

**ROBERT TAYABAN Y CALIPLIP, FRANCISCO MADDAWAT Y
TAYOBAN, ARTEMIO BALANGUE Y LANGA, PRESENT: FRANCISCO
MAYUMIS Y BAHREL AND QUIRINO PANA Y CUYAHEN,
YNARES-SANTIAGO, J., PETITIONER...**

G.R. NO. 150194. March 06, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before this Court is a Petition for Review on Certiorari assailing the Decision[1] of the Sandiganbayan dated June 25, 2001 in Criminal Case No. 17856; and its Resolution[2] of September 28, 2001, denying petitioners' Motion for Reconsideration.

Petitioner Robert Tayaban (Tayaban) was the Municipal Mayor of Tinoc, Ifugao. His co-petitioners, namely: Francisco Maddawat, Artemio Balangue, Francisco Mayumis, and Quirino Pana, were Municipal Councilors of the same municipality.

The facts of the case are as follows:

Sometime in 1988, then Mayor Tayaban submitted a project proposal to provincial governor Benjamin Cappleman for the construction of the Tinoc Public Market. Subsequently, Tayaban was informed by the Governor that his proposal was approved and that the project shall be funded by the Cordillera Executive Board (CEB).[3] Subsequently, a bidding was conducted and private complainant Lopez Pugong (Pugong) won the contract for the construction of the said public market. On March 1, 1989, a formal contract[4] was executed by and between Pugong, as the contractor, and the CEB, as the project owner. Actual construction of the public market was commenced in June 1989. On August 15, 1989, the Sangguniang Bayan of Tinoc adopted Resolution No. 20 which reads:

RESOLUTION NO. 20
Series of 1989

WHEREAS, upon thorough discussion as regards the construction of the Public Market; it was found out that the constructors despite the several instructions, memoranda issued by the Municipal Mayor and the negotiations made by this body they insisted to erect the building pedestals on the site [that] pleases them and not on the site identified by this duly constituted body who has direct administration of the municipal ground;

WHEREFORE, on motion duly seconded be it...

RESOLVED, as it is hereby done to adopt this resolution manifesting this body's decision to uphold and maintain the trust and confidence of the people upon this body;

RESOLVED, finally that this body agrees, and decides to demolish the erected structures for the purpose of erecting the Public Market building as identified and decided by this body; and further resolved as it is hereby done that this be a precedent for other future leaders.[5]

On that same day, Tayaban and his co-petitioners, together with some men, proceeded to the construction site and demolished the structures and improvements introduced thereon. As a result, Pugong filed an Affidavit-Complaint[6] against herein petitioners.

Subsequently, in an Information dated June 26, 1992, herein petitioners were charged with violation of Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The accusatory portion of the Information reads:

That on August 17, 1989 and for sometime prior or subsequent thereto, in the Municipality of Tinoc, Ifugao, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Robert Tayaban, Municipal Mayor of Tinoc, Francisco Maddawat, Artemio Balangue, Francisco Mayumis and Quirino Pana, are all public officers being Municipal Councilors of Tinoc, Ifugao and in the performance of their official functions acting in evident bad faith and conspiring with each other, did then and there, willfully and unlawfully pass and unanimously approve Resolution No. 20, thereby vesting upon themselves powers and authority to demolish the half-finished Tinoc Public Market construction whereby respondents themselves personally and actually demolish [sic] it, to the damage and prejudice of the government particularly the Cordillera Executive Board, being the owner of the project.[7]

Upon arraignment on December 14, 1992, herein petitioners pleaded not guilty.[8]

After trial, the Sandiganbayan promulgated the presently assailed Decision,[9] the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered convicting all the accused ROBERT TAYABAN Y CALIPLIP, FRANCISCO MADDAWAT Y TAYOBAN, ARTEMIO BALANGUE Y LANGA, FRANCISCO MAYUMIS Y BAHREL and QUIRINO PANA Y CUYAHEN of the crime of Violation of Section 3 (e) of Republic Act No. 3019 as amended, and in the absence of mitigating and aggravating circumstances and applying the Indeterminate Sentence Law, herein accused are hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum to eight (8) years as maximum and are hereby ordered jointly and severally to pay the government the amount of P134,632.80 without subsidiary imprisonment in case of insolvency.

SO ORDERED.[10]

Petitioners filed a Motion for Reconsideration but the Sandiganbayan denied it in a Resolution[11] dated September 28, 2001.

Hence, herein petition for review with the following assignment of errors:

I

WITH ALL DUE RESPECT, THE HONORABLE SANDIGANBAYAN ERRED IN HOLDING THAT THE ACTS ALLEGEDLY COMMITTED BY THE ACCUSED CONSTITUTED A VIOLATION OF SECTION 3(E) OF R.A. NO. 3019 AS AMENDED, AND THEREFORE ACCUSED SHOULD HAVE BEEN ACQUITTED BY THE RESPONDENT COURT.

II

THE HONORABLE SANDIGANBAYAN ERRED IN NOT HOLDING THAT RESOLUTION NO. 20 IS A VALID LEGISLATION AND THAT THE DEMOLITION OF THE FIVE POSTS WAS AN IMPLEMENTATION OF LOI NO. 19 AND AN EXERCISE OF THE POLICE POWER VESTED IN LOCAL GOVERNMENT UNIT.

III

THE HONORABLE SANDIGANBAYAN, IN VIOLATION OF THE RULES OF EVIDENCE, LAWS AND JURISPRUDENCE ERRED IN CONSIDERING FACTS WITHOUT REFERRING TO THE EVIDENCE ON RECORD.[12]

In their first assigned error, petitioners argue that one of the elements of the offense which constitutes a violation of Section 3(e) of R.A. No. 3019 is that the government or any private party suffers undue injury by reason of the prohibited acts committed by the public officer being charged. Petitioners argue that this element was not proved because the CEB, which was supposed to be the injured party as alleged in the Information, did not complain or participate in the trial of the case. Petitioners go on to conclude that the existence of undue injury cannot be proven without the alleged injured party testifying. Petitioners further contend that the itemized list of expenses submitted in evidence by Pugong should not have been made a basis of the presently assailed Decision because such list is not supported by receipts and, therefore, self-serving. Moreover, Pugong was never mentioned in the Information as one of the injured parties. Petitioners assert that undue injury could only mean actual injury or damage which must be established by evidence.

Petitioners also contend that the element of bad faith on their part was not proved. On the contrary, they argue that their act of exerting efforts to communicate with the contractor and his foreman, by sending three letters in order to remind them of the proper site of construction, only shows that they were acting in good faith; that the eventual passage of Resolution No. 20 is also an additional evidence of good faith on their part because it was adopted by the Sangguniang Bayan as a collective body acting within the scope of its authority. Petitioners further contend that the CEB saw the propriety of the Sangguniang Bayan's action to stop the construction of the market that was why it issued an order suspending the said construction; and that the CEB, realizing its mistake in not coordinating with petitioners, did not pursue any action against them.

In their second assigned error, petitioners argue that the Sandiganbayan erred in applying Sections 56[13] and 59(a)[14] of the Local Government Code (LGC) of 1991, which provide, respectively, for the review by the Sangguniang Panlalawigan of component city and municipal ordinances and resolutions approving local development plans and public investment programs and for the posting in conspicuous places in the local government unit concerned of the said resolutions and ordinances.

They argue that the applicable law at the time of the passage of Resolution No. 20 is Batas Pambansa Bilang (B.P. Blg.) 337 or the Local Government Code of 1983. Claiming that Pugong failed to obtain the requisite building permit pursuant to Presidential Decree (P.D.) No. 1096,[15] petitioners assert that their act of demolishing the structures erected on the construction site is an implementation of the provisions of the Letter of Instruction (LOI) No. 19[16] which empowers certain public officials, like the municipal mayor, to remove illegal constructions which were built, either in public places or private property, without permit. Petitioners further contend that the demolition is a valid exercise of police power and that their act is justified by the general welfare clause under the LGC which empowers them to enact and implement measures for the general well-being of their constituents.

In their third assigned error, petitioners argue that the Sandiganbayan erred in relying on the testimony of prosecution witness Abe Belingan considering that he is not a disinterested witness because he is given the contract of cementing the supposed second floor of the public market. Moreover, petitioners contend that the testimony of Belingan regarding the reason why Mayor Tayaban demolished the structures is mere hearsay and as such should not be given any probative value. Petitioners assert that the complaint was filed against them for purposes of political harassment considering that Pugong's political allies who also signed Resolution No. 20 were not included in the said complaint.

In its Comment, the Office of the Solicitor General (OSG) contends that, as properly held by the Sandiganbayan, undue injury has been caused to the Government and that it is immaterial whether the CEB filed a complaint

against herein petitioners because the real party-in-interest is the Government of the Republic of the Philippines. The OSG also argues that private complainant Pugong also suffered undue injury because he already incurred expenses for labor, tools, equipment, and materials for the construction project. As to the issue of credibility of witnesses, the OSG asserts that the matter of assigning values to declarations on the witness stand is a function most competently performed by the trial judge who had the opportunity to observe the witnesses and assess their credibility by the various indicia available but not reflected on record.

The Office of the Special Prosecutor (OSP) also filed its Comment, contending that it is not necessary for the CEB to initiate a complaint against herein petitioners because the real party-in-interest is the Government of the Republic of the Philippines; that there is actual injury on the part of the Government as shown by the fact that construction was commenced and that petitioners did not deny that they demolished the structures which were erected; and that the list of expenses presented by Pugong cannot be considered self-serving because the latter testified thereon.

The OSP further claims that petitioners were guilty of bad faith when they demolished the erected structures as evidenced by various acts committed by herein petitioners prior to and during the construction of the public market; and that the fact that witness Belingan has contracted the cementing of the second floor of the supposed public market is not sufficient evidence of his bias against herein petitioners.

As to petitioners' contention that the criminal complaint filed against them was merely a political harassment considering that the other members of the Sangguniang Bayan who signed the questioned Resolution but who are allies of Pugong were not included in the complaint, the OSP avers that, while the said members of the Sangguniang Bayan signed Resolution No. 20, they were not included in the complaint because they did not take part in the demolition of the public market.

The Court finds the petition without merit.

Section 3(e) of R.A. No. 3019 reads:

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

(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.

The following indispensable elements must be established to constitute a violation of Section 3(e) of R.A. No. 3019, as amended:

- The accused is a public officer discharging administrative or official functions or private persons charged in conspiracy with them;
- The public officer committed the prohibited act during the performance of his official duty in relation to his public position;
- The public officer acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- His action caused undue injury to the government or any private party, or gave any party any unwarranted

benefit, advantage or preference to such parties.[17]

Herein petitioners' contention that the Sandiganbayan erred in ruling that they are guilty of bad faith and that they caused undue injury to the Government is not plausible.

With respect to the element of bad faith, the Court, in a number of cases, held:

Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. (*Spiegel v. Beacon Participations*, 8 NE 2nd Series, 895, 1007). It contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will for ulterior purposes. (*Air France v. Carrascoso*, 18 SCRA 155, 166-167). Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage.[18]

The Court agrees with the findings of the Sandiganbayan that petitioners were guilty of bad faith in causing the demolition.

Evidence of this is the fact that Resolution No. 20 was implemented on the same day that it was adopted without due notice of the planned demolition given to the CEB and the private contractor. In fact, Raymundo Madani, one of the Municipal Councilors who signed Resolution No. 20, testified that the said Resolution was passed only in the afternoon of August 15, 1989, after the subject demolition was conducted in the morning of the same day.[19]

Proof of petitioners' bad faith is also shown by Pugong's testimony, which was given credence by the Sandiganbayan, that the site where his laborers began construction of the demolished public market was pointed out by petitioner Tayaban himself when the former asked the latter where they were going to erect the said market.[20]

Tayaban's letter and memorandum dated July 31, 1989[21] and August 3, 1989,[22] respectively, addressed to the laborers of Pugong directing them to stop construction may not be considered as evidence of good faith on the part of petitioners considering that they know fully well that it is the CEB which implements the said project and any grievance or complaint on their part should have been addressed to the said Board. No evidence was presented to show that petitioners made their objections known to the CEB. At the least, petitioners should have furnished the CEB or the Governor, in his capacity as a regular member of the CEB,[23] a copy of the above-mentioned letter and memorandum. But they never did. The letter and memorandum were not even addressed to Pugong and there is no proof to show that he was informed of the contents thereof. Moreover, even if Pugong's men had received the letter and memorandum, they may not be totally blamed for ignoring the letter and the memorandum because under their contract, the owner of the project is the CEB and there is nothing therein which requires them to comply with whatever directive the Mayor or the Sangguniang Bayan of Tinoc may issue. In fact, the contract signed on March 1, 1989 specifically states that the contractor shall construct the Tinoc Public Market as per plan and specification provided by the CEB technical staff.[24] In consonance with the said provision in the contract, Pugong testified that the CEB sent a representative to supervise the construction.[25]

The following admissions made by petitioners bolster Sandiganbayan's finding of bad faith on their part:

First, petitioner Tayaban admitted that when he submitted the project proposal for the construction of the Tinoc Public Market, he did not indicate the exact location where the market should be put up saying that he shall specify the location when the budget for the project shall have been approved.[26] However, despite meeting the Governor twice in 1989, and being informed by the latter that the project had already been approved and funded, Tayaban still did not suggest to the Governor nor mention to him the specific place where he and the Sangguniang Bayan desire to have the public market erected.[27] Worse, when the construction was commenced and

petitioners discovered that the public market was being built allegedly in a place where it should not be, petitioner Tayaban even admits that he still did not inform the Governor of such fact.[28]

Second, Tayaban admits that they never bothered to check with the CEB where the latter intended to put up the public market.[29] There is no evidence to show that, when the construction was commenced, petitioners informed the CEB of the alleged mistake in the location of the project. In fact, petitioner Tayaban testified that it was only in the first or second week of August, 1989 that he informed the CEB regarding the supposed error,[30] even when he came to know the exact site where Pugong intended to build the market as early as April 1989.[31] Moreover, when the Sangguniang Bayan convened on August 15, 1989 and passed Resolution No. 20, they did not invite any representative from the CEB.[32]

Third, while petitioners aver that they have come up with a Site Development Plan wherein the exact location of the public market was specified, Tayaban admits that the blue print of the said development plan was completed only in August 1989.[33] However, the construction of the public market was commenced as early as June 1989.

From the foregoing, it is evident that petitioners were moved by a manifest and deliberate intent to cause damage.

It is clear from the Information filed that the injured party in the instant case is the Government, as represented by the CEB. The fact that the CEB did not initiate the filing of the instant criminal action is of no moment considering that a complaint for purposes of preliminary investigation by the fiscal need not be filed by the "offended party".[34] The rule has been that, unless the subject of the complaint is one that cannot be prosecuted de officio, the same may be filed, for preliminary investigation purposes, by any competent person.[35] In the present case, it is sufficient that private contractor Pugong was the one who filed an affidavit-complaint for purposes of preliminary investigation by the OSP. Moreover, the failure of the CEB to participate in the trial of the case does not necessarily mean that the Government of the Republic of the Philippines did not suffer any injury or that such injury cannot be proven.

As to whether the Government suffered undue injury, it cannot be denied that the unceremonious demolition of the five concrete posts and the other improvements built as part of the foundation of the supposed public market resulted in damage to the Government. Evidence presented by the prosecution shows that, at the time of the questioned demolition, the CEB had already disbursed in favor of Pugong the amount of P134,632.80.[36] Any further effort to rebuild the destroyed structures or to proceed with the construction of the market would necessarily entail additional expenses on the part of the Government. Hence, undue injury to the Government was proven to the point of moral certainty.

Petitioners' reliance on *Llorente, Jr. v. Sandiganbayan*[37] is misplaced as the factual milieu in the said case is not on all fours with the present case. In *Llorente*, the petitioner, a municipal mayor, was charged with violation of Section 3(e) of R.A. No. 3019 for having allegedly delayed or withheld the salaries and other emoluments due to the private complainant who is a municipal employee, causing her undue injury. In acquitting petitioner, this Court ruled that the prosecution failed to sufficiently establish that the private complainant suffered undue injury after it has been proven that she subsequently received the salaries and allowances which, she claimed, were withheld from her. The Court held that, other than the amount of the withheld salaries and allowances which were eventually received, the prosecution failed to specify and to prove any other loss or damage sustained by the complainant. Moreover, the Court ruled that the alleged financial stress which complainant suffered was inadequate and largely speculative and that the long period of time that her emoluments were withheld does not constitute the kind of undue injury contemplated by law.

In the present case, it cannot be gainsaid that the destruction of the five concrete posts and the other improvements in the construction of the Tinoc public market is clear and substantial evidence to prove that the Government

suffered undue injury. Under prevailing jurisprudence, proof of the extent or quantum of damage is not essential, it being sufficient that the injury suffered or benefits received can be perceived to be substantial enough and not merely negligible.[38]

Pugong may not be made liable to answer for the injury suffered by the Government considering that it was not he who caused the subject demolition. Neither was it alleged nor proven that he breached his contract with the CEB as to justify the destruction of the structures which were already built.

On the other hand, the prosecution has sufficiently established the individual participation of petitioners in carrying out the demolition.[39] In fact, petitioners do not deny that, in their capacity as public officials, they caused the actual demolition of the structure built on the project site. Hence, they should be held answerable for the injury suffered by the Government.

Anent the second assigned error, the Court agrees with the petitioners and the OSG that Sections 56 and 59(a) of the 1991 LGC (R.A. No. 7160) are not applicable in the present case. The Sangguniang Bayan of Tinoc enacted the questioned resolution on August 15, 1989, more than two years before the effectivity of the said Code.[40] The prevailing law at that time was the Local Government Code of 1983 (B.P. Blg. 337). The Court agrees with the OSG that Sections 56 and 59(a) of the 1991 LGC have no similar or counterpart provisions in the 1983 LGC. In addition, the Court agrees with petitioners that Sections 56 and 59(a) of the 1991 LGC find no application in the present case because these provisions refer, specifically, to ordinances and resolutions approving the local development plans and public investment programs formulated by the local development council.

However, the Court is not persuaded by petitioners' reliance on the provisions of P.D. No. 1096 and LOI No. 19 as their legal bases in conducting the questioned demolition. A careful reading of Resolution No. 20 reveals that petitioners' only basis in deciding to carry out the demolition was because the supposed public market was being erected in a place other than that identified by the Sangguniang Bayan of Tinoc. There was no mention whatsoever in the said Resolution that the private contractor failed to secure the requisite building permit. Neither was there any mention that the demolition was being conducted pursuant to the power vested upon the Mayor by the provisions of LOI No. 19. Even the letter sent by petitioner Tayaban to the head laborer of Pugong dated July 31, 1989, the letter to the Station Commander of the INP, Tinoc of even date,[41] and the memorandum sent to the laborers of Pugong dated August 3, 1989 uniformly state that the only reason why petitioners wanted to stop the construction was because the supposed public market was being erected in the wrong place. Hence, petitioners' reliance on the provisions of P.D. No. 1096 and LOI No. 19 was merely an afterthought and as a means of justification for their acts which, in the first place, were done in bad faith.

Likewise, the Court is not persuaded by petitioners' contention that the subject demolition is a valid exercise of police power. The exercise of police power by the local government is valid unless it contravenes the fundamental law of the land, or an act of the legislature, or unless it is against public policy, or is unreasonable, oppressive, partial, discriminating, or in derogation of a common right.[42] In the present case, the acts of petitioner have been established as a violation of law, particularly of the provisions of Section 3(e) of R.A. No. 3019.

Neither can petitioners seek cover under the general welfare clause authorizing the abatement of nuisances without judicial proceedings. This principle applies to nuisances per se, or those which affect the immediate safety of persons and property and may be summarily abated under the undefined law of necessity.[43] Petitioners claim that the public market would pose danger to the safety and health of schoolchildren if it were built on the place being contested.[44] However, petitioners never made known their supposed concerns either to the Governor or to the CEB. Instead, they took the law into their own hands and precipitately demolished the subject structures that were built without the benefit of any hearing or consultation with the proper authority, which in this case is the

CEB.

As to the Sandiganbayan's act of giving credence to the testimony of prosecution witness Abe Belingan, the settled rule is that the assessment of the credibility of a witness is primarily the function of a trial court, which had the benefit of observing firsthand the demeanor or deportment of the witness.[45] It is well-settled that this Court will not reverse the trial court's assessment of the credibility of witnesses in the absence of arbitrariness, abuse of discretion or palpable error.[46] It is within the discretion of the Sandiganbayan to weigh the evidence presented by the parties, as well as to accord full faith to those it regards as credible and reject those it considers perjurious or fabricated.[47] Moreover, the settled rule is that absent any evidence showing a reason or motive for prosecution witnesses to perjure their testimonies, the logical conclusion is that no improper motive exists, and that their testimonies are worthy of full faith and credit. In the present case, the fact that Belingan was contracted to cement the supposed second floor of the public market is not a compelling evidence to prove that his testimony is biased. Hence, the Court finds no cogent reason to depart from the findings of the Sandiganbayan with respect to the credibility of Belingan.

The penalty for violation of Section 3(e) of R.A. No. 3019, as provided under Section 9 of the same law, is imprisonment for not less than six years and one month nor more than 15 years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to the salary and other lawful income of the accused. Under the Indeterminate Sentence Law, if the offense is punished by special law, the Court shall sentence the accused to an indeterminate penalty, the maximum term of which shall not exceed the maximum fixed by said law and the minimum term shall not be less than the minimum prescribed by the same.[48] In the present case, the Court finds no error in the penalty imposed by the Sandiganbayan, except that the penalty of perpetual disqualification from public office should also be imposed.

It bears to reiterate that the injury suffered by the Government consists in the fact that it had already disbursed the amount of P134,632.80 for the purpose of commencing the construction of the Tinoc Public Market which was reduced to nothing by reason of petitioners' destruction of the structures built and the eventual stoppage of the project. On this basis, the Court agrees with the Sandiganbayan that petitioners are liable to reimburse the said amount lost by the Government.

WHEREFORE, the assailed Decision and Resolution of the Sandiganbayan are **AFFIRMED** with **MODIFICATION**. The additional penalty of perpetual disqualification from public office is imposed upon petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.
Callejo, Sr., J., on leave.

[*]Also spelled as Balangui in other parts of the rollo and records.

[1] Penned by Justice Rodolfo G. Palattao and concurred in by Justices Narciso S. Nario and Nicodemo T. Ferrer; rollo, pp. 36-55.

[2] Id. at 56-60.

[3] Under Executive Order (E.O.) No. 220, dated July 15, 1987, the CEB is the development body and implementing arm of the Cordillera Administrative Region (CAR).

[4] Exhibit "A", folder of exhibits, p. 16.

[5] Exhibits "H" and "15", id. at 28 and 49.

[6] Exhibit "B", id. at 19.

[7] Records, p. 1.

[8] Id. at 41.

[9] Id. at 261.

[10] Id. at 278-279.

[11] Id. at 305.

[12] Rollo, p. 15.

[13] Section 56. Review of Component City and Municipal Ordinances or Resolutions by the Sangguniang Panlalawigan. -

a) Within three (3) days after approval, the secretary to the sangguniang panlungsod or sangguniang bayan shall forward to the sangguniang panlalawigan for review, copies of approved ordinances and the resolutions approving the local development plans and public investment programs formulated by the local development councils.

b) Within thirty (30) days after receipt of copies of such ordinances and resolutions, the sangguniang panlalawigan shall examine the documents or transmit them to the provincial attorney, or if there be none, to the provincial prosecutor for prompt examination. The provincial attorney or provincial prosecutor shall, within a period of ten (10) days from receipt of the documents, inform the sangguniang panlalawigan in writing of his comments or recommendations, which may be considered by the sangguniang panlalawigan in making its decision.

c) If the sangguniang panlalawigan finds that such an ordinance or resolution is beyond the power conferred upon the sangguniang panlungsod or sangguniang bayan concerned, it shall declare such ordinance or resolution invalid in whole or in part. The sangguniang panlalawigan shall enter its action in the minutes and shall advise the corresponding city or municipal authorities of the action it has taken.

d) If no action has been taken by the sangguniang panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid.

[14] Section 59. Effectivity of Ordinances or Resolutions. -

(a) Unless otherwise stated in the ordinance or the resolution approving the local development plan and public investment program, the same shall take effect after ten (10) days from the date a copy thereof is posted in a bulletin board at the entrance of the provincial capitol or city, municipal, or barangay hall as the case may be, and in at least two (2) other conspicuous places in the local government unit concerned.

x x x x

[15] Otherwise known as the National Building Code of the Philippines. Section 301, Chapter 3 of the said Code reads:

No person, firm or corporation, including any agency or instrumentality of the government shall erect, construct, alter, repair, move, convert or demolish any building or structure or cause the same to be done without first obtaining a building permit therefor from the Building Official assigned in the place where the subject building is located or the building work is to be done.

[16] Pertinent portions of LOI No. 19 read as follows:

Letter of Instruction No. 19

TO: 1. The Secretary of National Defense

2. The Secretary of Social Welfare

3. The Director of Public Works

4. The General Manager, PHHC

5. The Presidential Assistant on Housing Rehabilitation Agency

6. Governors, City Mayors and Municipal Mayors

7. City and District Engineers

Pursuant to Proclamation No. 1081 dated September 21, 1972, and in my capacity as Commander-in-Chief of all the Armed Forces of the Philippines, and in the interest of public health, safety and peace and order, you and the subordinate officials and employees under you are hereby ordered:

- To remove all illegal constructions including buildings on and along esteros and river banks, those along railroad tracks and those built without permits on public or private property;

x x x x

[17] *Matalam v. Sandiganbayan*, Second Division, G.R. No. 165751, April 12, 2005, 455 SCRA 736, 749-750.

[18] *Dugayon v. People*, G.R. No. 147333, August 12, 2004, 436 SCRA 262, 272-273; *Sidro v. People*, G.R. No. 149685, April 28, 2004, 428 SCRA 182, 194; *Alvizo v. Sandiganbayan*, 454 Phil. 34, 72 (2003).

[19] Exhibit "I", folder of exhibits, p. 29; TSN, August 16, 1999, p. 7.

[20] TSN, June 22, 1999, p. 18.

[21] Exhibit "2", folder of exhibits, p. 36.

[22] Exhibit "3", id. at 37.

[23] Under Section 10 of E.O. No. 220, the six governors of the provinces comprising the CAR are appointed regular members of the CEB.

[24] Exhibit "A", folder of exhibits, p. 16.

[25] TSN, June 22, 1999, p. 41.

[26] TSN, August 18, 1999, p. 35.

[27] Id. at 37.

[28] Id. at 40.

[29] Id. at 59.

[30] Id. at 49-50.

[31] Id. at 39.

[32] TSN, October 7, 1999, pp. 19 and 24.

[33] TSN, August 18, 1999, pp. 19 and 35.

[34] *Ebarle v. Sucaldito*, G.R. No. L-33628, December 29, 1987, 156 SCRA 803, 819.

[35] Id.

[36] Exhibit "D", folder of exhibits, p. 23.

[37] 350 Phil. 820 (1998).

[38] Soriquez v. Sandiganbayan, G.R. No. 153526, October 25, 2005, 474 SCRA 222, 230; Cabrera v. Sandiganbayan, G.R. Nos. 162314-17, October 25, 2004, 441 SCRA 377, 391, citing Fonacier v. Sandiganbayan, G.R. No. 50691, December 5, 1994, 238 SCRA 655, 688.

[39] TSN, June 22, 1999, p. 57; Exhibits "G-2-A" to "G-9-A", folder of exhibits, pp. 9-15.

[40] The Local Government Code of 1991 took effect on January 1, 1992.

[41] Exhibit "5", folder of exhibits, p. 39.

[42] City of Manila v. Laguio, Jr., G.R. No. 118127, April 12, 2005, 455 SCRA 308, 358-359.

[43] Id. at 355.

[44] Rollo, p. 21.

[45] Peligrino v. People, 415 Phil. 94, 121 (2001).

[46] Id.

[47] Id.

[48] Escara v. People, G.R. No. 164921, July 8, 2005, 463 SCRA 239, 253.

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