PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN (THIRD DIVISION), ROBERTO S. BENEDICTO, JOSE A. UNSON+, JAIME C. DACANAY, JOHN DOE, PETER DOE, AND WILLIAM...

G.R. No. 125534. October 13, 1999

Ponente: PARDO, J.

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PARDO, J. :

The case is a special civil action for certiorari instituted by the prosecution to set aside the resolutions promulgated March 7, 1994[1] and July 10, 1996,[2] of the Sandiganbayan, dismissing the information against Roberto S. Benedicto, et al. for violation of Section 3 (e) of Republic Act No. 3019, for having been issued in excess of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.

On October 27, 1986, the Tanodbayan Special Prosecutor filed with the Sandiganbayan an information charging Roberto S. Benedicto, Jose A. Unson,*** Jaime C. Dacanay, John Doe, Peter Doe and William Doe with violation of Section 3 (e) of R. A. No. 3019, as amended.[3] The information reads as follows:

> "The undersigned Tanodbayan Prosecutor hereby accuses ROBERTO S. BENEDICTO, JOSE A. UNSON, JAIME C. DACANAY, JOHN DOE, PETER DOE and WILLIAM DOE of the offense of Violation of Section 3 (e) of Republic Act 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:
>
> "That in or about and during the period from December 1983 to March 1984, in Iloilo, Philippines and within the jurisdiction of this Honorable Tribunal, accused ROBERTO S. BENEDICTO, Chairman of the Board and Chief Executive Officer of the National Sugar Trading Corporation (NASUTRA), JOSE A. UNSON, Executive Vice-President of NASUTRA, JAIME DACANAY, Vice-President of NASUTRA, JOHN DOE, PETER DOE and WILLIAM DOE, hence, all public officers, conspiring, confederating and mutually helping one another, while in the exercise of their administrative official functions as such, did then and there wilfully and unlawfully cause undue injury to the Bureau of Customs and/or the government and the public through evident bad faith, by then and there importing raw sugar without prior authority, with a total landed cost of more or less P1,454,373,766.08 without paying the customs duty thereon in the total amount of more or less P512,887,708.00 and sales tax in the total amount of more or less P180,795,843.00 and dumping the said imported raw sugar into the domestic market, thus forcing local sugar prices to go down and coerce/compel sugar producers or traders to restore sugar trading and control back to NASUTRA and thus enabling the accused NASUTRA officers to rake in millions of pesos in profit and commission from sugar trading along to the damage and prejudice of the government and the public interest.
>
> "CONTRARY TO LAW."[4]

On September 22, 1993, the Special Prosecutor filed with the Sandiganbayan a request for alias warrant of arrest against Roberto S. Benedicto.[5]

On September 27, 1993, accused Roberto S. Benedicto posted the required bail bond with the Regional Trial Court, Bacolod City.[6]

On the same date, September 27, 1993, accused Roberto S. Benedicto filed with the Sandiganbayan a motion to quash the information on two (2) grounds, namely: (a) his right to be immune from civil and criminal prosecution in virtue of a compromise agreement dated November 3, 1990 he entered with the Presidential Commission on Good Government, which the Sandiganbayan approved and the Supreme Court affirmed, and (b) the information does not charge an offense punishable under Section 3 (e) of R. A. No. 3019.[7]

The pertinent provisions of the compromise agreement reads as follows:

"x x x

> "b). The Government hereby extends absolute immunity as authorized under the pertinent provisions of Executive Orders Nos. 1, 2, 14 and 14-A, to Benedicto, the members of his family, officers and employees of his corporations above mentioned, who are included in past, present and future cases and investigations of the Philippine Government, such that there shall be no criminal investigation or prosecution against said persons for acts omissions committed prior to February 25, 1986 that may be alleged to have violated any penal law, including but not limited to Republic Act No. 3019, in relation to the acquisition of any asset treated, mentioned or included in this Agreement."[8]

Accused Benedicto opposed the request.[9] However, considering that he had posted a cash bond for his temporary liberty, he asked the court to disregard the recall of the warrant and instead, to consider his motion to quash information.[10]

On March 7, 1994, the Sandiganbayan promulgated a resolution, the dispositive portion of which reads:

> "WHEREFORE, the Information as against the accused former Ambassador Roberto S. Benedicto is ordered DISMISSED, with costs de oficio.
>
> "The bail bond posted by the said accused for his temporary liberty is cancelled.
>
> "SO ORDERED.
>
> "Manila, Philippines, January 24, 1994.
>
> "(s/t) REGINO HERMOSISIMA, JR.
>
> "Associate Justice
>
> "Chairman
>
> " WE CONCUR:
>
> "(s/t) SABINO R. DE LEON, JR.
>
> "Associate Justice
>
> "(s/t) MINITA C. NAZARIO
>
> "Associate Justice
>
> "WE DISSENT:
>
> "(s/t) CIPRIANO A. DEL ROSARIO
>
> "Associate Justice

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"(s/t) NARCISO T. ATIENZA

"Associate Justice"[11]

On March 24, 1994, the Special Prosecutor filed with the Sandiganbayan a motion for reconsideration;[12] however, on July 10, 1996, the Sandiganbayan denied the motion.[13]

Hence, this petition.[14]

On November 27, 1996, the Court required respondents to comment on the petition within ten (10) days from notice.[15] On February 6, 1997, respondent Benedicto filed his comments.[16] On May 23, 1997, petitioner filed a reply,[17] to which respondent Benedicto filed a rejoinder.[18]

We give due course to the petition.

The issues raised are the following:

1. Is respondent Roberto S. Benedicto immune from criminal and civil prosecutions for acts or omissions committed prior to February 25, 1986 under the compromise agreement?

2. Does the information filed with the Sandiganbayan against Roberto S. Benedicto charge the offense punishable under Section 3 (e) of R.A. No. 3019, as amended?[19]

We need to resolve only the second issue. This will dispose of the case without touching on the first issue, which has been heretofore decided in another case involving the same parties.[20]

We agree with the Sandiganbayan that the information filed against respondent Benedicto does not charge the offense punishable under Section 3 (e) of R. A. No. 3019. We take judicial notice of the fact that the Nasutra was a government agency authorized to import raw sugar free from taxes and duties.[21] Hence, non-payment of such taxes, which are in fact not due, could not have caused actual injury to the government, an essential element of the offense charged.[22] Lacking the essential element of actual damage, the conclusion is ineluctable that the information does not charge the offense of violation of R. A. No. 3019, Section 3 (e).[23]

WHEREFORE, the Court DISMISSES the petition for certiorari of the questioned resolutions of the Sandiganbayan in Criminal Case No. 11957.

No costs.

SO ORDERED.

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

Davide, Jr., C.J., (Chairman), and Kapunan, J., on official business abroad.

[***]Died on October 31, 1996, per certificate of death, Sandiganbayan Original Record, Vol. III, p. 844. Case against him was dismissed on September 20, 1997, Sandiganbayan Original Record, Vol. III, p. 855.,

[1] In Crim. Case No. 11957, prom. March 7, 1994, Hermosisima, Jr., J., ponente, de Leon, Jr. and Nazario, JJ., concurring, del Rosario and Atienza, JJ., dissenting, Petition, Annex "A".

[2] Petition, Annex "B", Rollo, pp. 72-88.

[3] Docketed as Crim. Case No. 11957.

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[4] Information in Crim. Case No. 11957, Sandiganbayan Original Record, Vol. I, pp. 1-2.

[5] Sandiganbayan Original Record, Vol. II, p. 568.

[6] Sandiganbayan Original Record, Vol. II, pp. 695-696, 765-A-765-C.

[7] Sandiganbayan Original Record, Vol. II, pp. 573-577.

[8] Compromise Agreement, Annex “C”, Rollo, pp. 90-96, on pp. 93-94.

[9] Sandiganbayan Original Record, Vol. II, p. 573.

[10] Ibid.

[11] Annex “A”, Petition, Rollo, at p. 57.

[12] Sandiganbayan Original Record, Vol. II, pp. 741-761.

[13] Idem., pp. 804-820.

[14] Petition filed on August 23, 1996, Rollo, pp. 25-43.

[15] Rollo, p. 130.

[16] Rollo, pp. 137-159.

[17] Rollo, pp. 167-175.

[18] Rollo, pp. 182-195.

[19] Petition, Rollo, p. 31.

[20] Republic vs. Sandiganbayan 226 SCRA 314[1993].

[21] See resolution, Sandiganbayan, Petition, Annex “A”, Rollo, at pp. 50-51.

[22] Pecho vs. Sandiganbayan, 238 SCRA 116 [1994].

[23] Pecho vs. Sandiganbayan, supra; Fernando vs. Sandiganbayan, 212 SCRA 680 [1992]; Ignacio R. Bunye vs. Sandiganbayan, G.R. No. 122058, May 5, 1999; Venus vs. Desierto, G.R. No. 130319, October 21, 1998.

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