LICERIO A. ANTIPORDA, JR., ELITERIO RUBIACO, VICTOR GASCON AND CAESAR TALIA PETITIONERS, VS. HON. FRANCIS E. GARCHITORENA, HON. EDILBERTO G. SANDOVAL, HON. CATALINO CASTAÑEDA, J...

G.R. No. 133289. December 23, 1999

Ponente: BUENA, J.

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BUENA, J.:

This is a Petition for Certiorari and Prohibition with Preliminary Injunction and/or Temporary Restraining Order to restrain the respondent Justices of the First Division of the Sandiganbayan from further proceeding with Crim. Case No. 24339 and from enforcing the warrants for the arrest of the accused named therein (herein petitioners) or to maintain the status quo until further orders from this Court.

The antecedent facts of the case are as follows:

Accused Licerio A. Antiporda, Jr., Eliterio Rubiaco, Victor Gascon, and Caesar Talla were charged with the crime of kidnapping one Elmer Ramos in an Information dated September 18, 1997. It was filed with the First Division of the Sandiganbayan comprised of the Honorable Francis E. Garchitorena, Edilberto E. Sandoval, and Catalino Castañeda, Jr. The Information reads as follows:

> "That on or about September 1, 1995, in the Municipality of Sanchez Mira, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused Eliterio Rubiaco, Caesar Talla, Vicente Gascon and Licerio Antiporda, Jr., armed with guns, conspiring together and helping one another, by means of force, violence and intimidation and without legal grounds or any authority of law, did then and there willfully, unlawfully and feloniously kidnap and carry away one Elmer Ramos from his residence in Marzan, Sanchez Mira, Cagayan against his will with the use of a Maroon Tamaraw FX motor vehicle.
>
> CONTRARY TO LAW"[1]

On November 10, 1997, the Court issued an order giving the prosecution represented by Prosecutor Evelyn T. Lucero Agcaoili thirty (30) days within which to submit the amendment to the Information. The said order is quoted in full as follows:

> "O R D E R
>
> "This morning, the prosecution represented by Prosecutor Evelyn T. Lucero Agcaoili appeared in response to this Court's Order of clarification on the propriety of proceeding with the Information as it stands.
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> "On her own, Prosecutor Agcaoili informed the Court that there were inadequacies in the allegations in the Information for which reason she would beg leave to amend the same. The Court for its part expressed anxiety as to the Court's jurisdiction over the case considering that it was not clear whether or not the subject matter of the accusation was office related.

> "For this purpose, Prosecutor Agcaoili is given thirty (30) days within which to submit the amendment embodying whatever changes she believes are appropriate or necessary in order for the Information to effectively describe the offense herein charged. Within the same period, Prosecutor Agcaoili shall submit an expansion of the recommendation to file the instant Information against the accused before this Court indicating thereon the office related character of the accusation herein so that the Court might effectively exercise its jurisdiction over the same.
>
> "SO ORDERED."[2]

The prosecution on even date complied with the said order and filed an Amended Information, which was admitted by the Sandiganbayan in a resolution dated November 24, 1997.[3] The Amended Information thus reads:

> "That on or about September 10, 1997, at Sanchez Mira, Cagayan and within the jurisdiction of this Honorable Court, the accused Licerio Antiporda, Jr., being the Municipal Mayor of Buguey, Cagayan in the exercise of his official duties as such and taking advantage of his position, ordered, confederated and conspired with Juan Gallardo, Barangay Captain of San Lorenzo, Buguey, Cagayan (now deceased) and accused Eliterio Rubiaco, barangay councilman of San Lorenzo, Buguey, Cagayan, Vicente Gascon and Caesar Talla with the use of firearms, force, violence and intimidation, did then and there willfully, unlawfully and feloniously kidnap and abduct the victim Elmer Ramos without any authority of law from his residence at Marzan, Sanchez Mira, Cagayan against his will, with the use of a Maroon Tamaraw FX motor vehicle and subsequently bring and detain him illegally at the residence of accused Mayor Licerio Antiporda, Jr. for more than five (5) days.
>
> "CONTRARY TO LAW."[4]

Accused then filed an Urgent Omnibus Motion dated November 16, 1997 praying that a reinvestigation of the case be conducted and the issuance of warrants of arrest be deferred.[5]

An order dated November 26, 1997 was penned by Prosecutor Evelyn T. Lucero-Agcaoili recommending the denial of the accused's Urgent Omnibus Motion[6] was approved by Ombudsman Aniano A. Desierto on January 9, 1998.[7]

The accused thereafter filed on March 5, 1998 a Motion for New Preliminary Investigation and to Hold in Abeyance and/or Recall Warrant of Arrest Issued.[8] The same was denied in an order given in open court dated March 12, 1998 "on the ground that there was nothing in the Amended Information that was added to the original Information so that the accused could not claim a right to be heard separately in an investigation in the Amended Information. Additionally, the Court ruled that 'since none of the accused have submitted themselves to the jurisdiction of the Court, the accused are not in a position to be heard on this matter at this time' (p. 245, Record)."[9]

Subsequently, the accused filed on March 24, 1998 a Motion to Quash the Amended Information for lack of jurisdiction over the offense charged.[10]

On March 27, 1998, the Sandiganbayan issued an Order, to wit:

> "The Motion to Quash filed in behalf of the accused by Atty. Orlando B. Consigna is ignored, it appearing that the accused have continually refused or otherwise failed to submit themselves to the jurisdiction of this Court. At all events there is an Amended Information here which makes an adequate description of the position of the accused thus vesting this Court with the office related character of the offense of the accused.
>
> "SO ORDERED."[11]

A motion for reconsideration was filed on April 3, 1998 by the accused wherein it was alleged that the filing of

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the Motion to Quash and the appearance of their counsel during the scheduled hearing thereof amounted to their voluntary appearance and invested the court with jurisdiction over their persons.[12]

The Sandiganbayan denied the motion for reconsideration filed by the accused in its resolution dated April 24, 1998.[13]

Hence, this petition filed by Licerio A. Antiporda, Jr., Eliterio Rubiaco, Victor Gascon, and Caesar Talla.

The petitioners pose the following questions for the resolution of this Court.

a) CAN THE SANDIGANBAYAN, WHICH HAS NO JURISDICTION OVER THE OFFENSE CHARGED IN THE ORIGINAL INFORMATION, SUBSEQUENTLY ACQUIRE SUCH JURISDICTION BY THE SIMPLE EXPEDIENT OF AMENDING THE INFORMATION TO SUPPLY, FOR THE FIRST TIME, JURISDICTIONAL FACTS NOT PREVIOUSLY AVERRED IN THE ORIGINAL INFORMATION? and

b) COROLLARILY, CAN THE AMENDED INFORMATION BE ALLOWED WITHOUT CONDUCTING ANEW A PRELIMINARY INVESTIGATION FOR THE GRAVER OFFENSE CHARGED THEREIN?

The petition is devoid of merit.

Jurisdiction is the power with which courts are invested for administering justice, that is, for hearing and deciding cases. In order for the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties.[14]

Section 4, paragraph (a) of P.D. No. 1606, as amended by P.D. No. 1861 provides for the jurisdiction of the Sandiganbayan:

> "Sec. 4. Jurisdiction. -- The Sandiganbayan shall exercise:
>
> "(a) Exclusive original jurisdiction in all cases involving:
>
> 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 prision 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 prision 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."

The Sandiganbayan exercises not only civil but also criminal jurisdiction. Criminal jurisdiction, as defined in the case of People vs. Mariano[15], is necessarily the authority to hear and try a particular offense and impose the punishment for it.

The case of Arula vs. Espino[16]enumerates the requirements wherein a court acquires jurisdiction to try a criminal case, to wit:

> "To paraphrase: beyond the pale of disagreement is the legal tenet that a court acquires jurisdiction to try a criminal case only when the following requisites concur: (1) the offense is one which the court is by law authorized to take cognizance of, (2) the offense must have been committed within its territorial jurisdiction, and (3) the person charged with the offense must have been brought in to its forum for trial, forcibly by warrant of arrest or upon his voluntary submission to the court."

The petitioners argue that the Sandiganbayan had no jurisdiction to take cognizance of the case because the

original information did not allege that one of the petitioners, Licerio A. Antiporda, Jr., took advantage of his position as mayor of Buguey, Cagayan to order the kidnapping of Elmer Ramos. They likewise assert that lacking jurisdiction a court can not order the amendment of the information. In the same breath, they contend however that the Sandiganbayan had jurisdiction over the persons of the accused.

They question the assumption of jurisdiction by the Sandiganbayan over their case yet they insist that said court acquired jurisdiction over their motion to quash. The petitioner can not have their cake and eat it too.

In the aforementioned case of Arula vs. Espino[17]it was quite clear that all three requisites, i.e., jurisdiction over the offense, territory and person, must concur before a court can acquire jurisdiction to try a case.

It is undisputed that the Sandiganbayan had territorial jurisdiction over the case.

And we are in accord with the petitioners when they contended that when they filed a motion to quash it was tantamount to a voluntary submission to the Court's authority. They cite the case of Layosa vs. Rodriguez[18] in support of their contention. For therein, it was ruled that the voluntary appearance of the accused at the pre-suspension hearing amounted to his submission to the court's jurisdiction even if no warrant of arrest has yet been issued.

To counter this contention of the petitioners the prosecution adverted to case of de los Santos-Reyes vs. Montesa, Jr.[19] which was decided some 28 years after the Layosa case. In this more recent case, it was held that:

> "xxx the accused xxx have no right to invoke the processes of the court since they have not been placed in the custody of the law or otherwise deprived of their liberty by reason or as a consequence of the filling of the information. For the same reason, the court had no authority to act on the petition."

We find that the case of Layosa and de los Santos-Reyes are not inconsistent with each other since both these cases discussed the rules on when a court acquires jurisdiction over the persons of the accused, i.e., either through the enforcement of warrants of arrest or their voluntary submission to the court.

The only difference, we find, is that the de los Santos-Reyes case harped mainly on the warrant of arrest angle while the Layosa case dealt more on the issue of voluntary submission ruling, that the appearance at the hearing through a lawyer was a submission to the court's jurisdiction.

Having discussed the third requirement we now come to the question of whether or not the Sandiganbayan had jurisdiction over the offense charged.

We answer in the negative. The original Information filed with the Sandiganbayan did not mention that the offense committed by the accused is office-related. It was only after the same was filed that the prosecution belatedly remembered that a jurisdictional fact was omitted therein.

However, we hold that the petitioners are estopped from assailing the jurisdiction of the Sandiganbayan for in the supplemental arguments to motion for reconsideration and/or reinvestigation dated June 10, 1997[20] filed with the same court, it was they who "challenged the jurisdiction of the Regional Trial Court over the case and clearly stated in their Motion for Reconsideration that the said crime is work connected, which is hereunder quoted, as follows:

> "Respondents (petitioners herein) have thoroughly scanned the entire records of the instant case and no where is there any evidence to show that the Honorable Prosecution Office of the Province of Cagayan have been authorized by the Office of the Honorable Ombudsman to conduct the Preliminary Investigation much less had the former office been authorized to file the corresponding Information as the said case, if evidence warrants, fall exclusively with the jurisdiction of the Honorable Sandiganbayan notwithstanding the presence of other

> public officers whose salary range is below 27 and notwithstanding the presence of persons who are not public officers."

It is a well-settled rule that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent, and after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction.[21]

We therefore hold that the Sandiganbayan has jurisdiction over the case because of estoppel and it was thus vested with the authority to order the amendment of the Information.

Rule 110, Section 14 of the Rules of Court provides thus:

> "Section 14. Amendment. – The information or complaint may be amended, in substance or form, without leave of court, at any time before the accused pleads; and thereafter and during the trial as to all matters of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the accused.
>
> xxx xxx xxx"
>
> Petitioner prayed that a reinvestigation be made in view of the Amended Information.

We hold that the reinvestigation is not necessary anymore. A reinvestigation is proper only if the accused's substantial rights would be impaired. In the case at bar, we do not find that their rights would be unduly prejudiced if the Amended Information is filed without a reinvestigation taking place. The amendments made to the Information merely describe the public positions held by the accused/petitioners and stated where the victim was brought when he was kidnapped.

It must here be stressed that a preliminary investigation is essentially inquisitorial, and it is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the prosecutor to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof, and it does not place the persons accused in jeopardy. It is not the occasion for the full and exhaustive display of the parties' evidence; it is for the presentation of such evidence only as may engender a well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.[22]

The purpose of a preliminary investigation has been achieved already and we see no cogent nor compelling reason why a reinvestigation should still be conducted.

As an aside, an offense is considered committed in relation to office when it is intimately connected with their respective offices and was perpetrated while they were in the performance, though improper or irregular, of their official functions.[23]

In the case of Cunanan vs. Arceo, it was held 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

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substantive rights."[24] (Underscoring Supplied)

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED.

SO ORDERED.
Bellosillo (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

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[1] Rollo, p. 91

[2] Annex "B"; Ibid., p. 22

[3] Ibid., p. 91.

[4] Ibid.,, p. 25

[5] Ibid., p.92.

[6] Annex "D"; Ibid., p. 31

[7] Ibid., p. 33

[8] Annex "C"; Ibid., p. 23

[9] Annex "A", Ibid., pp. 19-20

[10] Annex "F"; Ibid., p. 35

[11] Annex "G"; Ibid., p. 41

[12] Annex "H"; Ibid., p. 42

[13] Annex "A"; Ibid., p. 18.

[14] Paramount Insurance Corporation vs. Japzon, 211 SCRA 879, 884-885.

[15] 71 SCRA 600.

[16] 28 SCRA 540, 567.

[17] Ibid.

[18] 86 SCRA 300.

[19] 247 SCRA 85

[20] Annex D; Original Records, pp.114-116.

[21] Security Agency vs. De la Serna, 182 SCRA 472

[22] Olivarez vs. Sandiganbayan, 248 SCRA 700

[23] People vs. Hon. Montejo, etc., et al., 108 Phil. 613

[24] Cunanan vs. Arceo, 242 SCRA 88, 97

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