

ANDRES T. MELENCION, PETITIONER, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 150684. June 12, 2008*

Ponente: CARPIO, J.

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This petition for review[1] assails the 2 October 2001[2] Minute Resolution of the Sandiganbayan in A/R No. 042. The Sandiganbayan returned to the First Division of the Court of Appeals the matter under A/R No. 042. The Sandiganbayan stated that an appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

On 16 August 1989, 13 secondary school teachers and the librarian of the Cebu State College of Science and Technology-College of Fisheries in Moalboal, Cebu filed a complaint against Andres T. Melencion (Melencion) before the Office of the Ombudsman-Visayas. In a resolution dated 9 July 1990, the Graft Investigation Officers[3] assigned to the case recommended that an information for violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act be filed against Melencion.

In an Information dated 24 November 1995, the Assistant Provincial Prosecutor of Cebu, upon the direction of the Office of the Ombudsman-Visayas, charged Melencion with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act before Branch 60 of the Regional Trial Court of Barili, Cebu (trial court). The Information[4] against Melencion reads as follows:

That on or about the period comprised from 01 January, 1985 to July 1989 and/or for sometime thereafter, in the Municipality of Moalboal, Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the School Superintendent of the Cebu State College of Science and Technology-College of Fisheries, Moalboal Campus, Cebu, while in the discharge of his official/administrative functions as such public officer, thru evident bad faith or manifest partiality, did then and there willfully, unlawfully and criminally cause undue injury to Olympia Geraldino, Visitacion Gocotano, Elvira Joyohoy, Hideliza Tabanao, Angelito Pableo, Frisco Canumay, Lucia Gako, Vivencia Evelyn Lauron, Zenaida Mantos, Emma T. Pableo, Zosimo Villalino, Primitivo Kimeno and Melecisima de los Angeles, all Secondary school teachers, and [Cirila] Sabanal, Librarian, all of the Cebu State College of Science and Technology-College of Fisheries, Moalboal, Cebu, a government educational institution, by deliberately withholding and failing to inform or furnish said persons copies of their respective appointments duly approved by the College President, Dr. Atanacio Elma effective 01 January 1985 which reflected their promotions to salary grade of 58 or a P13,824.00 annual salary fixed by Batas Pambansa Blg. 866 thus making the aforesaid complaining witnesses believe that their salary was still that corresponding to grade 56 which they were receiving, and thereafter, accused knowing fully well that complaining witnesses were entitled to salary adjustments, did then and there willfully and intentionally fail to implement the actual salary commensurate to the complaining witnesses' salary range 58 and/or withhold the salary differentials of the teachers from 01 January 1985 to July 1989 in the following amount:

Hideliza Tabanao

Elvira Joyohoy

Angelito Pableo

Lucia Gako

Zosimo Villalino

Cirila Sabanal

Vivencia Evelyn Lauron

Zenaida Mantos

Olympia Geraldino and

Emma Pableo

P 6,978.00

each,

more or less

or a total of

69,780.00

Primitivo Jimeno

4,336.00

more or less

Visitacion Gocotano

10,424.00

Frisco Canumay

6,834.00

TOTAL

P91,374.00

to the damage and prejudice of the complainant-teachers in the sum of P91,374.00, Philippine Currency.

CONTRARY TO LAW.

During his arraignment on 17 January 1996, Melencion entered a plea of not guilty. Trial followed soon after. On

27 February 1996, Melencion filed a Motion for Inhibition of Presiding Judge Ildefonso B. Suerte (Judge Suerte) because Mrs. Emma T. Pableo (Mrs. Pableo), one of the complainants, is Judge Suerte's niece. Mrs. Pableo's mother is a first degree cousin of Judge Suerte. The next day, Judge Suerte stated in open court that "the motion is admitted by the Court to have been filed but not exactly recognized, this Court, for this moment, would just like to study the motion for inhibition and will issue the order within a short period of time..."[5]

On 8 July 1998, Judge Suerte found Melencion guilty of violating Section 3(e) of Republic Act No. 3019. The pertinent portions of the decision read as follows:

The elements of the crime punishable by Section 3(e) of R.A. 3019 which are:

- That the accused is a public officer discharging judicial and 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 or in relation to his public position;
- The public officer acted with manifest partiality, evident bad faith or gross or inexcusable negligence, and
- His action caused undue injury to the government or any private party or gave any party unwarranted benefit, advantage or preference, were sufficiently proved by the prosecution with clear and convincing evidence.

WHEREFORE, premises considered, the Court finds accused, Andres T. Melencion, GUILTY beyond reasonable doubt, for Violation of Section 3, paragraph e of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, in relation to Section 9(a), therefore, and applying Act No. 4103, as amended, otherwise known as the Indeterminate Sentence law, the Court imposes upon accused the penalty of imprisonment ranging from 6 years and one month as minimum to ten years and one day as maximum, to further suffer perpetual disqualification from public office, and to indemnify the complainants: Hidelize Tabanao, Elvira Joyohoy, Angelito Pableo, Lucia Gako, Zosimo Villarino, Cirila Sabanal, Vivencia Evelyn Lauron, Zenaida Mantos, Olympia Gelardino and Emma Pableo the sum of P6,978.00 each; Primitivo Jimeno the sum of P4,336.00; Visitacion Gocotano the sum of P10,424.00 and Frisco Canumay the sum of P6,834.00 or a total of P91,374.00 plus 12% legal interest per annum from January 1985 to July 1989 or in the amount of P49,341.96.

SO ORDERED.[6]

Melencion filed his Notice of Appeal[7] on the same day as the promulgation of the trial court's decision. Melencion indicated that he will file an appeal before the Court of Appeals. On 1 April 1999, Melencion filed his Appellant's Brief before the Court of Appeals where the appealed case was docketed as CA-G.R. CR No. 22519.

In a resolution[8] dated 30 May 2001, the Court of Appeals declared that it had no jurisdiction to act on the appealed case and directed the Office of the Solicitor General (OSG) to submit a comment or a manifestation that the OSG would not object to the transfer of the appeal to the Sandiganbayan. In its comment[9] dated 16 July 2001, the OSG signified that it had no objection to the transfer. The Court of Appeals issued a resolution[10] dated 6 August 2001 transferring the records of the case to the Sandiganbayan.

On 2 October 2001, the Sandiganbayan resolved to return the transferred records to the Court of Appeals. The pertinent portions of the minute resolution read as follows:

Further to the referral of the Honorable Court of Appeals in CA G.R. No. CR 22519 for proper exercise of jurisdiction by this Court, the instant matter is respectfully returned to the First Division of the Court of Appeals pursuant to Par. 2, Sec. 2 of Rule 50 of the Revised Rules of Civil Procedure thus:

"An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall

be dismissed outright."

as well as Sec. 4 of Supreme Court Circular 2-90 dated March 9, 1990 which reads as follows:

"An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed."

This is further to the Minute Resolution of the Supreme Court in *Murillo v. Consul*, 183 SCRA XI, p. XVIII.

This ruling was also reiterated in the case of *Atlas Consolidated Mining and Development Corporation vs. Court of Appeals*, 201 SCRA 51 as well as in *PNB/NIDC vs. Court of Appeals, China Banking Corporation in CA G.R. No. 128661* promulgated on August 8, 2000.[11]

Melencion filed his present petition before this Court on 6 December 2001 where he raised the following issues:

Whether the return of the records of CA-G.R. No. CR 22519 is valid and justifiable and if not, whether it is within the power and prerogative of the Honorable Supreme Court to have this case resolved nonetheless by the Sandiganbayan.

Whether [Melencion] was deprived of his right to due process when the trial judge ignored [Melencion's] MOTION FOR INHIBITION by proceeding with the trial and rendering a judgment infirmed by bias and partiality, hence a matter within the competence of the Court of Appeals to pass upon.[12]

The petition has no merit.

The Sandiganbayan's act of returning the records of the present case to the Court of Appeals can be justified by Melencion's earlier erroneous filing of his appeal before the Court of Appeals. The Sandiganbayan merely accorded the Court of Appeals with the courtesy due to a co-equal judicial body when the Sandiganbayan returned the records of Melencion's case. The Sandiganbayan gave the Court of Appeals the opportunity to rectify its error in transferring the case to the Sandiganbayan instead of dismissing the case outright.

The Court of Appeals committed a grave error in issuing its resolution to transfer Melencion's case to the Sandiganbayan. Melencion filed his Appellant's Brief before the Court of Appeals on 1 April 1999. Republic Act No. 8249 (RA 8249), which further defined the jurisdiction of the Sandiganbayan, took effect in 1997. Paragraph 3, Section 4(c) of RA 8249 reads:

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

Paragraph 3, Section 4(c) of RA 8249 is clear. There is nothing in said paragraph which can conceivably justify the filing of Melencion's appeal before the Court of Appeals instead of the Sandiganbayan. The Court of Appeals' hesitance to dismiss Melencion's appeal, as evidenced by the issuance of its resolutions to transfer Melencion's appeal to the Sandiganbayan, compounded Melencion's erroneous filing. Mere invocation of substantial justice as a ground for relaxation of the rules does not suffice to cover up Melencion's fatal error. Section 18, Rule 124 of the 1985 Rules on Criminal Procedure reads as follows:

Application of certain rules in civil to criminal cases. -- The provisions of Rule 46 to 56 relating to procedure in the Court of Appeals in original as well as appealed civil cases shall, insofar as they are applicable and not inconsistent with the provisions of this Rule, be applied to criminal cases.

Melencion cannot rely on our ruling in *Moll v. Hon. Buban*,[13] where we held that the rule requiring a party to specify the court where the appeal is being taken is merely directory. An error in designating the appellate court is not fatal to the appeal. However, the correction in designating the proper appellate court should be made within

the 15-day period to appeal. Once made within the said period, the designation of the correct appellate court may be allowed even if the records of the case are forwarded to the Court of Appeals. Otherwise, the second paragraph of Section 2, Rule 50 of the Rules of Court would apply. The second paragraph of Section 2, Rule 50 of the Rules of Court reads:

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

In the present case, the supposed correction of the error in filing the appeal came from the Court of Appeals after the expiration of the period to appeal. The trial court promulgated its decision on 8 July 1998. Melencion filed his notice of appeal on the same day. The Court of Appeals issued a resolution declaring its lack of jurisdiction on 30 May 2001, clearly beyond the 15-day period to appeal.

Finally, the issue raised by Melencion's allegation of deprivation of due process because of the non-issuance by Judge Suerte of a ruling on Melencion's motion for inhibition should likewise be dismissed because of his erroneous filing.

WHEREFORE, we DENY the petition. We AFFIRM the Minute Resolution of the Sandiganbayan in A/R No. 042 dated 2 October 2001. Costs against the petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 77-78. The Minute Resolution on A/R No. 042 was adopted by the First Division of the Sandiganbayan composed of Presiding Justice Francis E. Garchitorena and Associate Justices Catalino R. Castañeda, Jr. and Gregory S. Ong.

[3] Records, p. 33. Graft Investigation Officer II Carlos A. Marcos, Graft Investigation Officer I Felicito C. Latoja, and Graft Investigation Officer I Ricardo A. Rebolledo made the recommendation to file an information against Melencion. Director and Chief Investigator Vicente Y. Varela, Jr. recommended the approval of the recommendation. Deputy Ombudsman for Visayas Juan M. Hagad and Ombudsman Conrado M. Vasquez approved the recommendation.

[4] Id. at 1-4.

[5] TSN, 28 February 1996, pp. 2-3.

[6] Records, pp. 336-337.

[7] Id. at 339-340.

[8] Rollo, pp. 72-73. Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Fermin A. Martin, Jr. and Alicia L. Santos, concurring.

[9] Id. at 74-75.

[10] Id. at 78.

[11] Id. at 81.

[12] Id. at 21.

[13] 436 Phil. 627 (2002).

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