

**ARNEL ESCOBAL, PETITIONER, VS. HON. FRANCIS GARCHITORENA,
PRESIDING JUSTICE OF THE SANDIGANBAYAN, ATTY. LUISABEL
ALFONSO-CORTEZ, EXECUTIVE CLERK OF COURT IV OF THE
SANDIGANBAYAN...**

G.R. No. 124644. February 05, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for certiorari with a prayer for the issuance of a temporary restraining order and preliminary injunction filed by Arnel Escobal seeking the nullification of the remand by the Presiding Justice of the Sandiganbayan of the records of Criminal Case No. 90-3184 to the Regional Trial Court (RTC) of Naga City, Branch 21.

The petition at bench arose from the following milieu:

The petitioner is a graduate of the Philippine Military Academy, a member of the Armed Forces of the Philippines and the Philippine Constabulary, as well as the Intelligence Group of the Philippine National Police. On March 16, 1990, the petitioner was conducting surveillance operations on drug trafficking at the Sa Harong Caf^x™ Bar and Restaurant located along Barlin St., Naga City. He somehow got involved in a shooting incident, resulting in the death of one Rodney Rafael N. Nueva. On February 6, 1991, an amended Information was filed with the RTC of Naga City, Branch 21, docketed as Criminal Case No. 90-3184 charging the petitioner and a certain Natividad Bombita, Jr. alias “Jun Bombita” with murder. The accusatory portion of the amended Information reads:

That on or about March 16, 1990, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court by virtue of the Presidential Waiver, dated June 1, 1990, with intent to kill, conspiring and confederating together and mutually helping each other, did, then and there, willfully, unlawfully and feloniously attack, assault and maul one Rodney Nueva and accused 2Lt Arnel Escobal armed with a caliber .45 service pistol shoot said Rodney Nueva thereby inflicting upon him serious, mortal and fatal wounds which caused his death, and as a consequence thereof, complainant LUZ N. NUECA, mother of the deceased victim, suffered actual and compensatory damages in the amount of THREE HUNDRED SIXTY-SEVEN THOUSAND ONE HUNDRED SEVEN & 95/100 (P367,107.95) PESOS, Philippine Currency, and moral and exemplary damages in the amount of ONE HUNDRED THIRTY-FIVE THOUSAND (P135,000.00) PESOS, Philippine Currency.[1]

On March 19, 1991, the RTC issued an Order preventively suspending the petitioner from the service under Presidential Decree No. 971, as amended by P.D. No. 1847. When apprised of the said order, the General Headquarters of the PNP issued on October 6, 1992 Special Order No. 91, preventively suspending the petitioner from the service until the case was terminated.[2]

The petitioner was arrested by virtue of a warrant issued by the RTC, while accused Bombita remained at large. The petitioner posted bail and was granted temporary liberty.

When arraigned on April 9, 1991,[3] the petitioner, assisted by counsel, pleaded not guilty to the offense charged. Thereafter, on December 23, 1991, the petitioner filed a Motion to Quash[4] the Information alleging that as mandated by Commonwealth Act No. 408,[5] in relation to Section 1, Presidential Decree No. 1822 and Section 95 of R.A. No. 6975, the court martial, not the RTC, had jurisdiction over criminal cases involving PNP members and officers.

Pending the resolution of the motion, the petitioner on June 25, 1993 requested the Chief of the PNP for his reinstatement. He alleged that under R.A. No. 6975, his suspension should last for only 90 days, and, having served the same, he should now be reinstated. On September 23, 1993,[6] the PNP Region V Headquarters wrote Judge David C. Naval requesting information on whether he issued an order lifting the petitioner's suspension. The RTC did not reply. Thus, on February 22, 1994, the petitioner filed a motion in the RTC for the lifting of the order of suspension. He alleged that he had served the 90-day preventive suspension and pleaded for compassionate justice. The RTC denied the motion on March 9, 1994.[7] Trial thereafter proceeded, and the prosecution rested its case. The petitioner commenced the presentation of his evidence. On July 20, 1994, he filed a Motion to Dismiss[8] the case. Citing *Republic of the Philippines v. Asuncion, et al.*,[9] he argued that since he committed the crime in the performance of his duties, the Sandiganbayan had exclusive jurisdiction over the case.

On October 28, 1994, the RTC issued an Order[10] denying the motion to dismiss. It, however, ordered the conduct of a preliminary hearing to determine whether or not the crime charged was committed by the petitioner in relation to his office as a member of the PNP.

In the preliminary hearing, the prosecution manifested that it was no longer presenting any evidence in connection with the petitioner's motion. It reasoned that it had already rested its case, and that its evidence showed that the petitioner did not commit the offense charged in connection with the performance of his duties as a member of the Philippine Constabulary. According to the prosecution, they were able to show the following facts: (a) the petitioner was not wearing his uniform during the incident; (b) the offense was committed just after midnight; (c) the petitioner was drunk when the crime was committed; (d) the petitioner was in the company of civilians; and, (e) the offense was committed in a beerhouse called "Sa Harong Caf^x™ Bar and Restaurant." [11]

For his part, the petitioner testified that at about 10:00 p.m. on March 15, 1990, he was at the Sa Harong Caf^x™ Bar and Restaurant at Barlin St., Naga City, to conduct surveillance on alleged drug trafficking, pursuant to Mission Order No. 03-04 issued by Police Superintendent Rufo R. Pulido. The petitioner adduced in evidence the sworn statements of Benjamin Cariño and Roberto Fajardo who corroborated his testimony that he was on a surveillance mission on the aforesaid date.[12]

On July 31, 1995, the trial court issued an Order declaring that the petitioner committed the crime charged while not in the performance of his official function. The trial court added that upon the enactment of R.A. No. 7975,[13] the issue had become moot and academic. The amendatory law transferred the jurisdiction over the offense charged from the Sandiganbayan to the RTC since the petitioner did not have a salary grade of "27" as provided for in or by Section 4(a)(1), (3) thereof. The trial court nevertheless ordered the prosecution to amend the Information pursuant to the ruling in *Republic v. Asuncion*[14] and R.A. No. 7975. The amendment consisted in the inclusion therein of an allegation that the offense charged was not committed by the petitioner in the performance of his duties/functions, nor in relation to his office.

The petitioner filed a motion for the reconsideration[15] of the said order, reiterating that based on his testimony and those of Benjamin Cariño and Roberto Fajardo, the offense charged was committed by him in relation to his official functions. He asserted that the trial court failed to consider the exceptions to the prohibition. He asserted that R.A. No. 7975, which was enacted on March 30, 1995, could not be applied retroactively.[16]

The petitioner further alleged that Luz Nacario Nueva, the mother of the victim, through counsel, categorically and unequivocally admitted in her complaint filed with the People's Law Enforcement Board (PLEB) that he was on an official mission when the crime was committed.

On November 24, 1995, the RTC made a volte face and issued an Order reversing and setting aside its July 31, 1995 Order. It declared that based on the petitioner's evidence, he was on official mission when the shooting occurred. It concluded that the prosecution failed to adduce controverting evidence thereto. It likewise considered Luz Nacario Nueva's admission in her complaint before the PLEB that the petitioner was on official mission when the shooting happened.

The RTC ordered the public prosecutor to file a Re-Amended Information and to allege that the offense charged was committed by the petitioner in the performance of his duties/functions or in relation to his office; and, conformably to R.A. No. 7975, to thereafter transmit the same, as well as the complete records with the stenographic notes, to the Sandiganbayan, to wit:

WHEREFORE, the Order dated July 31, 1995 is hereby SET ASIDE and RECONSIDERED, and it is hereby declared that after preliminary hearing, this Court has found that the offense charged in the Information herein was committed by the accused in his relation to his function and duty as member of the then Philippine Constabulary.

Conformably with R.A. No. 7975 and the ruling of the Supreme Court in *Republic v. Asuncion, et al.*, G.R. No. 180208, March 11, 1994:

(1) The City Prosecutor is hereby ordered to file a Re-Amended Information alleging that the offense charged was committed by the Accused in the performance of his duties/functions or in relation to his office, within fifteen (15) days from receipt hereof;

(2) After the filing of the Re-Amended Information, the complete records of this case, together with the transcripts of the stenographic notes taken during the entire proceedings herein, are hereby ordered transmitted immediately to the Honorable Sandiganbayan, through its Clerk of Court, Manila, for appropriate proceedings.[17]

On January 8, 1996, the Presiding Justice of the Sandiganbayan ordered the Executive Clerk of Court IV, Atty. Luisabel Alfonso-Cortez, to return the records of Criminal Case No. 90-3184 to the court of origin, RTC of Naga City, Branch 21. It reasoned that under P.D. No. 1606, as amended by R.A. No. 7975,[18] the RTC retained jurisdiction over the case, considering that the petitioner had a salary grade of "23." Furthermore, the prosecution had already rested its case and the petitioner had commenced presenting his evidence in the RTC; following the rule on continuity of jurisdiction, the latter court should continue with the case and render judgment therein after trial.

Upon the remand of the records, the RTC set the case for trial on May 3, 1996, for the petitioner to continue presenting his evidence. Instead of adducing his evidence, the petitioner filed a petition for certiorari, assailing the Order of the Presiding Justice of the Sandiganbayan remanding the records of the case to the RTC.

The threshold issue for resolution is whether or not the Presiding Justice of the Sandiganbayan committed a grave abuse of his discretion amounting to excess or lack of jurisdiction in ordering the remand of the case to the RTC.

The petitioner contends that when the amended information was filed with the RTC on February 6, 1991, P.D. No. 1606 was still in effect. Under Section 4(a) of the decree, the Sandiganbayan had exclusive jurisdiction over the case against him as he was charged with homicide with the imposable penalty of reclusion temporal, and the crime was committed while in the performance of his duties. He further asserts that although P.D. No. 1606, as amended by P.D. No. 1861 and by R.A. No. 7975 provides that crimes committed by members and officers of the

PNP with a salary grade below “27” committed in relation to office are within the exclusive jurisdiction of the proper RTC, the amendment thus introduced by R.A. No. 7975 should not be applied retroactively. This is so, the petitioner asserts, because under Section 7 of R.A. No. 7975, only those cases where trial has not begun in the Sandiganbayan upon the effectivity of the law should be referred to the proper trial court.

The private complainant agrees with the contention of the petitioner. In contrast, the Office of the Special Prosecutor contends that the Presiding Justice of the Sandiganbayan acted in accordance with law when he ordered the remand of the case to the RTC. It asserts that R.A. No. 7975 should be applied retroactively. Although the Sandiganbayan had jurisdiction over the crime committed by the petitioner when the amended information was filed with the RTC, by the time it resolved petitioner’s motion to dismiss on July 31, 1995, R.A. No. 7975 had already taken effect. Thus, the law should be given retroactive effect.

The Ruling of the Court

The respondent Presiding Justice acted in accordance with law and the rulings of this Court when he ordered the remand of the case to the RTC, the court of origin.

The jurisdiction of the court over criminal cases is determined by the allegations in the Information or the Complaint and the statute in effect at the time of the commencement of the action, unless such statute provides for a retroactive application thereof. The jurisdictional requirements must be alleged in the Information.[19] Such jurisdiction of the court acquired at the inception of the case continues until the case is terminated.[20]

Under Section 4(a) of P.D. No. 1606 as amended by P.D. No. 1861, the Sandiganbayan had exclusive jurisdiction in all cases involving the following:

- (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 prision correccional or imprisonment for six (6) years, or a fine of P6,000.00[21]

However, for the Sandiganbayan to have exclusive jurisdiction under the said law over crimes committed by public officers in relation to their office, it is essential that the facts showing the intimate relation between the office of the offender and the discharge of official duties must be alleged in the Information. It is not enough to merely allege in the Information that the crime charged was committed by the offender in relation to his office because that would be a conclusion of law.[22] The amended Information filed with the RTC against the petitioner does not contain any allegation showing the intimate relation between his office and the discharge of his duties. Hence, the RTC had jurisdiction over the offense charged when on November 24, 1995, it ordered the re-amendment of the Information to include therein an allegation that the petitioner committed the crime in relation to office. The trial court erred when it ordered the elevation of the records to the Sandiganbayan. It bears stressing that R.A. No. 7975 amending P.D. No. 1606 was already in effect and under Section 2 of the law:

In cases where none of the principal accused are occupying positions corresponding to salary grade “27” or higher, as prescribed in the 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.

Under the law, even if the offender committed the crime charged in relation to his office but occupies a position corresponding to a salary grade below “27,” the proper Regional Trial Court or Municipal Trial Court, as the case may be, shall have exclusive jurisdiction over the case. In this case, the petitioner was a Police Senior Inspector, with salary grade “23.” He was charged with homicide punishable by reclusion temporal. Hence, the RTC had exclusive jurisdiction over the crime charged conformably to Sections 20 and 32 of Batas Pambansa Blg. 129, as amended by Section 2 of R.A. No. 7691.

The petitioner’s contention that R.A. No. 7975 should not be applied retroactively has no legal basis. It bears stressing that R.A. No. 7975 is a substantive procedural law which may be applied retroactively.[23]

IN LIGHT OF ALL THE FOREGOING, the petition is DISMISSED. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Rollo, p. 193.

[2] Id. at 240-241.

[3] Id. at 117.

[4] Annex “A,” Petition; Rollo, pp. 113-116.

[5] Otherwise known as Articles of War of the Armed Forces of the Philippines.

[6] Rollo, p. 248.

[7] Id. at 241-242.

[8] Annex “C,” Petition; Rollo, pp. 120-124.

[9] 231 SCRA 211 (1994).

[10] Annex “D,” Petition; Rollo, pp. 125-126.

[11] Rollo, p. 127.

[12] Id. at 130-131.

[13] Republic Act No. 7975, “An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, amending for that purpose Presidential Decree No. 1605, as amended, took effect on May 6, 1995.

[14] See note 8.

[15] Annex “G,” Petition; Rollo, pp. 132-133.

[16] Id. at 132-133.

[17] Id. at 136-137.

[18] Took effect on May 6, 1995.

[19] *Lacson v. Executive Secretary*, 301 SCRA 298 (1999).

[20] Baritua v. Mercader, 350 SCRA 86 (2001).

[21] Sanchez v. Demetriou, 227 SCRA 627 (1993). (Emphasis supplied).

[22] See note 17.

[23] Lacson v. Executive Secretary, *supra*.

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