

BAYANI SUBIDO, JR. AND RENE PARINA, PETITIONERS, VS. THE HONORABLE SANDIGAN-BAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 122641. January 20, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In this petition for certiorari under Rule 65 of the Rules of Court, the petitioners seek to set aside, on ground of grave abuse of discretion amounting to lack of jurisdiction, the following acts of the respondent Sandiganbayan in Criminal Case No. 22825: (a) the Resolution[1] of 25 October 1995 which denied the petitioners' Motion to Quash of 28 August 1995 and Supplementary Motion to Quash of 7 October 1995; (b) the Order[2] of 10 November 1995 which denied the petitioners' motion for reconsideration; and (c) the Order[3] of 10 November 1995 which entered a plea of not guilty for the petitioners and set pre-trial on 12 January 1996.

In Criminal Case No. 22825, the petitioners were charged with Arbitrary Detention, defined and penalized by Article 124 of the Revised Penal Code (RPC), under an information dated 17 July 1995 (but filed on 28 July 1995), the accusatory portion of which reads as follows:

That on or about June 25, 1992, or sometime subsequent thereto, in Mandaluyong, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Bayani Subido, Jr., being then a Commissioner of the Bureau of Immigration and Deportation (BID) and accused Rene Parina, being then a BID Special Agent, while in the performance of their official functions, and conspiring and confederating with each other, did then and there wilfully, unlawfully and feloniously cause the issuance and implementation of a warrant of arrest dated June 25, 1992 against James J. Maksimuk, said accused knowing fully well that the BID Decision dated June 6, 1991, requiring Maksimuk's deportation has not as yet become final and executory considering the pendency of a Motion for Reconsideration, resulting in the detention of the latter for a period of forty-three (43) days and, thus, causing him undue injury.

CONTRARY TO LAW.[4]

The arraignment was originally set for 28 August 1995.[5]

On 28 August 1995, however, the petitioners filed a Motion to Quash,[6] contending that in view of the effectivity of R.A. No. 7975[7] on 6 May 1995, amending §4 of P.D. No. 1606,[8] the Sandiganbayan had no jurisdiction over both the offense charged and the persons of the accused. They argued that: (1) Arbitrary Detention did not fall within Chapter II, §2, Title VII of the RPC, but within §1, Chapter 1, Title II (Crimes Against the Fundamental Laws of the State), hence, not covered by R.A. No. 7975 and, therefore, the case should have been filed with the Regional Trial Court (RTC) of Manila; (2) R.A. No. 7975 should be given prospective application and at the time the case was filed, petitioner Subido was already a private person since he was separated from the service on 28 February 1995; while petitioner Parina did not hold a position corresponding to salary grade "27";

and (3) penal laws must be strictly construed against the State.

In compliance with the order of the Sandiganbayan, the prosecution filed its Opposition to the Motion to Quash[9] on 28 September 1995. It contended that it was clear from §4(b) of R.A. No. 7975 that the Sandiganbayan had jurisdiction over both the offense charged and the persons of the accused considering that “the basis of its jurisdiction xxx is the position of the accused in the government service when the offense charged was committed and not the nature of the offense charged, provided the said offense committed by the accused was in the exercise of his duties and in relation to his office.” The fact then that accused Subido was already a private individual was of no moment.

In a Supplement to the Motion to Quash[10] filed on 9 October 1995, the petitioners further asserted that: (1) the allegations in the information were vague; (2) under §1, Rule VIII of Memorandum Order (MO) No. 04-92 (Rules of Procedure to Govern Deportation Proceedings), the grant or denial of bail to an alien in a deportation proceeding was discretionary upon the Commissioner, hence could not be subject to a charge of arbitrary detention; (3) petitioner Subido was separated from the service before the effectivity of R.A. No. 7975, hence retroactive application thereof would be prejudicial to him; and (4) at the time the information was filed, petitioner Parina was not occupying a position corresponding to salary grade “27” or higher, as prescribed by R.A. No. 6758.[11]

In its Rejoinder[12] filed on 20 October 1995, the prosecution maintained that with §4 of MO No. 04-92, *Salazar v. Achacoso*,[13] and *Gatchalian v. CID*,[14] the only instance when an alien facing deportation proceedings could be arrested by virtue of a warrant of arrest was when the Commissioner issued the warrant to carry out a final order of deportation, which was absent in this case due to the pendency of the motion for reconsideration timely filed. It further reiterated that the basis of the Sandiganbayan’s jurisdiction over the case was the position of the accused when the crime was committed, not when the information was filed; in any event, petitioner Subido’s position as a Commissioner of the Bureau of Immigration was classified even higher than grade “27” under the Compensation and Classification Act of 1989.

In its Resolution[15] of 25 October 1995, the Sandiganbayan denied the petitioners’ Motion to Quash and the Supplement thereto, ruling:

1. [T]he jurisdiction of the Sandiganbayan remains not only over the specific offenses enumerated in Sec. 4 of P.D. 1606 as Amended by R.A. 7975 but over offenses committed in relation to their office, regardless of the penalty provided that the salary of the accused is at Grade 27 under [R.A. 6758] or that he is occupying any of the position described in Sec. 4(a) of the law, which includes the position of Deputy Commissioner.
2. [A]t this time the position of the prosecution in response to this Court's misgivings stated in its Order of August 28, 1995, appears to be that aliens may not be arrested except upon execution of a deportation order, a matter which can be taken up at further proceedings after the arraignment of the accused.

It likewise set arraignment on 10 November 1995. To abort arraignment, the petitioners filed on 9 November 1995 a motion for reconsideration[16] and submitted that under the vast power of the Commissioner of the Department of Immigration, he could authorize the arrest and detention of an alien even though a deportation order had not yet become final, in light of the preventive, not penal, nature of a deportation order.[17]

On 10 November 1995, the Sandiganbayan issued an Order[18] denying the petitioners’ motion for reconsideration, and a second Order[19] entering a plea of not guilty in favor of the petitioners since they objected to arraignment, setting pre-trial on 12 January 1996, and making of record that arraignment was conducted with the reservation of the petitioners to seek redress with this Court from the denial of their motion for reconsideration.

Hence, this special civil action, where the parties, in the main, reiterate the arguments they raised before the Sandiganbayan. In due time, we resolved to give due course to the petition and required the parties to file their respective memoranda, which they subsequently complied with.

The petition must be dismissed.

Sections 2 and 7 of R.A. No. 7975 pertinently provide as follows:

Sec. 2. Section 4 of [P.D. No. 1606] is hereby further amended to read as follows:

Sec. 4. Jurisdiction. -- The Sandiganbayan shall exercise original jurisdiction in all cases involving:

a. 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, where one or more of the principal accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense;

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

x x x

(5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A.

In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambansa Blg. 129.

Sec. 7. Upon the effectivity of this Act, all criminal cases in which trial has not begun in the Sandiganbayan shall be referred to the proper courts.

R.A. No. 7975 took effect on 16 May 1995,[20] or one year, ten months and twenty-one days after the alleged commission of the crime charged in Criminal Case No. 22825 before the Sandiganbayan. The provisions of §4 of P.D. No. 1606, as amended by E.O. No. 184, but prior to their further amendment by R.A. No. 7975, are then the applicable provisions. §4 of P.D. No. 1606 then pertinently provided as follows:

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

(a) Exclusive appellate jurisdiction in all cases involving:

(1) violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and 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 of 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.

In *Aguinaldo v. Domagas*,^[21] and subsequently in *Sanchez v. Demetriou*,^[22] *Natividad v. Felix*,^[23] and *Republic v. Asuncion*,^[24] we ruled that for the Sandiganbayan to have exclusive original jurisdiction over offenses or felonies committed by public officers or employees under the aforementioned §4(a)(2), it was not enough that the penalty prescribed therefor was higher than prison correccional or imprisonment for six years, or a fine of P6,000.00; it was likewise necessary that the offenses or felonies were committed in relation to their office.^[25]

The information in Criminal Case No. 22825 before the Sandiganbayan charged the petitioners with the crime of arbitrary detention which was committed “while in the performance of their official functions,” or, evidently, in relation to their office. As the detention allegedly lasted for a period of 43 days, the prescribed penalty is prison mayor,^[26] with a duration of six years and one day to twelve years. Indisputably, the Sandiganbayan has jurisdiction over the offense charged in Criminal Case No. 22825.

The petitioners, however, urge us to apply §4 of P.D. No. 1606, as amended by R.A. No. 7975, the law in force at the time of the filing of the information in Criminal Case No. 22825. They submit that under the new law, the Sandiganbayan has no jurisdiction over the offense charged and their persons because at the time of the filing of the information, petitioner Subido was already a private individual, while the classification of petitioner Parina’s position was lower than grade “27.”

We are not persuaded. The petitioners overlook the fact that for purposes of §4 of P.D. No. 1606, as amended, the reckoning point is the time of the commission of the crime. This is plain from the last clause of the opening sentence of paragraph (a), §4 of P.D. No. 1606, as further amended by R.A. No. 7975.

Petitioner Subido never denied the respondents’ claim that as “commissioner of Immigration and Deportation [now Bureau of Immigration] at the time of the commission of the crime [he was] classified as having a position even higher than grade 27.”^[27] Both parties are, however, agreed that at such time petitioner Parina was holding a position with a classification much lower than salary grade “27.” There can, therefore, be no doubt that the Sandiganbayan had jurisdiction over the crime allegedly committed by Subido.

That petitioner Parina held a position with a salary grade of less than “27” at the time of the commission of the alleged arbitrary detention is of no moment. He is prosecuted as a co-conspirator of petitioner Subido, a principal accused, who held a position higher than grade “27.” The following provision of §4 of P.D. No. 1606, as amended by R.A. No. 7975, then applies:

In cases where none of the principal accused are occupying the positions corresponding to salary grade “27” or higher, as prescribed in the said Republic Act No. 6758 ... exclusive jurisdiction therefor shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambansa Blg. 129.

Finally, the petitioners’ invocation of the prohibition against the retroactivity of penal laws is misplaced. Simply put, R.A. No. 7975 is not a penal law. Penal laws or statutes are those acts of the Legislature which prohibit certain acts and establish penalties for their violation;^[28] or those that define crimes, treat of their nature, and provide for their punishment.^[29] R.A. No. 7975, in further amending P.D. No. 1606 as regards the

Sandiganbayan's jurisdiction, mode of appeal, and other procedural matters, is clearly a procedural law, i.e., one which prescribes rules and forms of procedure of enforcing rights or obtaining redress for their invasion, or those which refer to rules of procedure by which courts applying laws of all kinds can properly administer justice.[30] Moreover, the petitioners even suggest that it is likewise a curative or remedial statute; one which cures defects and adds to the means of enforcing existing obligations.[31] As noted by the petitioners, previous to the enactment of R.A. No. 7975:

As before, not [sic] matter what kind of offense, so long as it is alleged that the crime is committed in relation to the office of the public official, the Sandiganbayan had jurisdiction to try and hear the case, such that in many cases accused persons even from the far away parts of the country, Mindanao, Visayas and the northern parts of Luzon had to come personally to Manila to attend and appear for cases filed against them, considering that the Sandiganbayan has its office/court in Manila.

The said R.A. No. 7975 changed this lamentable situation. For no as so provided in the said law, there ha[s] been a modification that benefits [the] accused xxx in the sense that now where none of the principal accused are occupying positions corresponding to salary grade "27" or higher as prescribed by Republic Act No. 6758 xxx exclusive jurisdiction there shall be vested now in the proper Regional Trial and Metropolitan Trial Court and Municipal Circuit Trial Court, as the case may be xxx. [32]

All told, as a procedural and curative statute, R.A. No. 7975 may validly be given retroactive effect, there being no impairment of contractual or vested rights. [33]

WHEREFORE, the instant petition is DISMISSED, and the questioned resolution and orders of the respondent Sandiganbayan are AFFIRMED.

Costs against the petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Original Record (OR), vol. 1, 69; Rollo, 16. Per Garchitorena, P.J., Balajadia and Chico-Nazario, JJ.

[2] Id., 86; Id., 17.

[3] Id., 87-88; Id., 18-19.

[4] OR, vol. 1, 1-2; Rollo, 20-21.

[5] OR, vol. 1, 32.

[6] Id., 35-37; Rollo, 22-24.

[7] Entitled "An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606, as Amended."

[8] Entitled "Revising Presidential Decree No. 1486 Creating a Special Court to be Known as 'Sandiganbayan' and for Other Purposes."

[9] OR, vol. 1, 57-58; Rollo, 25-26.

[10] Id., 61-64; Id., 27-30.

[11] Compensation and Classification Act of 1989.

[12] OR, vol. 1, 65-68; Rollo, 31-34.

[13] 182 SCRA 155 [1990].

[14] 197 SCRA 853 [1991].

[15] Supra note 1.

[16] OR, vol. 1, 77-82; Rollo, 35-40.

[17] Citing *Mahler v. Eby*, 264 U.S. 32, *U.S. v. De los Santos*, 33 Phil. 397, [1916]; *Kessler v. Stracker*, 307 U.S. 22, *Murdock v. Clark*, 53 F.2d. 15.

[18] Supra note 2.

[19] Supra note 3.

[20] §8 thereof provides that the Act “shall effect fifteen (15) days following its publication in the Official Gazette or in two national newspaper of general circulation.” It was published in the 21 April 1995 issues of the *MALAYA* and *The PHILIPPINE JOURNAL*, and in the 17 July 1995 issue of the Official Gazette.

[21] G.R. No. 98452, En Banc Resolution, 26 September 1991.

[22] 227 SCRA 627 [1993].

[23] 229 SCRA 680 [1994].

[24] 231 SCRA 211 [1994].

[25] See *People v. Magallanes*, 249 SCRA 212, 220-221 [1995].

[26] Article 124(3), Revised Penal Code.

[27] Rejoinder to the Comment/Opposition to the Motion to Quash, Rollo, 31; Comment to the instant petition, *Id.*, 31.

[28] *Lorenzo v. Posadas*, 64 Phil. 353, 367, [1937].

[29] *Hernandez v. Albano*, 19 SCRA 95, 102 [1967], note 13, citing 82 C.J.S., 922.

[30] RUBEN E. AGPALO, STATUTORY CONSTRUCTION 268, [2d. 1990] (hereinafter *Agpalo*).

[31] See *AGPALO*, at 270-271.

[32] Petitioners’ Memorandum, 6; Rollo, 115 et. seq.

[33] See *AGPALO*, at 268-272.

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