

FERDINAND CUNANAN, PETITIONER, VS. HON. HERMIN E. ARCEO, AS PRESIDING JUDGE OF BRANCH 43 OF THE REGIONAL TRIAL COURT OF SAN FERNANDO, PAMPANGA; HON. PEDRO M. SUNGA, JR., AS PRES...

G.R. No. 116615. March 01, 1995

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-116615/>

FELICIANO, J.:

On 5 April 1991, an Information for Murder was filed against petitioner Ferdinand Cunanan before Branch 46 of the Regional Trial Court ("RTC") of San Fernando, Pampanga, presided over by Judge Norberto C. Ponce, where it was docketed as Criminal Case No. 5708. [1] The Information alleged that petitioner was a member of the Philippine National Police; it contained no averment that he had committed the offense charged in relation to his public office. [2] Petitioner entered a plea of not guilty at arraignment and trial proceeded thereafter. [3] In an Order dated 4 November 1993, the parties having presented their evidence, Judge Arceo required them to submit memoranda, after which the case was deemed submitted for decision. [4]

On 11 March 1994, the Supreme Court promulgated its En Banc Decision in *Republic v. Hon. Asuncion, et. al.*, [5] which laid down the rule that the Sandiganbayan has exclusive and original jurisdiction to take cognizance of offenses committed by public officers in relation to their office, where the penalty prescribed by law is higher than prison correccional or imprisonment of six (6) years or more or a fine of P6,000.00.

The Supreme Court further held that in the event an Information failed to allege that the accused-public officer had committed the offense charged in relation to his office, the RTC hearing the criminal case, pending at the time of the promulgation of the Asuncion rule, shall conduct a preliminary hearing to determine the existence or absence of this material fact. If this material fact is found to be present, the RTC shall order the transfer of the case to the Sandiganbayan for docketing, and the latter shall proceed to hear the case as if the same had been originally instituted with it. If it be determined that fact is absent, the RTC seized with the case shall proceed with the trial and render judgment on the case. [6]

Judge Arceo proceeded to apply these holdings in Criminal Case No. 5708 by conducting a hearing solely to ascertain if petitioner had committed the offense charged in relation to his office. [7]

In an Order dated 21 April 1994, Judge Arceo ruled that on the basis of the evidence adduced during the trial, petitioner had committed the offense charged while in the performance of his official functions. He then held that the RTC had no jurisdiction to try this case and that, accordingly, any decision it may render thereon would be null and void. Judge Arceo dismissed Criminal Case No. 5708 "for refile with the Sandiganbayan," pursuant to the Asuncion ruling. [8]

In a further Order dated 23 May 1994, Judge Arceo modified his earlier order and deleted the clause dismissing the case:

"WHEREFORE, for lack of jurisdiction, this case is hereby ordered forwarded to the Sandiganbayan and the complete records of the same transmitted therewith as if it was originally filed with the said Court. (Republic v. Asuncion, G.R. 108208, March 11, 1994)." [9]

In an Order dated 24 May 1994, upon motion by the prosecution, Judge Arceo inhibited himself from further hearing the case. [10] The case was then raffled to the sala of Branch 42, the RTC of San Fernando, Pampanga, co-public respondent Judge Pedro M. Sunga Jr. presiding. [11]

In an Order dated 14 July 1994, Judge Sunga denied, among other things, petitioner's Opposition to the Order directing the transmittal of the records of his (petitioner's) case to the Sandiganbayan. [12]

Petitioner's Motion for Reconsideration having been denied by Judge Sunga in an Order dated 18 August 1994, [13] he is now before the Supreme Court on certiorari, seeking annulment of the orders of the public respondents calling for the transfer of Criminal Case No. 5708 and transmittal of records to the Sandiganbayan as products of alleged grave abuse of discretion. [14]

Petitioner contends that jurisdiction over the case was fixed in the RTC by the terms of the Information for Murder dated 5 April 1991, which contained no averment that he had committed the felony in relation to his office, and that such jurisdiction is not determined by the result of the evidence presented at the trial. He also cites the Court's pronouncement in *Sanchez v. Hon. Demetriou, et. al.* [15] that the use or abuse of public office does not inhere in the crime of Murder as an element. [16]

Petitioner further argues that the RTC judge in Asuncion who had decreed a transfer of the case to the Sandiganbayan did so when the prevailing case law was *Deloso v. Domingo*, [17] which did not require that an Information contain an averment that the accused public officer had committed the offense charged in relation to his office, before the Sandiganbayan can take cognizance of the case. [18] In contrast, the public respondents here had decreed a transfer of the case to the Sandiganbayan when the new, prevailing case law [19] was already in force and which now requires the presence of such material averment in an Information before a case can be taken cognizance of by the Sandiganbayan. [20]

Moreover, petitioner continues, the Asuncion ruling is inapplicable to the present case, since here trial had already ended and the case was already submitted for decision when the Asuncion ruling was promulgated. A transfer of his case to the Sandiganbayan at this late stage will, accordingly, expose him (petitioner) to double jeopardy of punishment for the same offense. [21] Indeed, petitioner believes Judge Arceo's Order dated 21 April 1994 dismissing the case for lack of jurisdiction over the offense charged amounts to an acquittal of petitioner. [22]

Deliberating upon the present Petition for certiorari, and the Solicitor General's Comment thereon, the Court considers that petitioner has failed to show grave abuse of discretion, or any act in excess of or without jurisdiction on the part of public respondent RTC judges, in rendering their assailed Orders dated 23 May, 14 July and 18 August 1994.

The principal issue posed in this case is whether the public respondent RTC judges had correctly applied the doctrine laid down in Asuncion to this case, considering that here the absence of jurisdiction on the part of the RTC became apparent to the RTC after completion of the trial and submission of the case for decision.

Section 4 (a-2) of P.D. No. 1602 as amended by P.D. No. 1861 provides as follows:

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

(a) Exclusive original jurisdiction in all cases involving:

x x x x x x x x

(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.

x x x x x x x x”

(Italics supplied)

Under the foregoing provisions, whenever two (2) requisites concur, the offenses mentioned thereunder fall within the exclusive and original jurisdiction of the Sandiganbayan: (a) the offense must have been committed by the accused public officer in relation to his office; and (b) the penalty prescribed for the offense charged is higher than prison correccional or imprisonment for six (6) years or a fine of Six Thousand Pesos (P6,000.00). [23]

It is firmly settled that jurisdiction over the offense charged is a matter that is conferred by law. [24] Whenever the above two (2) requisites are present, jurisdiction over the offense is vested in the Sandiganbayan. This is true even though the information originally filed before the RTC did not aver that the accused public officer had committed the offense charged in relation to his office. In other words, the absence in the old information filed before the RTC of an allegation that petitioner Cunanan had committed the offense charged in relation to his office, is immaterial insofar as determination of the locus of jurisdiction is concerned. Indeed, it may be recalled that the Asuncion ruling involved a situation where the information similarly did not contain an averment that the accused public officer had committed the offense charged while carrying out his official duties. [25] It was precisely to address this situation that the Supreme Court in Asuncion fashioned the rule directing the conduct of a preliminary or separate hearing by a trial court to determine the presence or absence of that jurisdictional element.

The RTC's initial assumption of jurisdiction over the offense charged in this case did not, therefore, prevent it from subsequently declaring itself to be without jurisdiction, that lack of jurisdiction having become apparent from subsequent proceedings in that case.

As noted earlier, here the RTC found after a hearing that petitioner had committed the offense charged while he was in the performance of his duties as a policeman. Petitioner had shot and killed the victim in the course of trying to restore local public order which had been breached by a fistfight between the victim and two other individuals. The RTC said:

"The evidence along that line is very clear as shown in the above Findings of Facts Material to this Incident Only: the fact that the accused was on a mission on that day at Candaba, Pampanga was not refuted by the prosecution; that he went out of the Police Station after hearing the commotion and fired a warning shot was a clear indication that his intention was to restore peace and order disturbed and broken by the fight between the victim and Rogelio Agustin and later on between the deceased and Pfc. Efren Basa. Maintenance of peace and order is one of the duties of a policeman. And, that was what the accused was doing when the deceased was killed. Thus, it is clear that the offense is intimately connected with the office of the accused and perpetuated while he was in the performance of his official functions. Whether or not the said performance is improper or irregular is a matter that could be determinative of the guilt or innocence but the same at this moment, is inconsequential for the purpose of determining jurisdiction.

"In the light of the above, it is clear that this Court is bereft of any jurisdiction to try and decide this case and any decision that may be rendered may be validly assailed as null and void for want of jurisdiction." [26]

In *Sanchez v. Demetriou*, [27] the Court elaborated on the scope and reach of the term "offense committed in relation to [an accused's] office" by referring to the principle laid down in *Montilla v. Hilario*, [28] and to an exception to that principle which was recognized in *People v. Montejo*. [29] The principle set out in *Montilla v. Hilario* is that an offense may be considered as committed in relation to the accused's office if "the offense cannot exist without the office" such that "the office [is] a constituent element of the crime as x x x defined and punished in Chapter Two to Six, Title Seven of the Revised Penal Code." In *People v. Montejo*, the Court, through Chief Justice Concepcion, said that "although public office is not an element of the crime of murder in [the] abstract," the facts in a particular case may show that

"x x x the offense therein charged is intimately connected with [the accused's] respective offices and was perpetrated while they were in the performance, though improper or irregular, of their official functions. Indeed, [the accused] had no personal motive to commit the crime and they would not have committed it had they not held their aforesaid offices. The co-defendants of respondent Leroy S. Brown obeyed his instructions because he was their superior officer, as Mayor of Basilan City." [30] (Emphases supplied)

In the instant case, public office is not, of course, an element of the crime of murder, since murder may be committed by any person whether a public officer or a private citizen. In the present case, however, the circumstances quoted above found by the RTC bring petitioner Cunanan's case squarely within the meaning of an "offense committed in relation to the [accused's] public office" as elaborated in the *Montejo* case. It follows that the offense with which petitioner Cunanan is charged falls within the exclusive and original jurisdiction of the Sandiganbayan, and that the RTC of San Fernando, Pampanga had no jurisdiction over that offense.

It may be noted, once more, that the absence in the information filed on 5 April 1991 before Branch 46 of the RTC of San Fernando, Pampanga, of an allegation that petitioner had committed the offense charged in relation to his office, is immaterial and easily remedied. Respondent RTC judges had forwarded petitioner's case to the Sandiganbayan, and the complete records transmitted thereto in accordance with the directions of this Court set out in the *Asuncion* case: "x x x As if it was originally filed with [the Sandiganbayan]." That information may be amended at any time before arraignment before the Sandiganbayan, and indeed, by leave of court at any time before judgment is rendered by the Sandiganbayan, considering that such an amendment would not affect the juridical nature of the offense charged (i.e., murder), the qualifying circumstances alleged in the information, or the defenses that petitioner may assert before the Sandiganbayan. In other words, the amendment may be made before the Sandiganbayan without surprising the petitioner or prejudicing his substantive rights. [31]

Finally, the defense of double jeopardy does not become available to petitioner upon transfer of his case to the Sandiganbayan.

Petitioner had not been exposed at all to legal jeopardy by the commencement and trial of Criminal Case No. 5708 because the RTC was not a court of competent jurisdiction to try the case in the first place. [32] Consequently, upon the commencement of this case before the Sandiganbayan petitioner will for the first time be placed in jeopardy of punishment for the offense of murder. By the same token, the dismissal of the Information by the RTC was not equivalent to, and did not operate as an acquittal of petitioner of that offense. The "dismissal" (later deleted by the RTC) had simply reflected the fact that the proceedings before the RTC were terminated, the RTC having ascertained that it had no jurisdiction to try the case at all. [33]

WHEREFORE, the Petition for Certiorari is hereby DISMISSED for lack of merit. The Orders of the public respondent RTC Judges dated 23 May, 14 July and 18 August 1994 are hereby AFFIRMED.

SO ORDERED.

Romero, Melo, Vitug, and Francisco, JJ., concur.

[1] Rollo , p. 23. The case was apparently later transferred to Branch 43 of the same RTC, public respondent Judge Hermin E. Arceo presiding.

[2] Id.

[3] Id., p. 25.

[4] Id., p. 26.

[5] 231 SCRA 211 (1994).

[6] Republic v. Sandiganbayan, 231 SCRA at 235.

[7] Petition, pp. 13-14; Rollo , pp. 14-15.

[8] Rollo , pp. 29-31.

[9] Id., 32.

[10] Id., p. 45.

[11] Petition, pp. 5-6; Rollo , pp. 6-7.

[12] Rollo , pp. 46-47.

[13] Id., pp. 59-61.

[14] Id., p. 2.

[15] 227 SCRA 627 (1993).

[16] Petition, pp. 11-12; Rollo , pp. 12-13.

[17] 191 SCRA 545 (1990).

[18] Petition, p. 13; Rollo , p. 14.

[19] E.g., Sanchez v. Hon. Demetriou, supra; Natividad v. Felix, 229 SCRA 680 (1994); Republic v. Asuncion, supra.

[20] Id.

[21] Petition, pp. 15-17; Rollo , pp. 16-18.

[22] Id.

[23] Aguinaldo v. Domagas, En Banc Resolution of 26 September 1991, p. 5; Sanchez v. Hon. Demetriou, 227 SCRA at 644-645 (1993); Natividad v. Felix, 229 SCRA at 686-687 (1994).

[24] See Andaya v. Abadia, 228 SCRA 705, 717 (1993); Buazon v. Court of Appeals, 220 SCRA 182, 187 (1993); Philippine International Trading Corporation v. M.V. Zileena, 215 SCRA 309, 313 (1992); Southeast Asian Fisheries Development Center-Aqua Culture Department v. National Labor Relations Commission, 206

SCRA 283, 288-289 (1992); *People v. Eduarte*, 182 SCRA 750, 754-756 (1990) and *Calimlim v. Ramirez*, 118 SCRA 399, 406 (1982).

[25] *Republic v. Asuncion*, 231 SCRA at 234.

[26] Order dated 21 April 1994, p. 4; Rollo , p. 30.

[27] 227 SCRA 627 (1993).

[28] 90 Phil. 49 (1951).

[29] 108 Phil. 613 (1960).

[30] 108 Phil. at 622.

[31] See Sec. 14, Rule 110, Rules of Court; and *People v. Mosende*, 228 SCRA 341 (1993); see also *People v. Lucas*, 232 SCRA 537, 547-548 (1994) and *People v. Amor*, 232 SCRA 683, 685 (1994).

[32] Sec. 7, Rule 117, Rules of Court. See, e.g., *Navallo v. Sandiganbayan*, 234 SCRA 175 (1994); *People v. Vergara*, 221 SCRA 650, 566 (1993); *Gorian v. Regional Trial Court of Cebu, Branch 17*, 213 SCRA 138, 144 and 148 (1992); *Bogo-Medellin Milling Co., Inc. v. Son*, 209 SCRA 329 (1992); *People v. Puno*, 208 SCRA 550, 557-558 (1992).

[33] *People v. Salico*, 84 Phil. 722 (1949); *Paulin v. Gimenez*, 217 SCRA 386 (1993).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.