

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. MAXIMIANO C. ASUNCION, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 104 OF QUEZON CITY, AND ALEXANDER DIONISIO Y MANI...**

*G.R. No. 108208. March 11, 1994*

Ponente: DAVIDE, JR., J.

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**DAVIDE, JR., J.:**

Section 46 of Republic Act No. 6975[1] provides that "criminal cases involving PNP members shall be within the exclusive jurisdiction of the regular courts." The principal issue in this case is whether the term "regular courts" includes the Sandiganbayan. Petitioner maintains that it does not while the respondent Judge and the intervenor-respondent hold otherwise.

Section 46 reads as follows:

"SEC. 46. Jurisdiction in Criminal Cases. -- Any provision of law to the contrary notwithstanding, criminal cases involving PNP members shall be within the exclusive jurisdiction of the regular courts: Provided, That the courts-martial appointed pursuant to Presidential Decree No. 1850 shall continue to try PC-INP members who have already been arraigned, to include appropriate actions thereon by the reviewing authorities pursuant to Commonwealth Act No. 408, otherwise known as the Articles of War, as amended, and Executive Order No. 178, otherwise known as the Manual for Courts-Martial: Provided, further, That criminal cases against PC-INP members who may have not yet been arraigned upon the effectivity of this Act shall be transferred to the proper city or provincial prosecutor or municipal trial court judge."

The factual and procedural antecedents in this case are as follows:

On 31 July 1991, private respondent Alexander Dionisio y Manio, a member of the Philippine National Police (PNP) assigned to the Central Police District Command Station 2 in Novaliches, Quezon City, was dispatched by his Commanding Officer to Dumalay Street in Novaliches to respond to a complaint that a person was creating trouble there. Dionisio proceeded to that place, where he subsequently shot to death T/Sgt. Romeo Sadang.

On 7 August 1991, pursuant to Section 7, Rule 112 of the Rules of Court, the Office of the City Prosecutor filed with the Regional Trial Court (RTC) of Quezon City an information[2] charging Dionisio with the crime of homicide committed as follows:

"That on or about the 31st day of July, 1991, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, and without any justifiable motive, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one T/SGT. ROMEO SADANG Y MACABEO, by then and there shooting the latter with the use of a gun, .45 caliber pistol, thereby inflicting upon the latter gunshot wounds on his neck and on his thorax which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said T/SGT. ROMEO SADANG Y MACABEO in such amount as may be awarded to them under the provisions of the Civil Code.

Contrary to law."

The case was docketed as Criminal Case No. Q-91-23224 and was raffled off to Branch 104 of the RTC, presided over by the respondent Judge.

On 4 September 1992, while trial was already in progress, the respondent Judge issued, *motu proprio*, an order<sup>[3]</sup> requiring the prosecution and the defense to comment on whether the Court should still proceed with the trial of the case:

"[i]n view of the Decision of the Supreme Court in the case of *Deloso vs. Domingo* (Vol. 191 SCRA, 545), quoted as follows:

....

'The Sandiganbayan has jurisdiction over offenses committed by public officials when the penalty prescribed by Law for the offense is higher than prison correccional (Sec. 4, subpar. (c), P.D. 1606). The murder charge against the petitioner carries the penalty of reclusion temporal in its maximum period to death (Art. 248, Revised Penal Code), hence, it is cognizable by the Sandiganbayan, and the Ombudsman has primary jurisdiction to investigate it.'

In his Order of 24 September 1992,<sup>[4]</sup> the respondent Judge dismissed Criminal Case No. Q-91-23224 "for re-filing with the Sandiganbayan" on the ground that the Sandiganbayan, and not the Regional Trial Court, has jurisdiction over the case. The body of the order reads:

"Which Court has jurisdiction over police officers who are charged with the crime of homicide or murder?

Accused Quezon City Patrolman Alexander Dionisio y Manio is being tried for homicide for killing T/Sgt. Romeo Sadang y Macabeo on July 31, 1991 in Quezon City. Several witnesses were already presented by the prosecution. Nobody raised the issue of jurisdiction. On September 4, 1992, the Court issued an order requiring the prosecution and the defense to comment on whether the Court has jurisdiction over the matter in view of the ruling of the Supreme Court in the case of *Deloso vs. Domingo*, 191 SCRA 945 [sic] which rules as follows:

'The Sandiganbayan has jurisdiction over offenses committed by public officials when the penalty prescribed by law for the offense is higher than prison correccional (Sec. 4, subpar. (c), P.D. 1606). The murder charge against the petitioner carries the penalty of reclusion temporal in its maximum period to death (Art. 248, Revised Penal Code), hence, it is cognizable by the Sandiganbayan, and the Ombudsman has primary jurisdiction to investigate it.'

As a matter of fact, even if the act or crime is not related to or connected with or arising from the performance of official duty, it must be investigated by the Ombudsman or any of its duly deputized representative:

'The clause "any (illegal) act or omission of any public official" is broad enough to embrace any crime committed by a public official. The law does not qualify the nature of the illegal act or omission of the public official or employee that the Ombudsman may investigate. It does not require that the act or omission be related to or be connected with or arise from, the performance of official duty. Since the law does not distinguish, neither should we.'

The Sandiganbayan, although trying only certain special classes of crimes, still can be classified as a regular court functioning within the framework of the judicial department of the government. It is a 'trial court and bound by the rules governing trial courts. It is one of the "inferior courts" in Article X of the Constitution whose jurisdiction may be questioned before the Supreme Court and whose judgments are subject to its review, revision, affirmance or setting aside. The independence of the judiciary enshrined in the Constitution

calls for a unitary judicial system with the Supreme Court at the top of the hierarchical set-up' (Rules of Criminal Procedures by Dr. Fortunato Gupit, Jr., 1986 Edition, p. 26).

Conformably therefore to the foregoing consideration, the regular court referred to in Section 46 of Republic Act 6975 (An Act establishing the Philippine National Police) is the Sandiganbayan. Since the penalty for homicide, the charge against the accused, carries the penalty of reclusion temporal, said case is cognizable by the Sandiganbayan and the Ombudsman has the primary jurisdiction to investigate it. (Art. 249, RPC).

WHEREFORE, the above-entitled case is hereby dismissed for refiling with the Sandiganbayan."

On 6 October 1992, the private prosecutor moved for a reconsideration<sup>[5]</sup> of the dismissal, citing the opinion of the Secretary of Justice of 31 July 1991<sup>[6]</sup> that "crimes committed by PNP members are not cognizable by the Sandiganbayan" because "[t]hey fall within the exclusive jurisdiction of the regular courts" as provided in Section 46 of R.A. No. 6975 and "[t]he Sandiganbayan is not a regular court but a special court."

The respondent Judge denied the motion in the Order of 7 October 1992:<sup>[7]</sup>

"The opinion of the Secretary of Justice dated July 31, 1992 [sic] ... is not binding to this Court.

This Court still holds that the regular Courts referred to in Sec. 46 of RA 6975 (An Act establishing the Philippine National Police) includes the Sandiganbayan which has exclusive original jurisdiction to try offenses on felonies committed by public officers in relation to their office, whether simple or complex with other crimes where the penalty prescribed by law is higher than prision correccional (Sec. 4, par. c, PD 1606)

What is contemplated in the law is the regular civil court to the exclusion of non-regular courts such as military courts which had previous jurisdiction over police officers. The police force being civilian in character should be under the jurisdiction of the civil court. What is meant by 'regular courts' mentioned in Sec. 46, RA 6975 are the 'inferior courts' in Article X of the constitution which calls for a unitary judicial system with the Supreme Court at the top of the hierarchical set-up (Rules in Crim. Procedure by Dr. Fortunato Gupit, page 26, 1986 edition)."

On 6 January 1993, petitioner filed the instant petition. We required the respondents to comment thereon.

On 5 February 1993, the Office of the Ombudsman filed a motion for leave to intervene and to file comment<sup>[8]</sup> alleging that its constitutional duty to investigate criminal cases against public officers, including PNP members, and to prosecute cases cognizable by the Sandiganbayan are affected by the issue raised; and that the Office of the Ombudsman and the Department of Justice (DOJ) had issued a joint circular on 14 October 1991<sup>[9]</sup> wherein (a) both agencies agreed that, subject to the final determination by competent authorities, the term "regular courts" in Section 46 of R.A. No. 6975 refers to "civilian courts" as distinguished from military courts, and (b) certain guidelines were adopted to govern the investigation and prosecution of PNP members. Attached to the motion is the Ombudsman's Comment<sup>[10]</sup> on the petition. We granted this motion to intervene, admitted the Comment, and required petitioner to reply thereto.<sup>[11]</sup>

In their separate Comments,<sup>[12]</sup> the respondent Judge reiterates the reasons stated in the assailed orders, and the private respondent concurs with the position and amplifies the arguments of the Ombudsman.

Petitioner filed its Reply<sup>[13]</sup> to the Comments of the respondents and the intervenor.

On 6 July 1993, we resolved to consider the separate comments of the respondents as answers, to give due course to the petition, and to require the parties to file simultaneously their respective memoranda within twenty days from notice, which they did, with the petitioner submitting its memorandum only on 29 December 1993 after obtaining several extensions of time to do so.

In the main, petitioner insists that the dismissal of the criminal case below "for refiling with the Sandiganbayan" was erroneous because Section 46 of R.A. No. 6975 vests the exclusive jurisdiction in criminal cases involving PNP members only in the "regular courts" which excludes the Sandiganbayan since it is, constitutionally and statutorily, a "special court" and not a regular court. To bolster this claim, petitioner points to Section 5, Article XIII of the 1973 Constitution which described the Sandiganbayan as "a special court" and Section 4, Article XI of the 1987 Constitution which provides that "[t]he present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law."

It further asserts that (a) if it were the intention of R.A. No. 6975 to grant to the Sandiganbayan jurisdiction over PNP members, then Section 46 should have explicitly stated or used the term "civil courts" considering that members of the Integrated National Police (INP) were then integrated with and under the operational control and administrative set-up of the Philippine Constabulary (PC) and, under P.D. No. 1850, were subject to court-martial proceedings for all crimes cognizable by the civil courts; (b) if it were the intention of R.A. No. 6975 to include the Sandiganbayan in the term "regular courts" in Section 46, then it should not have provided therein that "criminal cases against PC-INP members who may have not yet been arraigned upon the effectivity of this Act shall be transferred to the proper city or provincial prosecutor or municipal trial court judge"; instead, it should have directed such transfer to "the Ombudsman or the Special Prosecutor since the Ombudsman or the Special Prosecutor is mandated by law to entertain cases cognizable only by the Sandiganbayan" under Section 15 of R.A. No. 6770; and (c) there is an irreconcilable conflict between Section 46 of R.A. No. 6975 and Section 4 of P.D. No. 1606 (revising P.D. No. 1486 which created the Sandiganbayan), as amended, which vests in the Sandiganbayan exclusive original jurisdiction over "[o]ther offenses or felonies committed by public officers and employees in relation to their office ... where the penalty prescribed by law is higher than prision correccional ... or a fine of P6,000.00"; the latter then should be deemed impliedly repealed by the former, which is a later law.

Petitioner finally contends that P.D. No. 1606, as amended, is a general law for it applies to all public officers, while R.A. No. 6975 is a special law for it sets out a special rule of jurisdiction for PNP members. The latter should thus prevail.

Petitioner then prays that the assailed orders of respondent Judge of 24 September 1992 and 7 October 1992 be reversed and set aside and that the respondent Judge be directed to reinstate and continue the trial of Criminal Case No. Q-91-23224.

On the other hand, the Ombudsman maintains the view that it is the Sandiganbayan and not the Regional Trial Court which has jurisdiction over the subject criminal case in view of Section 4 of P.D. No. 1606 and the Joint Circular of 14 October 1991. It asserts that the term "regular courts" in Section 46 of R.A. No. 6975 includes the Sandiganbayan and that R.A. No. 6975 has not repealed Section 4 of P.D. No. 1606.

Amplifying its view, it opines that: (a) while the Sandiganbayan is a special court, it is a regular court within the context of Section 46 of R.A. No. 6975 because it is a "court normally functioning with continuity within the jurisdiction vested in it," and that the term "regular courts" is used in Section 46 of R.A. No. 6975 to distinguish the said courts from the courts-martial for it seeks to divest the latter of such jurisdiction and mandates its transfer to the former pursuant to the policy of the law to establish a police force national in scope and civilian in character; and (b) since the creation of the Sandiganbayan is mandated by the Constitution<sup>[14]</sup> to take cognizance of crimes committed by public officers in relation to their office and P.D. No. 1606 created it pursuant to such mandate, then the repeal of the latter, as suggested by petitioner, would diminish and dilute the constitutional jurisdiction of the Sandiganbayan and would operate to amend the Constitution, which no statute can do. Moreover, there is no irreconcilable inconsistency between the two laws to warrant an implied repeal.

Finally, the Ombudsman asserts that the proviso in Section 46 of R.A. No. 6975 that "criminal cases against PC-INP members who may have not yet been arraigned upon the effectivity of this Act shall be transferred to the proper city or provincial prosecutor or municipal trial court judge" only means a referral to the proper city or provincial prosecutor or municipal trial court judge for appropriate preliminary investigation and not the filing of the criminal information with the proper court it being a fact that all city and provincial prosecutors have been deputized by the Ombudsman to conduct preliminary investigation of cases cognizable by the Sandiganbayan.

As to which law is the special law, the Ombudsman maintains that it is P.D. No. 1606 because it deals specifically with the jurisdiction of the Sandiganbayan while Section 46 of R.A. No. 6975 does not specifically mention any particular court.

The resolution of the principal issue hinges on the interpretation of the term regular courts in Section 46 of R.A. No. 6975 which, in turn, requires an inquiry into the legislative intent and purpose of the law.

There can be no doubt that the provisions of R.A. No. 6975 on the PNP are intended to implement Section 6, Article XVI (General Provisions) of the 1987 Constitution which reads:

"SEC. 6. The State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law."

The sponsors of House Bill No. 23614,[15] which together with Senate Bill No. 463[16] eventually became R.A. No. 6975 were unequivocal on this. Representative Antonio Cerilles, after referring to the aforementioned mandate, declared:

"Today is a date with history, Mr. Speaker, when this august chamber will try its best to pursue what is mandated by the Constitution. Today, we shall insist, though legislative fiat, that the State should establish and maintain one police force. Its civilian character on a national scope shall be paramount. Today, we should insist that no office in any element or unit of the police force can be occupied or run by military personnel and officer. We should also insist that the only way to professionalize our police force is to separate them from the Armed Forces of the Philippines."[17]

In his sponsorship speech, Representative Nereo Joaquin stated:

"First and foremost among all these is, as already mentioned earlier, the fact that the bill is undoubtedly in harmony and in conformity not only with the letter but more importantly with the spirit of the new Constitution particularly Section 6 of Article XVI, the General Provisions ...."[18]

Police forces have traditionally been under civilian authority. However, the dictatorial regime of then President Ferdinand Marcos, consistent with his own agenda to strengthen the machinery of martial law rule, exploited to his advantage the provision of the 1973 Constitution which mandated the establishment and maintenance of "an integrated national police force whose organization, administration, and operation shall be provided by law." [19] First, he issued a series of decrees consolidating and integrating various local police forces and placing them under the operational control, direction, and supervision of the Philippine Constabulary (PC);[20] then on 8 August 1975, he promulgated P.D. No. 765 which "established and constituted the Integrated National Police which shall be composed of the Philippine Constabulary as the nucleus, and the integrated police forces as established by Presidential Decrees Nos. 421, 482, 531, 585 and 641, as components, under the Department of National Defense." By this decree, Mr. Marcos succeeded in militarizing the police forces by making them mere components of the PC which was then one of the four major commands of the Armed Forces of the Philippines (AFP). He did not stop there. For, even after the farcical lifting of Martial Law in 1981 through Proclamation No. 2045, and pursuant to the infamous Amendment No. 6 of the 1973 Constitution,[21] he promulgated on 4 October

1982 P.D. No. 1850 which provided for court-martial jurisdiction over police officers, policemen, firemen, and jail guards. Section 1 thereof reads:

"SECTION 1. Court-Martial Jurisdiction over Integrated National Police and Members of the Armed Forces. -- Any provision of the law to the contrary notwithstanding -- (a) uniformed members of the Integrated National Police who commit any crime or offense cognizable by the civil courts shall henceforth be exclusively tried by courts-martial pursuant to and in accordance with Commonwealth Act No. 408, as amended, otherwise known as the Articles of War; (b) all persons subject to military law under Article 2 of the aforementioned Articles of War who commit any crime or offense shall be exclusively tried by courts-martial or their case disposed of under the said Articles of War; Provided, that, in either of the aforementioned situations, the case shall be disposed of or tried by the proper civil or judicial authorities when court-martial jurisdiction over the offense has prescribed under Article 38 of Commonwealth Act Numbered 408, as amended, or court martial jurisdiction over the person of the accused military or Integrated National Police personnel can no longer be exercised by virtue of their separation from the active service without jurisdiction having duly attached beforehand unless otherwise provided by law.

As used herein, the term uniformed members of the Integrated National Police shall refer to police officers, policemen, firemen and jail guards."

In a manner of speaking, this decree completed the militarization of the INP and consummated the aberration in the police organization. Two years later, or on 5 September 1984, he issued P.D. No. 1952 which amended P.D. No. 1850 by inserting a proviso to the first paragraph of Section 1 granting himself the authority "in the interest of justice, [to] order or direct, at any time before arraignment, that a particular case be tried by the appropriate civil court."

Before P.D. No. 1850, or specifically on 16 January 1981, Mr. Marcos, through P.D. No. 1822, placed under court-martial jurisdiction, pursuant to the Articles of War, all officers, soldiers, and personnel in the active service of the AFP or of the PC, charged with any crime or offense related to the performance of their duties.

Needless to state, the overwhelming sentiment of the framers of the 1987 Constitution against the martial law regime<sup>[22]</sup> and the militarization of the police forces prompted them to explicitly direct the establishment and maintenance of one police force, which shall be national in scope and civilian in character. This civilian character is unqualified and unconditional and is, therefore, all-embracing. The Declaration of Policy (Section 2) of R.A. No. 6975 faithfully carried out this mandate when it declared therein that:

"The police force shall be organized, trained and equipped primarily for the performance of police functions. Its national scope and civilian character shall be paramount. No element of the police force shall be military nor shall any position thereof be occupied by active members of the Armed Forces of the Philippines."

That civilian character refers to its orientation and structure. Thus, during a bicameral conference committee meeting on House Bill No. 23614 and Senate Bill No. 463, Senator Edgardo Angara remarked:

"SENATOR ANGARA:

That's what we're trying to interpret nga eh. Civilian in character meaning, we're separating the police both in orientation and structure from the military discipline and structure. I think that's essentially the mandate we're trying to implement."

Civilian character necessarily includes, according to him:

"SENATOR ANGARA:

Civilian system of justice na."<sup>[23]</sup>

It is thus evident that the mandate of Section 46 of R.A. No. 6975 is to divest courts-martial of any jurisdiction over criminal cases involving PNP members and to return or transfer that jurisdiction to the civil courts. This return or transfer of jurisdiction to the civil courts was explicitly provided for in the original Section 68 of House Bill No. 23614 which read as follows:

"SEC. 68. Jurisdiction in criminal cases. -- Any provision of the law to the contrary notwithstanding, criminal cases involving PNP members shall, immediately upon effectivity of this Act, be exclusively tried by the Civil Courts: Provided, however, That in cases where a member of the PNP is unable to post bail, he may be placed upon order by the court under the custody of his supervisor upon petition of the latter." [24]

Upon motion of Representative Rodolfo Albano, accepted by the Committee and approved in plenary session, this section was amended to read as follows:

"ANY PROVISION OF LAW TO THE CONTRARY NOTWITHSTANDING, CRIMINAL CASES INVOLVING PNP MEMBERS SHALL BE WITHIN THE EXCLUSIVE JURISDICTION OF THE CIVIL COURTS." [25]

In the course of the interpellation on his amendment, Mr. Albano had the occasion to emphasize the purpose of the law and the transfer of jurisdiction to civil courts of criminal cases involving members of the PNP:

"MR. ALBANO:

Considering that we are creating here a purely civilian police force, he [the PNP member] should, therefore, also fall under our civil force, and there should be no iota of military syndrome [referring to the proviso in Sec. 68], so to speak" [26]

During the deliberation by the Bicameral Conference Committee on National Defense on House Bill No. 23614 and Senate Bill No. 463, more specifically on Section 68 of the former, its Chairman, Senator Ernesto Maceda, used the term "regular courts" in lieu of civil courts. Thus:

"THE CHAIRMAN (SEN. MACEDA):

Okay, Rey at saka iyong House, you work on the flow chart.

So other than that in that particular section, ano ba itong 'Jurisdiction in criminal cases?' What is this all about?

REP. ZAMORA:

In case they are charged with crimes.

THE CHAIRMAN (SEN. MACEDA):

Ah, the previous one is administrative, no. Now, if it is charged with a crime, regular courts." [27]

The term regular courts was finally carried into the reconciled bill, [28] entitled "An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and for Other Purposes," and incorporated in the Conference Committee Report received by the Office of the Secretary of the Senate on 19 November 1990. Section 46 of the proposed reconciled bill is Section 68 of House Bill No. 23614, with further modifications and amendments. The reconciled bill was approved by both Houses of Congress and became R.A. No. 6975.

The foregoing considered, we have no doubt that the terms civil courts and regular courts were used interchangeably or were considered as synonymous by the Bicameral Conference Committee and then by the Senate and the House of Representatives. Accordingly, the term regular courts in Section 46 of R.A. No. 6975

means civil courts. There could have been no other meaning intended since the primary purpose of the law is to remove from courts-martial the jurisdiction over criminal cases involving members of the PNP and to vest it in the courts within our judicial system, i.e., the civil courts which, as contradistinguished from courts-martial, are the regular courts. Courts-martial are not courts within the Philippine judicial system; they pertain to the executive department of the government and are simply instrumentalities of the executive power.[29] Otherwise stated, courts-martial are not regular courts.

Parenthetically, in *Quiloña vs. The General Court Martial*,[30] this Court found correct and impliedly adopted as its own a statement of the Office of the Solicitor General in its Comment that Section 46 of R.A. No. 6975 mandates the transfer of criminal cases against members of the PNP to the civilian courts. Thus:

"Moreover, as correctly pointed out by the Solicitor General in his comment –

...

The civilian character with which the PNP is expressly invested is declared by RA 6975 as paramount, and, in line therewith, the law mandates the transfer of criminal cases against its members to civilian courts." [31]

Having thus ruled that the term "regular courts" in Section 46 of R.A. No. 6975 refers to the civil courts, we must now determine if the Sandiganbayan is included in that term.

Regular courts are those within the judicial department of the government, namely, the Supreme Court and such lower courts as may be established by law.[32] Per Section 16, Chapter 4, Book II of the Administrative Code of 1987,[33] such lower courts "include the Court of Appeals, Sandiganbayan, Court of Tax Appeals, Regional Trial Courts, Shari'a District Courts, Metropolitan Trial Courts, Municipal Trial Court, Municipal Circuit Trial Courts, and Shari'a Circuit Courts."

The Sandiganbayan was created by P.D. No. 1486[34] pursuant to the mandate of Section 5, Article XIII of the 1973 Constitution.[35] This was revised by P.D. No. 1606.[36] The latter was amended by P.D. No. 1860[37] and lastly by P.D. No. 1861.[38] Under the amendments introduced by P.D. No. 1861, the Sandiganbayan has jurisdiction over the following cases:

"SEC. 4. Jurisdiction. -- The Sandiganbayan shall exercise:

(a) Exclusive original jurisdiction in all cases involving:

(1) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prison correccional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prison correccional or imprisonment for six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

(b) Exclusive appellate jurisdiction:

(1) On appeal, from the final judgments, resolutions or orders of the Regional Trial Courts in cases originally decided by them in their respective territorial jurisdiction.

(2) By petition for review, from the final judgments, resolutions or orders of the Regional Trial Courts in the

exercise of their appellate jurisdiction over cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction. ..."

Undoubtedly then, the Sandiganbayan is a regular court and is thus included in the term regular courts in Section 46 of R.A. No. 6975.

Petitioner's insistence that it is not because, by the Constitution and by the statutes, the Sandiganbayan is a special court and, therefore, not a regular court is untenable. In the first place, a comparison between the words regular and special is inappropriate since the opposite of the latter is not the former and vice versa. Special means "designed for a particular purpose; confined to a particular purpose, object, person, or class,"[39] and is, therefore, the antonym of general.[40] On the other hand, regular means "steady or uniform in course, practice, or occurrence," as opposed to casual or occasional.[41] In other words, special and general are categories in the distributive order.[42] With reference then to the courts, they principally relate to jurisdiction. Thus, there are courts of general jurisdiction and courts of special jurisdiction. It is, of course, incorrect to say that only courts of general jurisdiction are regular courts. Courts of special jurisdiction, which are permanent in character, are also regular courts. The Sandiganbayan is a court with special jurisdiction because its creation as a permanent anti-graft court is constitutionally mandated and its jurisdiction is limited to certain classes of offenses.

That the Sandiganbayan is among the regular courts is further strongly indicated by Section 1 of P.D. No. 1606 which vests upon it "all the inherent powers of a court of justice" and places it on "the same level as the Court of Appeals," and by Section 4 thereof, as amended by P.D. No. 1861, which grants it appellate jurisdiction over certain cases decided by the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

There is, as well, no merit in the theory of petitioner that Section 46 of R.A. No. 6975 impliedly repealed Section 4 of P.D. No. 1606, as amended by P.D. No. 1861, as regards the jurisdiction of the Sandiganbayan over members of the PNP. First, the argument is based on the faulty assumption that the Sandiganbayan, being a special court, is not a regular court within the contemplation of Section 46. Second, both provisions are not irreconcilable and the presumption against an implied repeal has not been overcome. Implied repeal may be indulged in only if the two laws are inconsistent, or the former law must be repugnant as to be irreconcilable with the latter law. Necessarily then, an attempt must be made to harmonize the two laws. In *Valera vs. Tuason*,[43] this Court stated:

"One of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or of two laws so that each shall be effective. In order that one law may operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable [sic] with the latter act. (*U.S. vs. Palacios*, 33 Phil., 208). Merely because a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the latter, since the new law may be cumulative or a continuation of the old one. (*Statutory Construction*, Crawford, p. 634)."

In *Gordon vs. Veridiano*,[44] this Court, speaking through Mr. Justice Isagani A. Cruz, emphasized the task of courts to reconcile and harmonize laws:

"Courts of justice, when confronted with apparently conflicting statutes, should endeavor to reconcile the same instead of declaring outright the invalidity of one as against the other. Such alacrity should be avoided. The wise policy is for the judge to harmonize them if this is possible, bearing in mind that they are equally the handiwork of the same legislature, and so give effect to both while at the same time also according due respect to a coordinate department of the government."

Indeed, it has been appropriately said:

"The presumption against implied repeals is classically founded upon the doctrine that the legislature is presumed to envision the whole body of the law when it enacts new legislation, and, therefore, if a repeal of the prior law is intended, expressly to designate the offending provisions rather than to leave the repeal to arise by necessary implication from the later enactment. Still more basic, however, is the assumption that existing statutory and common law, as well as ancient law, is representative of popular will. As traditional and customary rules, the presumption is against their alteration or repeal. The presumption has been said to have special application to important public statutes of long standing." [45]

It can thus be reasonably presumed that in the enactment of R.A. No. 6975, Congress had the whole body of the law in mind and, for consistency, coherence, and harmony, took into account the provisions of the Constitution regarding the Sandiganbayan, the law, creating it, and the amendments thereto relative to its jurisdiction. Since under the law, the Sandiganbayan is a special anti-graft court with exclusive original jurisdiction over (a) violations of R.A. No. 3019, R.A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code; and (b) other offenses or felonies committed by public officers and employees (including those in government-owned or controlled corporations) in relation to their office where the penalty prescribed by law is higher than prison correccional or imprisonment for six years, or a fine of P6,000.00, and since members of the PNP are public officers or employees, [46] Congress can be logically presumed to have read into Section 46 of R.A. No. 6975 the constitutional and statutory provisions regarding the Sandiganbayan. The alleged inconsistency seen by petitioner is non-existent for, on the contrary, the two provisions can well go together with full and unhampered effect to both and without doing violence to either, thereby giving spirit to the maxim, *interpretare et concordare legibus est optimus interpretandi* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. [47] As harmonized, the conclusion is inevitable that members of the PNP, as public officers and employees, are subject to the jurisdiction of the Sandiganbayan with respect to (a) violations of R.A. No. 3019, as amended, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, and (b) other offenses or felonies committed by them in relation to their office where the penalty prescribed by law is higher than prison correccional or imprisonment of six years, or a fine of P6,000.00. All other offenses committed by them are cognizable by the appropriate courts within the judicial system such as the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

That the public officers or employees committed the crime in relation to their office must, however, be alleged in the information for the Sandiganbayan to have jurisdiction over a case under Section 4(a)(2). [48] This allegation is necessary because of the unbending rule that jurisdiction is determined by the allegations of the information. [49]

In the instant case, the trial court dismissed Criminal Case No. Q-91-23224 on the ground that since the penalty prescribed for the crime charged -- which is homicide -- is higher than prison correccional, [50] then pursuant to *Deloso vs. Domingo*, [51] it is the Sandiganbayan which has jurisdiction over the case. In order to avoid a misapprehension of the ruling in *Deloso*, which was based on P.D. No. 1606 alone, it must be stressed that we had unequivocally ruled in *Aguinaldo vs. Domagas* [52] that for the Sandiganbayan to have exclusive original jurisdiction over offenses or felonies committed by public officers or employees, under Section 4(a)(2) of P.D. No. 1606, as amended by P.D. No. 1861, it is not enough that the penalty prescribed therefor is higher than prison correccional or imprisonment for six years, or a fine of P6,000.00; it is also necessary that such offenses or felonies were committed in relation to their office. We then concluded:

"Even before considering the penalty prescribed by law for the offense charged, it is thus essential to determine whether that offense was committed or alleged to have been committed by the public officers and employees in relation to their offices."

In the recent case of *Sanchez vs. Demetriou*, [53] we reiterated our ruling on the requirement that the offenses or

felonies covered by Section 4(a)(2) of P.D. No. 1606, as amended by P.D. No. 1861, have to be committed by public officers and employees in relation to their office and likewise elucidated on the meaning of offenses committed in relation to the office by reiterating the principle in *Montilla vs. Hilario*[54] that an offense may be considered as committed in relation to the office if "the offense cannot exist without the office," or that "the office must be a constituent element of the crime as ... defined and punished in Chapter Two to Six, Title Seven, of the Revised Penal Code," and the principle in *People vs. Montejo*[55] that the offense must be intimately connected with the office of the offender and perpetuated while he was in the performance, though improper or irregular, of his official functions. Further, we intimated that the fact that the offense was committed in relation to the office must be alleged in the information.

Just recently, in *Natividad vs. Felix*,[56] we explicitly declared that we had re-examined the *Deloso* case in *Aguinaldo* and in *Sanchez* and reiterated the requisites for an offense under Section 4(a)(2) of P.D. No. 1606, as amended by P.D. No. 1861, to fall under the jurisdiction of the Sandiganbayan.

In the light then of the foregoing, the Regional Trial Court of Quezon City would be without jurisdiction over Criminal Case No. Q-91-23224 if the information therein would show that the offense of homicide charged was committed by the accused (private respondent) in relation to his office. The information has failed to do so. The pleadings of the parties are of little help. We can only speculate therefrom that the crime charged might have been committed while the private respondent was in the pursuit of his mission. Under the sub-heading in the petition entitled "Relevant Antecedents," the petitioner merely states:

"1. On July 31, 1991, private respondent ... then a member of the PNP-NCR assigned to the Central Police District Command Station 2, based in Novaliches, Quezon City, was dispatched by his Commanding Officer to Dumalay Street in Novaliches to check on a complaint regarding a person creating trouble in the place. While in Novaliches, private respondent shot Romeo Sadang to death."

There is no indication at all that the trouble-maker was the victim and that he was shot by the private respondent in the course of the latter's mission. On the other hand, the private respondent asserts in his Comment that he "shot Romeo Sadang in the performance of a lawful duty and in lawful defense of his life." [57] Petitioner ignored this claim in its Reply to the Comment. This claim is an anticipatory defense yet to be proved and its assertion in the Comment does not cure the deficiency, pointed out earlier, of the information. It would appear to us that with respect to the issue of jurisdiction, the parties only took into account the prescribed penalty, relying upon *Deloso vs. Domingo*, for which reason they did not consider important and relevant the issue of whether the offense charged was committed by the private respondent in relation to his office. But as stated earlier, *Deloso vs. Domingo* was modified by *Aguinaldo vs. Domagas*.

The dismissal then of Criminal Case No. Q-91-23224 solely on the basis of *Deloso vs. Domingo* was erroneous. In the light of *Aguinaldo* and *Sanchez*, and considering the absence of any allegation in the information that the offense was committed by private respondent in relation to his office, it would even appear that the RTC has exclusive jurisdiction over the case. However, it may yet be true that the crime of homicide charged therein was committed by the private respondent in relation to his office, which fact, however, was not alleged in the information probably because *Deloso vs. Domingo* did not require such an allegation. In view of this eventuality and the special circumstances of this case, and to avoid further delay, if not confusion, we shall direct the court a quo to conduct a preliminary hearing in this case to determine whether the crime charged in Criminal Case No. Q-91-23224 was committed by the private respondent in relation to his office. If it be determined in the affirmative, then it shall order the transfer of the case to the Sandiganbayan which shall forthwith docket and proceed with the case as if the same were originally filed with it. Otherwise, the court a quo shall set aside the challenged orders, proceed with the trial of the case, and render judgment thereon.

Henceforth, any officer authorized to conduct a preliminary investigation[58] who is investigating an offense or felony committed by a public officer or employee (including a member of the PNP) where the penalty prescribed by law is higher than prison correccional or imprisonment for six years, or a fine of P6,000.00, must determine if the crime was committed by the respondent in relation to his office. If it was, the investigating officer shall forthwith inform the Office of the Ombudsman which may either (a) take over the investigation of the case pursuant to Section 15(1) of R.A. No. 6770,[59] or (b) deputize a prosecutor to act as special investigator or prosecutor to assist in the investigation and prosecution of the case pursuant to Section 31 thereof.[60] If the investigating officer determines that the crime was not committed by the respondent in relation to his office, he shall then file the information with the proper court.

In the light of the foregoing, further discussion on the other collateral issues raised has become unnecessary.

WHEREFORE, judgment is hereby rendered ORDERING the respondent Judge to conduct, within fifteen (15) days from receipt of a copy of this Decision, a preliminary hearing in Criminal Case No. Q-91-23224 to determine whether the crime charged was committed by the private respondent in relation to his office, and

(1) If he determines that the crime charged was committed by the private respondent in relation to his office, DIRECTING the respondent Judge to forthwith transmit the records of the case to the Sandiganbayan which shall docket and proceed with the case as if the same were originally filed with it; or

(2) If he determines otherwise, DIRECTING him to set aside the challenged Orders of 24 September 1992 and 7 October 1992, to proceed with the hearing of Criminal Case No. Q-91-23224, and to render judgment thereon.

No pronouncement as to costs.

### **SO ORDERED.**

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Romero, Nocon, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.

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[1] Entitled "An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and for Other Purposes," otherwise known as the Department of the Interior and Local Government Act of 1990.

[2] Annex "A" of Petition; Rollo, 17-18.

[3] Annex "B" of Petition; Rollo, 19.

[4] Annex "C" of Petition; Rollo, 20-21.

[5] Annex "D" of Petition; Rollo, 22-23.

[6] Quoted in Memorandum Circular No. 10 of the DOJ, dated 19 August 1991.

[7] Annex "E" of Petition; Rollo, 27-28.

[8] Rollo, 30-33.

[9] Annex "E" of the Motion For Leave to Intervene And To File Comment; Id., 44-45.

[10] Rollo, 46-64.

[11] Id., 68.

[12] *Id.*, 69-70; 96-112.

[13] *Id.*, 126-132.

[14] Section 5, Article XIII, 1973 Constitution; Section 4, Article XI, 1987 Constitution.

[15] Entitled "An Act Establishing the Philippine National Police Under the Administration and Control of the National Police Commission." This bill was recommended by the Committee on Public Order and Security of the House of Representatives in Committee Report No. 535, which substituted for several House Bills including the certified bill entitled "An Act Establishing the Philippine National Police, Creating the National Police Commission, and for Other Purposes (Journal and Record of the House of Representatives, vol. 7, 401-412).

[16] Entitled "An Act Creating a Department of the Interior, Abolishing for the Purpose the Department of Local Government, the Philippine Constabulary and the National Police Commission and for Other Purposes."

[17] Journal and Record of the House of Representatives, vol. 7, 413.

[18] *Id.*, 414.

[19] Section 12, Article XV.

[20] P.D. Nos. 421, 482, 531, 585, and 641.

[21] It provided: "Whenever in the judgment of the President (Prime Minister), there exists a grave emergency or a threat or imminence thereof, or whenever the interim Batasang Pambansa or the regular National Assembly fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action, he may, in order to meet the exigency, issue the necessary decrees, orders, or letters of instructions, which shall form part of the law of the land."

[22] Reflect, for instance, on the provisions of (a) the Bill of Rights directing that only a Judge may issue a search warrant or warrant of arrest; prohibiting secret detention places, solitary, incommunicado or other forms of detention; prohibiting detention solely by reason of one's political beliefs and aspirations; (b) the Article on the Executive Department limiting the period of suspension of a writ of habeas corpus or the proclamation of martial law; allowing Congress to revoke such suspension or proclamation, or extend the same upon the initiative of the President; authorizing the Supreme Court, in an appropriate proceeding filed by any citizen, to review the sufficiency of the factual basis of such suspension or proclamation; and limiting the effects of a state of martial law; and (c) the Article on General Provisions prohibiting the appointment or designation of any member of the armed forces in the active service to any civilian position in the government including government-owned or controlled corporations or any of their subsidiaries, and limiting the tour of duty of the Chief of Staff of the armed forces.

[23] TSN, Bicameral Conference Committee on National Defense, 18 October 1990, 1.

[24] Journal and Record of the House of Representatives, vol. 7, 410.

[25] *Id.*, 311-312.

[26] Journal and Record of the House of Representatives, vol. 7, 312.

[27] Transcript of the Committee Meeting (Alavazo) of 15 May 1990 at 9:16 p.m., 46 (emphasis added).

[28] Reconciliation of House Bill No. 23614 and Senate Bill No. 463.

[29] *Olaguer vs. Military Commission* No. 34, 150 SCRA 144 [1987]; *Magno vs. De Villa*, 199 SCRA 663

[1991].

**[30] 206 SCRA 821 [1992].**

[31] Id. at 825-826 (emphasis added).

[32] Section 1, Article VIII, 1987 Constitution.

[33] Executive Order No. 292.

[34] Effective on 11 June 1978.

[35] Said Section provides: "The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offense committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law." Section 4, Article XI of the 1987 Constitution provides: "The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law."

[36] Effective on 10 December 1978.

[37] Effective on 14 January 1983.

[38] Effective on 23 March 1983.

[39] BLACK'S LAW DICTIONARY 1397 (6th ed., 1990).

[40] Id. at 682.

[41] Id. at 1285.

[42] ROGET'S THESAURUS OF ENGLISH WORDS AND PHRASES 28 (1990 ed.).

[43] 80 Phil. 823, 827 [1948].

**[44] 167 SCRA 51, 58-59 [1988].**

[45] 1A C. DALLAS SANDS, STATUTES AND STATUTORY CONSTRUCTION § 23.10 (4th ed., 1972).

[46] See definition of public officer or employee, Section 2(14) and (15), Introductory Provisions, Administrative Code of 1987.

[47] RUBEN E. AGPALO, STATUTORY CONSTRUCTION 192 (2d ed., 1990).

[48] See *Aguinaldo vs. Domagas*, *supra*, at footnote no. 45.

[49] *People vs. Ocaya*, 83 SCRA 218 [1978]. See also, *Abad vs. CFI of Pangasinan*, 206 SCRA 567 [1992] for the similar rule in civil cases.

[50] The penalty for homicide is reclusion temporal whose duration is from twelve years and one day to twenty years (Article 249, (in relation to) Article 27, Revised Penal Code).

**[51] 191 SCRA 545 [1990].**

[52] G.R. No. 98452, en banc Resolution, 26 September 1991.

[53] G.R. Nos. 111771-77, 9 November 1993.

[54] 90 Phil. 49 [1951].

[55] 108 Phil. 613 [1960].

[56] G.R. No. 111616, 4 February 1994.

[57] Rollo, 96. This was re-stated in the petitioner's Memorandum.

[58] Section 2, Rule 112, Rules of Court.

[59] The Ombudsman Act of 1989.

[60] It must be emphasized that the Office of the Ombudsman has primary (not exclusive) jurisdiction over cases cognizable by the Sandiganbayan (Section 15[1]). See *Cojuangco vs. PCGG*, 190 SCRA 226 [1990]; *Aguinaldo vs. Domagas*, *supra*.; *Sanchez vs. Demetriou*, *supra*.; *Natividad vs. Felix*, *supra*.

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