

**EVELYN V. RODRIGUEZ, AND ANDRES ABONITA, JR., PETITIONERS,
VS. SANDIGANBAYAN, AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. No. 141710. March 03, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The January 17, 2000 three separate Orders of the Sandiganbayan denying petitioners' motion to quash the second amended information,[1] denying the motion to defer arraignment,[2] and entering a plea of "not guilty" for petitioners in light of their refusal to plead to the information,[3] are assailed in the present petition for certiorari.

The antecedents of the case are as follows:

On September 24, 1996, acting upon an information that rampant illegal logging activities have been going on in different areas of Taytay, Palawan, a joint team composed of the Economic Intelligence and Investigation Bureau (EIIB), the Provincial Environment and Natural Resources Office (PENRO), the Philippine National Police (PNP) Tiniguiban Command, the Bantay Palawan, and the Philippine Marines confiscated freshly cut/processed ipil lumber at Sitio Maypa, Barangay Pancol, Taytay. The cutting and sawing of the lumber, which were alleged to have been done under the supervision of Pancol Barangay Captain Pedro Samaniego upon orders of herein petitioner Mayor Evelyn Rodriguez and Association of Barangay Captains President Roberto Rodriguez, were without proper permit or license.

Due to the unavailability of trucks to haul all the lumber to Puerto Princesa for safekeeping, some were hauled inside the Rural Agriculture Center (RAC) Compound of Taytay and left under the custody of 2[nd] Lt. Ernan Libao.

On September 25, 1997, Barangay Captain Rodriguez appeared at the RAC Compound demanding the release of the lumber by presenting a letter-request addressed to the CENRO to salvage old cut timber, duly indorsed by Mayor Rodriguez. As the request did not bear the approval of the CENRO, it was denied.

On October 5, 1997, Pancol Barangay Captain Pedro Samaniego and the other herein petitioner, Igang Barangay Captain Andres Abonita, Jr., went to the RAC Compound upon orders of Mayor Rodriguez to haul the lumber to the Municipal Hall, but the officer-in-charge refused to release the same without the advice of EIIB authorities. On even date, acting upon the orders of Mayor Rodriguez, Barangay Captain Abonita returned to the RAC Compound accompanied by two fully armed policemen who then and there forcibly took possession, hauled, and transferred the lumber to the Municipal Hall of Taytay.

On November 7, 1996, Enrique A. Cuyos, Sr. of the EIIB, Region IV-A, Palawan filed complaints for robbery[4] and violation of Section 1(b), P.D. No. 1829[5] (DECREE PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS) against petitioners Mayor Rodriguez

and Barangay Captain Abonita before the Provincial Prosecution Office of Palawan.

By Resolution[6] of February 18, 1997, the Deputized Ombudsman Investigator recommended the filing of an information against petitioners for violation of Section 1(b), P.D. No. 1829,[7] and the forwarding of the records of the case to the Office of the Ombudsman-Luzon for review and further proceedings, petitioner Mayor Rodriguez being a public officer and the charge against her being work-connected.

Following its review of the case, the Office of the Deputy Ombudsman-Luzon, by a Joint Review Action[8] of October 19, 1998, resolved to, as it did file an information[9] for violation of Section 1(b) P.D. 1829 on December 8, 1998 against petitioners before the Sandiganbayan, docketed as Criminal Case No. 25065.

A warrant of arrest[10] was accordingly issued against petitioners on December 14, 1998. Before the 1st Division of the Sandiganbayan, petitioner Mayor Rodriguez voluntarily surrendered and posted a cash bond on January 4, 1999,[11] as did Barangay Captain Abonita on January 29, 1999.[12]

On January 27, 1999, petitioners filed a Motion to Defer Arraignment,[13] they having filed on even date a Motion to Quash[14]. By Order[15] of January 29, 1999, the Sandiganbayan reset the arraignment to February 26, 1999.

During the scheduled arraignment on February 26, 1999, the special prosecutor moved to defer the arraignment as recommended changes in the information were not yet acted upon by the Ombudsman. Without objection from petitioners' counsel, the arraignment was reset[16] to April 8, 1999.

In the meantime, the special prosecutor filed on April 6, 1999 an opposition[17] to petitioners' Motion to Quash.

Subsequently, the Sandiganbayan, acting upon a Motion to Admit Information[18] which was filed by the special prosecutor, admitted the amended information by Order[19] of April 8, 1999.

Petitioners filed on April 26, 1999 a Motion to Quash[20] the amended information, to which motion the special prosecutor filed a comment/opposition[21] on June 9, 1999, explaining that the belated filing thereof was due to the transfer of the records of the Office of the Special Prosecutor to its new office at the Sandiganbayan Centennial Building in Quezon City.

Thereafter or on June 28, 1999, the special prosecutor filed another Ex-parte Motion to Admit Amended Information[22] which was set for hearing on November 25, 1999. The scheduled hearing on November 25, 1999 was, however, cancelled and reset[23] to December 3, 1999 upon urgent motion by petitioners' counsel upon the ground that on said date, he needed to appear before the Metropolitan Trial Court of Mandaluyong.

By Order[24] of December 3, 1999, the Sandiganbayan granted the motion to admit amended information, denied the motion to quash the amended information, and ordered the arraignment of petitioners on January 17, 2000.

On January 14, 2000, petitioners filed a Motion to Quash/Dismiss[25] the second amended information.

During the scheduled arraignment of petitioners on January 17, 2000, the Sandiganbayan issued in open court the assailed separate orders denying petitioners' motion to quash the second amended information,[26] denying the motion to defer arraignment,[27] and entering a plea of "not guilty" for both accused[28] herein petitioners, which orders petitioners allege have been rendered with grave abuse of discretion.

Petitioners argue that the pendency of the preliminary investigation of the case which dragged for almost three years is unreasonable or unjustifiable and violates their constitutional rights as accused to due process,[29] they citing *Tatad v. Sandiganbayan*. [30] They add that the repeated and ex-parte amendment of the information by the Ombudsman resulted to inordinate delay in bringing the case to trial, which is a ground for dismissal of the

information under Section 13, in relation to Section 7 of R.A. 8493 (The Speedy Trial Act of 1998).[31]

Petitioners likewise argue that the simultaneous filing by the Ombudsman of two informations against them, one before the Sandiganbayan (Criminal Case No. 25065), and the other before the Regional Trial Court in Puerto Princesa City (Criminal Case No. 14959), involving the same subject matter constitutes forum shopping which is expressly prohibited under the Supreme Court Revised Circular No. 28-91 directing the summary dismissal of multiple complaints or charges, and necessarily places both of them in “double danger of conviction and punishment for the same offense.”[32]

Petitioners additionally question the jurisdiction of the Sandiganbayan, they arguing that they are not tasked with the enforcement and implementation of P.D. No. 705 (REVISED FORESTRY CODE OF THE PHILIPPINES) as neither of them are law enforcement officers or prosecutors but are mere executive officials of their respective local government units with entirely different official functions and, as such, the accusation against them is not in relation to their office.[33] Petitioners thus conclude that the Sandiganbayan has no jurisdiction over the subject matter of the case, as Section 4 of R.A. 8249 limits the jurisdiction of the Sandiganbayan to those offenses defined and penalized in Chapter II, Section 2, Title VII, Book II of the Revised Penal Code.[34]

The petition fails.

Tatad v. Sandiganbayan[35] cited by petitioners has a different factual setting from the present case. The cases against Tatad remained dormant for almost three years, drawing this Court to dismiss them in light of the following observations: political motivation played a vital role in activating and propelling the prosecutorial process; there was a blatant departure from established procedures prescribed by law for the conduct of a preliminary investigation; and the long delay in resolving the preliminary investigation could not be justified on the basis of the record.[36]

From the records of the case at bar, it is gathered that the Provincial Prosecutor of Palawan took only three months, from November 7, 1996 to February 18, 1997, to come up with its resolution finding probable cause against petitioners. The Deputy Ombudsman for Luzon took eight months to review the case and come up with the joint review action on October 19, 1998. On the other hand, the Office of the Ombudsman acted on the case for around two months. Considering that the records were passed upon by three offices, the period of preliminary investigation, which did not exceed two years, cannot be deemed to have violated petitioners’ constitutionally guaranteed rights to procedural due process and to a speedy disposition of cases.

As Ty-Dazo v. Sandiganbayan[37] instructs:

The right to a speedy disposition of cases, like the right to a speedy trial, is deemed violated only when the proceedings [are] attended by vexatious, capricious, and oppressive delays; or when the unjustified postponements of the trial are asked for and secured, or when without cause or unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried. In the determination of whether or not the right has been violated, the factors that maybe considered and balanced are: the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay.

A mere mathematical reckoning of the time involved, therefore, would not be sufficient. In the application of the constitutional guarantee of the right to speedy disposition of cases, particular regard must also be taken of the facts and circumstances peculiar to each case.[38]

Parenthetically, as reflected in the following observation of the Sandiganbayan, petitioners themselves contributed to the delay, thus:

With respect to the alleged delay of the filing of the Information and for the delay in finally getting the case ready for arraignment, Prosecutor Evelyn T. Lucero has stated that, to a certain extent, the claim is valid although the delay is caused not unreasonably but because of the exercise of the right of the accused to determine whether or not they could be charged under the Information for which they have filed Motions to Quash; thus, the delay cannot be considered unreasonable nor the grounds for setting aside the amended Information as it now stands.[39] (Underscoring supplied)

The rule is well settled that the right to a speedy disposition of cases, like the right to a speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delay.[40]

In further pressing for the dismissal of the case, petitioners cite Sections 7[41] and 13[42] of R.A. 8493, averring that the unreasonable delay in bringing them to arraignment is a ground for the dismissal of the case, they having been arraigned only on January 17, 2000, after several and repeated amendments of the information.

The records show, however, that it was on account of petitioners' continuous filing of motions that the arraignment was deferred.

Under Section 2 of Supreme Court Circular No. 38-98, Implementing Rules for R.A.8493, the pendency of petitioners' motion to quash takes the case out from the time limit for arraignment (and pre-trial) provided under Section 2 of said law.

Sec. 2. Time Limit for Arraignment and Pre-trial. - The arraignment, and the pre-trial if the accused pleads not guilty to the crime charged, shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The period of the pendency of a motion to quash, or for a bill of particulars, or other cause justifying suspension of arraignment shall be excluded. (Underscoring supplied)

On the claim of petitioners that the Sandiganbayan should be faulted for granting the repeated amendments of the information by the Ombudsman, suffice it to state that an information may be amended in form or in substance without leave of court at any time before an accused enters his plea.[43]

In another attempt at having the case dismissed, petitioners aver that the Ombudsman committed forum shopping by filing the same information before the Sandiganbayan and the Regional Trial Court of Puerto Princesa, Palawan in violation of Supreme Court Circular No. 28-91 (Additional Requisites for Petitions filed with the Supreme Court and the Court of Appeals to Prevent Forum Shopping or Multiple Filing of Petitions and Complaints).

Assuming arguendo that indeed the same information for violation of Section 1(b) of P.D. 1829 was also filed before the Regional Trial Court of Puerto Princesa, Palawan, then as the People by the Office of the Ombudsman through the Special Prosecutor contends in its Memorandum, "since the Information in Criminal Case No. 25065 was filed with the Sandiganbayan on December 8, 1988, while the information before the regional Trial Court was allegedly filed on February 24, 1999, then, if there is any case to be dismissed for forum shopping, that case should be the one before the Regional trial Court, as it was the second action filed." [44]

Petitioners further assail the jurisdiction of Sandiganbayan over the offense for which they were indicted.

Lamentably, petitioners may well have been confused regarding the charge against them for instead of showing that the offense with which they were charged - violation of Section 1(b) of P.D. 1829 (obstruction of justice) - is not in relation to their office, they argued that they are not tasked with the enforcement and implementation of P.D. No. 705 – the offense subject of the investigation which petitioners allegedly obstructed or interfered with.

Petitioners are charged not for violation of P.D. 705 but of P.D. 1829, hence, petitioners' argument that the act complained of was not done in relation to their office to take the case out of the jurisdiction of the Sandiganbayan

does not lie.

At all events, Republic Act 8249, which amended Presidential Decree No. 1606, provides that as long as one (or more) of the accused is an official of the executive branch occupying position otherwise classified as Grade '27' and higher of the Compensation and Position Classification Act of 1989,[45] the Sandiganbayan exercises exclusive original jurisdiction over offenses or felonies committed by public officials whether simple or complexed with other crimes committed by the public officials and employees in relation to their office.[46] (Emphasis and underscoring supplied)

For purposes of vesting jurisdiction with the Sandiganbayan, the crux of the issue is whether petitioner Mayor Rodriguez, who holds a position of "Grade 27" under the Local Government Code of 1991[47], committed the offense charged in relation to her office.

In *Montilla v. Hilario*[48], this Court laid down the principle that for an offense to be committed in relation to the office, the relation between the crime and the office must be direct and not accidental, in that in the legal sense, the offense can not exist without the office.[49]

As an exception to *Montilla*, this Court, in *People v. Montejo*,[50] held that although public office is not an element of an offense charged, as long as the offense charged in the information is intimately connected with the office and is alleged to have been perpetrated while the accused was in the performance, though improper or irregular, of his official functions, there being no personal motive to commit the crime and had the accused would not have committed it had he not held the aforesaid office,[51] the accused is held to have been indicted for "an offense committed in relation" to his office.

Applying the exception laid down in *Montejo*, this Court in *Cunanan v. Arceo*,[52] held that although public office is not an element of the crime of murder as it may be committed by any person, whether a public officer or a private citizen, the circumstances under which the therein petitioner, who was a member of the Philippine National Police, shot and killed the victim in the course of trying to restore local public order, bring the therein petitioner's case squarely within the meaning of an "offense committed in relation to the [accused's] public office." [53]

In the present case, public office is not an essential element of the offense of obstruction of justice under Section 1(b) of P.D. 1829. The circumstances surrounding the commission of the offense alleged to have been committed by petitioner Rodriguez are such, however, that the offense may not have been committed had said petitioner not held the office of the mayor. As found during the preliminary investigation, petitioner Rodriguez, in the course of her duty as Mayor, who is tasked to exercise general and operational control and supervision over the local police forces[54], used her influence, authority and office to call and command members of the municipal police of Taytay to haul and transfer the lumber which was still subject of an investigation for violation of P.D. 705.

The joint-counter affidavits[55] signed by petitioners during the preliminary investigation quoted the letter of petitioner Mayor Rodriguez to the municipal police officers, viz:

To: SPO1 Juanito G. Gan and

PO2 Emmanuel Nangit;
PNP Members of Taytay
Municipal Police Office,
Taytay Palawan

Upon receipt of this order you are hereby directed to proceed to Sitio Igang, Poblacion Taytay, Palawan, at the compound of the Rural Agricultural Center[, in order t]o haul the flitches ipil lumber intended for the projects of

the Municipal Government of Taytay and to turn over to the DENR office of Taytay, Palawan.

For immediate strict compliance. [56]

Reference to this above-quoted letter of petitioner Rodriguez is found in both the Resolution[57] of the Deputized Ombudsman Investigator of the Provincial Prosecution Office of Palawan and the Joint Review Action[58] of the Graft Investigation Officer-Luzon.

What determines the jurisdiction of a court is the nature of the action pleaded as appearing from the allegations in the information[59]. The averment in the information that petitioner Rodriguez, as municipal mayor, took advantage of her office and caused the hauling of the lumber to the municipal hall to obstruct the investigation of the case for violation of P.D. 705 effectively vested jurisdiction over the offense on the Sandiganbayan. Thus, the amended information reads:

AMENDED INFORMATION

The undersigned Special Prosecution Officer II, Office of the Special Prosecutor, hereby accuses EVELYN VILLABERT RODRIGUEZ and ANDREWS BONITA JR. of Violation of Section 1(b), Presidential Decree No. 1829 committed as follows:

“That on or about October 5, 1996, at Sitio Igang, Barangay Poblacion, Municipality of Taytay, Province of Palawan, and within the jurisdiction of this Honorable Court, accused EVELYN VILLABERT RODRIGUEZ and ANDREWS ABONITA JR., both public officers, being the Municipal Mayor and Barangay Captain of Barangay Igang of the same municipality, respectively, committing the offense in relation to their office and taking advantage of the same, confederating and conspiring with each other enter the compound of the Rural Agricultural Center (RAC) at Sitio Igang, Poblacion, Taytay, Palawan and while inside with force, intimidation and against the will of the one officially detailed thereat, 2LT. ERNAN O. LIBAO, did then and there willfully, feloniously, unlawfully, knowingly and forcibly haul 93 pieces or 2,577.32 board feet of assorted dimensions of ipil lumber, that were officially confiscated by a joint team of EIIB, PENRO, BANTAY PALAWAN, PNP-TINIGUIBAN COMMAND and PHILIPPINE MARINES, stockpiled inside the RAC for safekeeping while waiting for available transportation to haul the same to Puerto Princesa City, and brought the same ipil lumber within the compound of the Municipal Hall of Taytay, with the primordial purpose of suppressing or concealing the said ipil lumber as evidence in the investigation of the case for violation of P.D. 705, as amended.[60] (Italics supplied)

There being no flaw or infirmity then in the amended information, respondent Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the order of January 17, 2000, denying petitioners’ motion to quash.

The orders of the Sandiganbayan denying the motion to defer arraignment and entering a plea of not guilty for petitioners in light of their refusal to plead were accordingly rendered without any grave abuse of discretion.

WHEREFORE, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Rollo at 19-20.

[2] Id. at 21-22.

[3] Id. at 23-25.

[4] Id. at 103.

[5] Id. at 104.

[6] Id. at 56-61.

[7] P.D. 1829, §1. - The penalty of prision correccional in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts: xxx (b) Altering, destroying, suppressing or concealing any paper, record, document, or object with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases.

[8] Rollo at 105-108.

[9] Id. at 31-32.

[10] Id. at 109.

[11] Id. at 110.

[12] Id. at 114.

[13] Id. at 111.

[14] Id. at 28 to 30.

[15] Id. at 113.

[16] Id. at 116.

[17] Id. at 121.

[18] Id. at 117-120.

[19] Id. at 122.

[20] Id. at 36 to 42.

[21] Id. at 123-125.

[22] Id. at 126-127.

[23] Id. at 133.

[24] Id. at 135-136.

[25] Id. at 47-51.

[26] Id. at 19-20.

[27] Id. at 21-22.

[28] Id. at 23-25.

[29] Id. at 9-10.

[30] Tatad v. Sandiganbayan, 159 SCRA 70 (1988).

[31] Rollo at 11-12.

[32] Id. at 12-13.

[33] Id. at 13-14.

[34] Id. at 14-15.

[35] Supra note 30.

[36] Blanco v. Sandiganbayan, 346 SCRA 108, 114 (2000).

[37] Ty-Dazo v. Sandiganbayan, 374 SCRA 200 (2002).

[38] Order of January 17, 2000, id. at 201 - 202.

[39] Rollo at 19.

[40] Supra note 36..

[41] R.A. 8493, §7. Time Limit between Filing of Information and Arraignment, and Between Arraignment and Trial. - The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court on which the charge is pending, whenever date last occurs. Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen days to prepare for trial. Trial shall commence within thirty (30) days from arraignment as fixed by the court. xxx

[42] RA 8493, §13. Remedy Where Accused is Not Brought to Trial Within the Time Limit. - If an accused is not brought to trial within the time limit required by Section 7 of this Act as extended by Section 9, the information shall be dismissed on motion of the accused. xxx

[43] 2000 Rules on Criminal Procedure, Rule 110, §14.

[44] Rollo at 192.

[45] R.A. 8249, “An Act Further Defining the Jurisdiction of the Sandiganbayan Amending for the Purpose Presidential Decree No, 1606 as Amended, Providing Funds Therefor, and for Other Purposes” §4 (a) (1).

[46] Id. at §4 (b).

[47] R.A. 7160 “Local Government Code of 1991” , §444 (b)(5)(d).

[48] Montilla v. Hilario 90 Phil 49, (1951).

[49] Id. at 51.

[50] People v. Montejo 108 Phil 613 (1960).

[51] Id. at 622.

[52] Cunanan v. Arceo, 242 SCRA 88 (1995).

[53] Id. at 89, 97.

[54] R.A. 7160, §444 (b)(2)(v).

[55] Records of the Sandiganbayan, Vol. I, at 26.

[56] Ibid.

[57] Rollo at 56-61.

[58] Id. at 105-108.

[59] *Madarang v. Sandiganbayan*, 355 SCRA 525, 532 (2001).

[60] Rollo at 130-131.

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