (118) counts of qualified theft in connection with her employment in the Philippine National Bank, a government-owned and/or controlled corporation. The one hundred eighteen (118) criminal cases were filed and distributed among the different branches of the then Court of First Instance of Lanao del Norte and the then City Court of Iligan City.

In the cases pending in Branch I, Court of First Instance, petitioner was arraigned and the trial has commenced. In the cases assigned in the City Court, petitioner was also arraigned, the cases were tried jointly and partially heard.

In the seventy-nine (79) cases filed in Branches II and III of the then Court of First Instance where petitioner has not yet been arraigned, the court, upon motion of the City Fiscal, transferred said cases to the Sandiganbayan where they were docketed as Criminal Cases Nos. 268 to 302, and Criminal Cases Nos. 377 to 420. Thereafter, petitioner filed a motion before respondent Sandiganbayan to have the aforementioned cases sent back to the Court of First Instance (now Regional Trial Court) of Lanao del Norte. The motion was denied and petitioner was arraigned.

Hence, this petition for mandamus to compel the return of Criminal Cases Nos. 268-302 and 377-420 from the Sandiganbayan to the trial court of Lanao del Norte.

On November 22, 1979, this Court issued a temporary restraining order, enjoining the Sandiganbayan from conducting further proceedings in these criminal cases all entitled: "People vs. Alicia V. Alvia," for qualified theft.

The issue in these cases is whether or not respondent Sandiganbayan committed grave abuse of discretion amounting to lack of jurisdiction in denying petitioner's motion to return the cases involved to the Court of First Instance (now Regional Trial Court) of Lanao del Norte.

We hold that the Court of First Instance (now Regional Trial Court) of Lanao del Norte has no jurisdiction to try the aforementioned cases.

Section 4 of Presidential Decree No. 1606 provides that:

"SEC. 4. Jurisdiction. — The Sandiganbayan shall have jurisdiction over:

"(a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379;

"(b) Crimes committed by public officers and employees, including those employed in government-owned or

controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and

"(c) Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.

"x x x x x x x x"

Thus, respondent Sandiganbayan has clearly assumed jurisdiction over the cases involved. And, Section 8 of Presidential Decree No. 1606 further provides that:

"SEC. 8. Transfer of cases. — As of the date of the effectivity of this decree, any case cognizable by the Sandiganbayan within its exclusive jurisdiction where none of the accused has been arraigned shall be transferred to the Sandiganbayan." (Underscoring supplied)

When the aforementioned cases were transferred to respondent Sandiganbayan, petitioner has not yet been arraigned before the Court of First Instance of Lanao del Norte and, pursuant to said Section 8 of Presidential Decree No. 1606, respondent Sandiganbayan is under obligation to retain and try said cases until final judgments have been rendered thereon. The argument that Presidential Decree No. 1606 is an Ex-post facto law is without merit because the same is not a penal statute. It merely provides for the transfer of jurisdiction over certain cases where the defendant has not yet been arraigned, from the Court of First Instance (now Regional Trial Court) to the Sandiganbayan. The fact that the trial will be held here in Manila in which case it will bring inconvenience to the petitioner is not a valid excuse for remanding the said cases from the Sandiganbayan which has proper jurisdiction over them to the Court of First Instance.

Neither can it be successfully argued that there is a delusion of the right to appeal. The test as to whether the ex-post facto clause is disregarded, in the language of Chief Justice Fernando in the case of *Núñez vs. Sandiganbayan*, 111 SCRA 433 (450), is: "Would the omission of the Court of Appeals as an intermediate tribunal deprive petitioner of a right vital to the protection of his liberty? The answer must be in the negative. In the first place, his innocence or guilt is passed upon by the three-judge court of a division of respondent Court. Moreover, a unanimous vote is required, failing which 'the Presiding Justice shall designate two other justices from among the members of the Court to sit temporarily with them, forming a division of five justices, and the concurrence of a majority of such division shall be necessary for rendering judgment.' Then if convicted, this Court has the duty if he seeks a review to see whether any error of law was committed to justify a reversal of the judgment. Petitioner makes much, perhaps excessively so as is the wont of advocates, of the fact that there is no review of the facts. What cannot be too sufficiently stressed is that this Court in determining whether or not to give due course to the petition for review must be convinced that the constitutional presumption of innocence has been overcome. x x x 'The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty.' This Court has repeatedly reversed convictions on a showing that this fundamental and basic right to be presumed innocent has been disregarded."

ACCORDINGLY, the petition is hereby Denied and the restraining order issued on November 22, 1979 is Lifted.

SO ORDERED.

Fernando, C.J., Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Gutierrez, Jr., De La Fuente, Cuevas, and Alampay, JJ., concur.

Teehankee, J., files a brief dissent.

Makasiar, J., reserves his vote.

Abad Santos and Escolin, JJ., no part.

DISSENTING OPINION

TEEHANKEE, J.:

The petitioner's pending criminal cases for qualified theft, which were duly filed with the then Court of First Instance (now Regional Trial Court) of Lanao del Norte, should have been retained and tried until final judgment in the said trial court instead of being transferred to respondent Sandiganbayan. The trial court had duly acquired jurisdiction over the said criminal cases and the transfer thereof to respondent Sandiganbayan pending arraignment of petitioner-accused (as stated in the separate concurring and dissenting opinion of Mr. Justice Makasiar in *Nunez vs. Sandiganbayan*,[*] with which I concurred) "trenches upon the due process clause of the Constitution, because the right to appeal to the Court of Appeals and thereafter to the Supreme Court, was already secured under Sections 17 and 29 of the Judiciary Act of 1948, otherwise known as R.A. No. 296, as amended, and therefore also already part of procedural due process to which the petitioner was entitled at the time of the alleged commission of the crime(s) charged against [her]." The said opinion further stressed that the guarantee against ex post facto laws is violated since "there is greater guarantee of justice in criminal cases when the trial court's judgment is subject to review by two appellate tribunals, which can appraise the evidence and the law with greater objectivity, detachment and impartiality unaffected as they are by views and prejudices that may be engendered during the trial." For brevity's sake, the other grounds stated in the cited opinion such as denial of equal protection of the laws are herewith reproduced by reference.

[*] 111 SCRA 433, 457 (1982); note in parenthesis supplied.

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