

GRACIANO P. DELA CHICA, MUNICIPAL MAYOR, AND EVAN C. ACEVEDA, MUNICIPAL ENGINEER, BACO, ORIENTAL MINDORO, PETITIONERS, VS. HON. SANDIGANBAYAN, 4TH DIVISION, AND PEOPLE OF THE PH...

G.R. No. 144823. December 08, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

In this special civil action for certiorari with prayer for temporary restraining order and/or preliminary injunction, petitioners Graciano P. Dela Chica and Evan C. Aceveda are challenging two resolutions issued by the 4th Division of the Sandiganbayan in Criminal Case No. 25188, in which petitioners stand charged for violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act. The resolutions assailed are those dated April 14, 2000,[1] which ordered the suspension pendente lite of petitioners for a period of ninety days; and dated September 1, 2000,[2] which denied petitioners' demurrer to evidence and motion for reconsideration of the suspension order.

The records show that in an information dated February 8, 1999, the Office of the Deputy Ombudsman for Luzon charged petitioners before the Sandiganbayan for violation of Section 3 (e), R.A. No. 3019, which reads, as follows:

That on November 28, 1995 or sometime prior or subsequent thereto, in Baco, Oriental Mindoro and within the jurisdiction of this Honorable Court, accused, Municipal Mayor Graciano P. Dela Chica and Municipal Engineer Evan C. Aceveda, of the Municipality of Baco, Oriental Mindoro, while in the performance of their official functions, and taking advantage of the same, acting in conspiracy with one another, did then and there wilfully, unlawfully and criminally cause undue injury to the government by making revisions in the completion of the municipal building without prior approval by the proper authorities resulting to cost deficiency of P375,682.32, to the damage and injury of the government, in the amount aforestated.[3]

On August 20, 1999, petitioners were arraigned and both entered a plea of not guilty.[4]

Petitioners thereafter sought to question the sufficiency of the information by filing a motion for bill of particulars, praying that the prosecution be directed to specify the persons referred to in the information as "proper authorities." This was, however, denied by the Sandiganbayan, as it ruled that the arraignment had barred it from approving amendments beyond the matter of form.

On December 3, 1999, the prosecution filed a Motion to Suspend Accused Pendente Lite pursuant to Section 13, R.A. No. 3019.[5] Petitioners thereafter filed an opposition thereto, on the ground that the information is invalid as not all the essential elements of the offense charged were alleged therein, particularly the element of "evident bad faith, manifest partiality or gross inexcusable negligence." [6]

The Sandiganbayan handed down the first assailed resolution on April 14, 2000, ordering petitioners' suspension

pendente lite for 90 days.[7] It ruled that in its previous order denying petitioners' motion for bill of particulars, it in effect upheld the sufficiency of the information, hence the mandatory suspension pendent lite of petitioners is called for. Petitioners filed a motion for reconsideration, which respondent court denied in its subsequent resolution on September 1, 2000.[8]

Petitioners now allege that respondent Sandiganbayan acted with grave abuse of discretion amounting to lack of jurisdiction in issuing the questioned resolutions. Petitioners cite the following as errors:

- RESPONDENT COURT GRAVELY ERRED IN FINDING AND CONCLUDING THAT THE INFORMATION ANNEX 'C' HEREOF, IS VALID.
- RESPONDENT COURT COMMITTED A SERIOUS ERROR OF LAW AND [ACTED] WITH GRAVE ABUSE OF DISCRETION IN ORDERING THE SUSPENSION OF PETITIONERS FOR NINETY (90) DAYS.
- RESPONDENT COURT ERRED IN NOT QUASHING [THE INFORMATION] ON [THE] GROUND OF [ITS] INVALIDITY AND LACK OF CAUSE OF ACTION.[9]

These assigned errors boil down to one pivotal issue: the validity of the information under which petitioners stand charged.

Petitioners contend that respondent court wrongly ordered their suspension despite the patent defect of the information. They posit that the failure to allege the essential element of "manifest partiality, evident bad faith or gross inexcusable negligence" as defined by R.A. 3019 renders the information invalid, as it fails to comply with the requirements of the Rules of Criminal Procedure. At the same juncture, they seek a temporary restraining order and/or preliminary injunction to restrain the respondent court from implementing its order of suspension.

Respondents, on the other hand, maintain that the facts alleged in the information clearly and sufficiently constituted the crime of violation of Section 3(e) of R.A. 3019. They contend that an information is valid as long as the statutory designation of the offense and the acts or omissions constitutive thereof are distinctly stated therein.

The Court finds merit in the petition.

The issue on how the acts or omissions constituting the offense should be made in order to meet the standard of sufficiency has long been settled.[10] It is fundamental that every element of which the offense is composed must be alleged in the information.[11] No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.[12] Section 6, Rule 110 of the Revised Rules of Court requires, inter alia, that the information must state the acts or omissions so complained of as constitutive of the offense.[13] Recently,[14] this Court emphasized that the test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law. In this examination, matters aliunde are not considered.[15] The law essentially requires this to enable the accused suitably to prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.[16]

What facts and circumstances are necessary to be stated in the information must be determined by reference to the definitions and the essentials of the specific crime.[17] Section 3(e) of R.A. No. 3019, under which petitioners are charged, provides:

SEC. 3. Corrupt practices of public officers - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x x x x x

(e)

Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

In a number of cases,[18] the elements of this offense have been broken down as follows:

(1)

That the accused are public officers or private persons charged in conspiracy with them;

(2)

That said public officers committed the prohibited acts during the performance of their official duties or in relation to their public positions;

(3)

That they caused undue injury to any party, whether the Government or a private party;

(4)

That such injury was caused by giving unwarranted benefits, advantage or preference to such parties; and

(5)

That the public officers acted with manifest partiality, evident bad faith or gross inexcusable negligence.

A scrutiny of the information in this case discloses that petitioners are accused of the following acts, as stated in the pertinent portion of the information:

....wilfully, unlawfully and criminally caus[ing] undue injury to the government by making revisions in the completion of the municipal building without prior approval by the proper authorities resulting to cost deficiency of P375,682.32, to the damage and injury of the government, in the amount aforestated.

Evidently, the information failed to allege that petitioners, in causing undue injury to the government by revising the completion of the municipal building without prior approval of the proper authorities, did the same through "manifest partiality, evident bad faith or gross inexcusable negligence," an essential element of the crime charged. Neither did the information embody words which would have characterized the elements, such as "partiality," or bias which excites a disposition to see and report matters as they are wished for rather than as they are; "bad faith," which connotes not only bad judgment or negligence but also a dishonest purpose or conscious wrongdoing; or "gross negligence," which is negligence characterized by the want of even slight care, or acting or omitting to act in a situation where there is a duty to act willfully and intentionally, with a conscious indifference to consequences as far as other persons are concerned.[19]

Respondents would, however, argue that Section 9, Rule 110 of the Revised Rules of Court,[20] does not require that the information be worded in the terms of the statute defining the offense, as long as it enables a person of common understanding to know the offense being charged and the court to pronounce judgment.

Respondents' contention is untenable. It is not enough to allege that the acts were willfully, unlawfully or criminally caused without stating that the same was done in a manner by which the accused could be held liable for the specific offense charged. This Court has ruled that in order that one may be held criminally liable under Section 3(e) of R.A. 3019, the act of the accused which caused undue injury must have been done with evident bad faith or with gross inexcusable negligence.[21] This draws more significance considering that good faith and regularity are always presumed in the performance of official duties by public officers.[22] Therefore, manifest partiality, evident bad faith or gross inexcusable negligence must be alleged with particularity in the information sufficiently to inform the accused of the charge against him and to enable the court properly to render a decision.

Respondents, however, question petitioners' right to raise the issue of the validity of the information at this stage, arguing that by entering a plea of not guilty during the arraignment, petitioners had waived all possible objections to the sufficiency of the information.

The argument is without legal basis. It is true that pursuant to Section 9, Rule 117 of the Revised Rules of Court, the failure of the accused to assert any ground for a motion to quash before he pleads to the information shall be deemed a waiver of the grounds for a motion to quash. Respondents, however, may have overlooked that the same section admits of certain exceptions, as when: (1) no offense was charged, (2) the court trying the case has no jurisdiction over the offense charged, (3) the offense or penalty has been extinguished, and (4) the accused would be twice put to jeopardy.[23] In the present case, given that the information failed sufficiently to charge the offense, petitioners are not precluded from attacking its validity even after their arraignment.

Considering the foregoing, this Court finds the information in the present case to be fatally defective. Where it is clear that the information does not really charge an offense, the case against the accused must be dropped immediately. There is no point in proceeding under a defective information that can never be the basis of a valid conviction.[24]

WHEREFORE, the petition is GRANTED. The questioned resolutions dated April 14, 2000 and September 1, 2000 of the Sandiganbayan, 4th Division, are hereby SET ASIDE. The February 8, 1999 information for violation of Section 3(e) of R.A. 3019 filed against petitioners Graciano P. dela Chica and Evan C. Aceveda is hereby DISMISSED.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Ynares-Santiago, and Carpio, JJ., concur.

[1] Rollo, pp. 17-24.

[2] *Id.*, at 26-30.

[3] *Id.*, at 31-32.

[4] Certificates of Arraignment, Records, Volume I, pp. 73-74; Order, Records, Volume I, p. 77.

[5] Rollo, pp. 35-37.

[6] Id., at 38-45.

[7] Id., supra, note 1.

[8] Id., supra, note 2.

[9] Id., at 8.

[10] Estrada v. Sandiganbayan, 377 SCRA 538 (2002).

[11] People v. Estopito, 373 SCRA 212 (2002); Mendoza-Arce v. Ombudsman (Visayas), 380 SCRA 325 (2002); Balitaan v. CFI, 115 SCRA 729 (1982).

[12] Estrada v. Sandiganbayan, supra, note 10.

[13] Ingco v. Sandiganbayan, 272 SCRA 563 (1997).

[14] Torres v. Garchitorena, G.R. No. 153666, December 27, 2002.

[15] Ingco v. Sandiganbayan, supra, note 13.

[16] Estrada v. Sandiganbayan, supra, note 10, citing Balitaan v. CFI, supra, note 11.

[17] Balitaan v. CFI, supra, note 11.

[18] Mendoza-Arce v. Ombudsman (Visayas), supra, note 11; Bunye v. Sandiganbayan, 306 SCRA 663 (1999); Llorente, Jr., v. Sandiganbayan, 287 SCRA 382 (1998); Ingco v. Sandiganbayan, supra, note 13; Villanueva v. Sandiganbayan, 223 SCRA 543 (1993); Ponce de Leon v. Sandiganbayan, 186 SCRA 745 (1990).

[19] Mendoza-Arce v. Ombudsman (Visayas), supra, note 11.

[20] SEC.9 Cause of the accusation –The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

[21] Fernando v. Sandiganbayan, 212 SCRA 680 (1992), citing Alejandro v. People, 170 SCRA 400 (1989).

[22] Mama, Jr., v. CA, 196 SCRA 489 (1991); Revised Rules of Court, Rule 131, Sec. 3 (m).

[23] People v. Gonzales, Jr., 373 SCRA 283 (2002).

[24] Cruz, Jr. v. CA, 194 SCRA 145 (1991).

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