

**LT. COL. LINO A. SANCHEZ AND MAJOR VICENTE S. MANAGAY,
PETITIONERS, VS. THE SANDIGANBAYAN, THE OMBUDSMAN AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

G.R. No. 120011. September 07, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is a special civil action for certiorari with preliminary injunction assailing the resolutions of the Sandiganbayan, Second Division,[1] that denied petitioners' joint motion to dismiss Criminal Case No. 20461 against petitioners and Gaudencio Romualdez, on the ground of lack of jurisdiction over the offense charged, as they were previously charged before the court martial with violation of Article 95, Com. Act No. 408, as amended (Articles of War) involving the same facts as the charge of violation of R. A. No. 3019, Section 3 (e) before the Sandiganbayan.

We grant the petition.

The facts may be related as follows:

Petitioners are officers of the Philippine Army (PA). Lt. Col. Lino A. Sanchez at times material hereto was Commanding Officer, 9th Post Engineer Detachment, Headquarters and Headquarters Support Group (HHSG), Philippine Army. Major Vicente S. Managay was G-4, HHSG, Philippine Army.

On February 4, 1993, Col. Celedonio Ancheta, pre-trial investigating officer, submitted a report to the Commanding General, Philippine Army, stating that there was a prima facie case against petitioners for violation of Article 95 of the Articles of War for causing the wrongful release of P599,547.00 for payment of repair/renovation of G-10 Office, Philippine Army, equivalent to 88.55% completion of the work when in truth and in fact, only 25% of the work had been completed, to the damage and prejudice of the government.

On the basis of the report, on June 16, 1993, the Judge Advocate, Philippine Army, initiated court martial proceedings against petitioners before the Philippine Army Permanent General Court Martial No. 2. In addition, he referred the findings to the Provincial Prosecutor of Rizal, recommending the filing of an information with the Sandiganbayan against petitioners and Gaudencio Romualdez for violation of R. A. No. 3019.

On December 15, 1993, the Provincial Prosecutor of Rizal endorsed the records to the Ombudsman.

Meantime, on April 8, 1994, petitioner Sanchez was arraigned before General Court Martial No. 2, Philippine Army, and on July 1, 1994, petitioner Managay was arraigned before the same court martial. They pleaded not guilty.

On April 18, 1994, the Ombudsman filed with the Sandiganbayan an information against petitioners Lino A. Sanchez and Vicente S. Managay and Gaudencio Romualdez, for violation of R. A. No. 3019, Section 3 (e).[2]

On September 1, 1994, petitioners filed a joint motion to dismiss the case before the respondent Sandiganbayan

on the ground that it has no jurisdiction over the case.

On September 13, 1994, the Special Prosecutor filed an opposition/comment to the motion to dismiss.

On March 14, 1995, the Sandiganbayan, Second Division, issued a resolution denying the motion to dismiss, for lack of merit, ruling that the offenses charged in the court martial and the information before the Sandiganbayan are distinct and separate from each other.

On March 15, 1995, petitioners were arraigned before the Sandiganbayan. They pleaded not guilty.

On March 27, 1995, petitioners filed a motion for reconsideration of the denial reiterating that the Sandiganbayan had no jurisdiction over the case as the court martial had acquired original and exclusive jurisdiction over the case, pursuant to R. A. No. 7055, and that the acts complained of in the charge sheet in the court martial and the Information before the Sandiganbayan were the same or identical.

On April 19, 1995, the Sandiganbayan denied the motion for reconsideration for lack of merit.

Hence, this petition.

On June 5, 1995, the Court resolved to require respondents to comment on the petition, not to file a motion to dismiss, within ten (10) days from notice.[3]

On July 25, 1995, respondent Ombudsman filed his comment.[4]

In his comment, the Special Prosecutor, Office of the Ombudsman, acknowledged the recent enactment of Republic Act No. 7975, approved on March 30, 1995, under which the Sandiganbayan "lost" its jurisdiction over the case primarily because the public officials charged, petitioners herein, were officers of the Philippine Army below the rank of full colonel. Hence, in the words of the Special Prosecutor, "necessarily the herein criminal case No. 20461 against petitioners should be referred to the proper court as trial has not begun in the public respondent Sandiganbayan." [5] Regrettably, the Sandiganbayan denied petitioners' motion for reconsideration even when at the time it was resolved Republic Act No. 7975 was in effect, and its enactment was precisely to declog its docket of "small fry" cases.

Although the Sandiganbayan had jurisdiction at the time the charge was filed on April 18, 1994, it no longer has jurisdiction over the case under Republic Act No. 7976, enacted on March 30, 1995, or even under Republic Act No. 8249, enacted on February 5, 1997.

In thus denying petitioners' motion for reconsideration seeking to dismiss the information against them, the Sandiganbayan acted without jurisdiction.

WHEREFORE, the Court hereby GRANTS the petition for certiorari and ANNULS the resolutions of the Sandiganbayan, dated March 14, 1995, and April 19, 1995, in Criminal Case No. 20461.

The Court orders the Sandiganbayan to forthwith refer Criminal Case No. 20461 to the proper court and to inform this Court of the action taken hereon within fifteen (15) days from notice.

No costs.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), on official leave.

[1] Romeo M. Escareal, J., ponente, Minita Chico-Nazario and Roberto M. Lagman, JJ., concurring.

[2] Docketed as Criminal Case No. 20461.

[3] Rollo, p. 116.

[4] Rollo, pp. 122-135.

[5] Comment, Rollo, on p. 129.

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