

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN (FIRST DIVISION) AND JOSE JAIME POLICARPIO JR., RESPONDENTS.

G.R. No. 149495. August 21, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The consolidation of cases is addressed to the sound discretion of judges. Unless the exercise of such discretion has been gravely abused, an appellate court will not disturb their findings and conclusions thereon.

The Case

Before us is a Petition for Certiorari[1] under Rule 65 of the Rules of Court, seeking to nullify the Order[2] of the First Division of the Sandiganbayan (SBN) dated June 28, 2001 in Criminal Case No. 26566. The assailed Order denied petitioner's Motion to Consolidate the said criminal case for indirect bribery with Criminal Case No. 26558 for plunder, filed against former President Joseph Ejercito Estrada. The SBN disposed as follows:

"In view hereof, the Court is constrained to deny, as it hereby denies, the motion to consolidate the instant matter with Crim. Case No. 26558, the plunder case in the Third Division. x x x."[3]

The Antecedents

On April 4, 2001, the Office of the Ombudsman (OMB) filed three separate cases before the SBN: 1) Criminal Case No. 26558 for plunder[4] against former President Estrada and others; 2) Criminal Case No. 26565 for illegal use of alias[5] against Estrada; and 3) Criminal Case No. 26566 for indirect bribery[6] against herein private respondent. The cases were raffled to the Third, the Fifth and the First Divisions of the SBN, respectively.

Thereafter, petitioner filed separate Motions to consolidate Criminal Case Nos. 26565 and 26566 with Criminal Case No. 26558, which bears the lowest docket number among the three cases.

The Fifth Division, in a Resolution[7] promulgated on May 25, 2001, granted the Motion to consolidate Criminal Case No. 26565 with Criminal Case No. 26558. However, in an Order[8] dated June 28, 2001, the First Division denied the Motion to consolidate Criminal Case No. 26566 with Criminal Case No. 26558.

Hence, this Petition.[9]

Issues

Petitioner submits the following issues for the Court's consideration:

"I

Respondent Court gravely abused its discretion amounting to lack or excess of jurisdiction when it denied petitioner's Motion to Consolidate the trials of Criminal Case No. 26566 (indirect bribery case) and Criminal Case No. 26558 (plunder case) despite clear showing that the consolidation will promote the public interests of economical and speedy trial.

"II

Respondent Court gravely abused its discretion when it denied petitioner's Motion for Consolidation despite clear showing that consolidation will preclude conflicting factual findings on identical factual issues between its First and Third Divisions."^[10]

Respondent, on the other hand, asks for the dismissal of the Petition, because grave abuse of discretion on the part of the SBN had not been demonstrated, and because petitioner had resorted to forum shopping.

Supervening Events

While this case was pending completion -- the period during which the parties were preparing and filing their respective pleadings before this Court -- the parties brought to our attention certain events that had transpired in the SBN.

Firstly, petitioner and private respondent filed on November 15, 2001, a Joint Motion for Provisional Dismissal^[11] of Criminal Case No. 26566, pursuant to Section 8 of Rule 117 of the Revised Rules on Criminal Procedure. This Motion was, however, denied by the First Division.

Secondly, petitioner filed before the SBN another Urgent Motion for Consolidation^[12] dated July 10, 2002, praying anew for the consolidation of the indirect bribery case with the plunder case pending before the Special Division of the anti-graft court.^[13] The purpose of this Motion was supposedly to allow the testimony of Luis "Chavit" Singson in the latter case to be taken as testimonial evidence for the former.

Thirdly, Respondent Policarpio filed on August 6, 2002 a Manifestation with Motion, praying that petitioner be found guilty of willful and deliberate forum-shopping.^[14]

Lastly, the Special Division trying the plunder case had already heard the testimonies of Carmencita Itchon, Emma Lim and Singson -- the same witnesses the prosecution would have presented in the indirect bribery case.^[15]

The Court's Ruling

The Petition has no merit; the SBN did not commit grave abuse of discretion in issuing the assailed Order.

Main Issue:

Consolidation of Trial

The consolidation of criminal cases is a matter of judicial discretion, according to Section 22 of Rule 119 of the Rules of Court, which we quote:

"Sec. 22. Consolidation of trials of related offenses - Charges of offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the discretion of the Court."

Similarly, Section 2 of Rule XII of the SBN Revised Internal Rules^[16] reads:

"Section 2. Consolidation of Cases. - Cases arising from the same incident or series of incidents, or involving common questions of fact and law, may be consolidated in the Division to which the case bearing the lowest docket number is raffled.

x x x x x x x x."

The counterpart rule for civil cases is found in Section 1 of Rule 31^[17] of the Rules of Court.

Similarly, jurisprudence has laid down the requisites for the consolidation of cases. As held in *Caños v. Peralta*,^[18] joint trial is permissible "x x x where the [actions] arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence, provided that the court has jurisdiction over the cases to be consolidated and that a joint trial will not give one party an undue advantage

or prejudice the substantial rights of any of the parties. x x x."[19]

Querubin v. Palanca[20] has ruled that consolidation is proper in the following instances:

"x x x where the offenses charged are similar, related or connected, or are of the same or similar character or class, or involve or arose out of the same or related or connected acts, occurrences, transactions, series of events, or chain of circumstances, or are based on acts or transactions constituting parts of a common scheme or plan, or are of the same pattern and committed in the same manner, or where there is a common element of substantial importance in their commission, or where the same, or much the same, evidence will be competent and admissible or required in their reproduction of substantially the same testimony will be required on each trial." [21] (Italics supplied)

Expediency was the reason for the consolidation of the criminal cases against the accused in Querubin. As there was only one accused (who himself moved for consolidation) and one offended party, and the 22 separate cases of estafa were committed in substantially the same way over the same period of time and with the same witnesses, the Court deemed the consolidation to be proper.

Sideco v. Paredes[22] allowed a consolidated appeal of 16 cases involving a common question of law. Joint trial was deemed necessary to minimize therein appellant's expenses in pursuing his appeal.

Other cases were consolidated, as they had sought the same reliefs[23] or involved the same parties and basically the same issues.[24] Another purpose was to avoid the possibility of conflicting decisions.[25] These reasons are in line with the object of consolidation, which is to "avoid multiplicity of suits, guard against oppression or abuse, prevent delay, clear congested dockets, simplify the work of the trial court and save unnecessary costs and expense." [26]

On the other side of the spectrum were cases in which consolidation was found to be improper. Republic v. Mangrobang[27] struck down the consolidation of an original action for ejectment with an appealed case for eminent domain, because consolidation would have only delayed the resolution of the cases, which had raised dissimilar issues. Moreover, one or both cases had already been partially heard.

Meanwhile, we ruled in Dacanay v. People[28] -- a case in which separate trial was requested -- that the resulting inconvenience and expense on the part of the government could not be given preference over the right to a speedy trial; or over the protection of a person's life, liberty or property. Indeed, the right to a speedy resolution of cases[29] can also be affected by consolidation.

After a careful review of the records of this case, we hold that the SBN did not commit grave abuse of discretion in denying petitioner's Motion to Consolidate the indirect bribery and the plunder cases. As correctly ruled by the anti-graft court, their consolidation would have unduly exposed herein private respondent to totally unrelated testimonies, delayed the resolution of the indirect bribery case, muddled the issues therein, and exposed him to the inconveniences of a lengthy and complicated legal battle in the plunder case. Consolidation has also been rendered inadvisable by supervening events -- in particular, the testimonies sought to be introduced in the joint trial had already been heard in the plunder case.

Verily, no indiscretion has been shown by the court a quo in refusing to consolidate the cases. There is no showing that it evaded or refused to perform a positive duty enjoined by law. Neither has it been shown that when the SBN denied the Motion to Consolidate, it exercised its power in a manner that was arbitrary or despotic by reason of passion, prejudice or personal hostility.[30]

Forum-Shopping

Additionally, respondent argues that petitioner is guilty of forum-shopping, which is reason enough to dismiss the

Petition. We agree.

As required by the Rules,[31] the Petition in this case was accompanied by a Verification/Certification against forum-shopping, in which petitioner made the following representation:

"4. That there is no other case pending in any tribunal, commission or agency or court involving the same case and that should there come to our knowledge that there is a case involving the same cause and parties pending before any tribunal, commission, agency or court, we will inform the Honorable Court of the matter within five (5) days from knowledge thereof." [32]

Petitioner did not inform this Court that it had filed an Urgent Motion for Consolidation on July 10, 2002, while the instant Petition was pending. Undeniably, it failed to fulfill the above-quoted undertaking.

Moreover, a scrutiny of the Urgent Motion reveals that petitioner raised the same issues and prayed for the same remedy therein as it has in the instant Petition -- to consolidate Criminal Case Nos. 26566 and 26558.

Such move clearly constitutes forum-shopping. As held by *Candido v. Camacho*, [33] forum-shopping exists "when a party repetitively avails himself of several judicial remedies in different venues, simultaneously or successively, all substantially founded on the same transactions, essential facts and circumstances, all raising substantially the same issues and involving exactly the same parties." [34]

A becoming regard for this Court should have prevailed upon petitioner to await the outcome of the instant Petition. Making petitioner attend to separate trials is an all too familiar plaint of prosecutors. This fact does not, however, justify a disregard of the rule against forum-shopping or relieve petitioner from the negative consequences of its act. Violation of the forum-shopping prohibition, by itself, is a ground for summary dismissal [35] of the instant Petition.

WHEREFORE, the Petition is hereby DISMISSED.

SO ORDERED.

Puno, (Chairman), and Sandoval-Gutierrez, JJ., concur.

Corona, and Carpio-Morales, JJ., on official leave.

[1] Rollo, pp. 2-47.

[2] Penned by former Sandiganbayan Presiding Justice Francis E. Garchitorena and concurred in by Justices Catalino R. Castañeda Jr. and Gregory S. Ong.

[3] Order, p. 2; rollo, p. 50.

[4] Rollo, pp. 53-56.

[5] *Id.*, pp. 60-61.

[6] *Id.*, pp. 57-58.

[7] Penned by Justice Minita Chico-Nazario and concurred in by Justices Ma. Cristina G. Cortez-Estrada and Nicodemo T. Ferrer; rollo, pp. 65-67.

[8] Rollo, p. 48.

[9] The Petition was deemed submitted for decision on September 12, 2002, upon the Court's receipt of

petitioner's Memorandum signed by then acting Ombudsman Margarito P. Gervacio Jr., Special Prosecutor Leonardo P. Tamayo Deputy Special Prosecutor Robert E. Kallos and Atty. Rodrigo V. Coquia. Respondent's Memorandum, received on August 21, 2002, was signed by Atty. Juan Carlos T. Cuna of M.M. Lazaro Associates and Santiago Santiago.

[10] Petition, pp. 9-10; rollo, pp. 10-11. Original in upper case.

[11] Rollo, p. 145.

[12] Id., pp. 158-165.

[13] Per AM No. 02-1-07-SC, January 21, 2002, the Special Division of the Sandiganbayan is composed of Justice Minita V. Chico-Nazario as chairman, and Associate Justices Edilberto G. Sandoval and Teresita J. Leonardo-de Castro as members.

[14] Rollo, pp. 153-157.

[15] Petitioner's Memorandum, p. 8; rollo, p. 207.

[16] AM No. 02-6-07-SB dated August 28, 2002.

[17] Rule 31, Section 1, reads:

"Section 1. Consolidation. - When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

[18] 201 Phil. 422, August 19, 1982.

[19] Id., p. 426, per Escolin, J.

[20] 141 Phil. 432, November 29, 1969.

[21] Id., p. 440, per Sanchez, J.

[22] 74 Phil. 6, October 23, 1942.

[23] Dans Jr. v. People, 285 SCRA 504, January 29, 1998.

[24] Intestate Estate of Alexander T. Ty v. Court of Appeals, 356 SCRA 661, April 19, 2001.

[25] Benguet Corporation, Inc. v. CA, 165 SCRA 265, August 31, 1988.

[26] Presidential Commission on Good Government v. Sandiganbayan, 209 SCRA 844, 849-850, June 15, 1992, per Padilla, J.

[27] 370 SCRA 592, November 27, 2001.

[28] 310 Phil. 534, January 25, 1995.

[29] §16, Article III of the Constitution.

[30] Ala-Martin v. Sultan, 366 SCRA 316, October 2, 2001; De Vera v. Pelayo, 335 SCRA 281, July 6, 2000.

[31] Rule 65, Section 1 of the Rules of Court.

[32] Petition, p. 31; rollo, p. 32.

[33] GR No. 136751, January 15, 2002.

[34] *Id.*, p. 9, per Puno, J.; citing *Diu v. Ibajan*, 379 Phil. 482, 492, January 19, 2000, per Vitug, J. See also *First Philippine International Bank v. Court of Appeals*, 322 Phil. 280, January 24, 1996.

[35] *Melo v. Court of Appeals*, 376 Phil. 204, November 16, 1999.

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