

LUDWIG H. ADAZA, PETITIONER, VS. SANDIGANBAYAN (THE FIRST DIVISION COMPOSED OF JUSTICES GREGORIO S. ONG, CATALINO R. CASTANEDA, JR. AND FRANCISCO H. VILLARUZ, JR. AND THE PEOPLE...

G.R. No. 154886. July 28, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Before this Court is a petition for certiorari under Rule 65 of the Rules of Court assailing the June 19, 2002 Decision[1] and July 3, 2002 Resolution[2] of the Sandiganbayan finding petitioner Ludwig H. Adaza (petitioner) guilty beyond reasonable doubt of Falsification of Public Document penalized under Article 172, in relation to Article 171, paragraph 1 of the Revised Penal Code and denying his motion for reconsideration, respectively.

Culled from the records of the case are the following facts:

Sometime in 1996, the Department of Public Works and Highways (DPWH) of the 1[st] District of Zamboanga del Norte awarded to the Parents and Teachers Association (PTA) of Manawan National High School (MNHS) in Manawan, Jose Dalman, Zamboanga del Norte a contract for the construction of a school building consisting of two classrooms at an agreed consideration of P111,319.50.[3] Petitioner at that time was municipal mayor of Jose Dalman.

The project was completed on June 24, 1997 per Certificate of Completion and Turnover for Custody[4] issued by the DPWH, but the PTA failed to receive the last installment payment therefor in the amount of P20,847.17.[5]

Upon verification with the DPWH, PTA President Felix Mejorada (Mejorada) was informed by Hazel Peñaranda (Peñaranda), Cashier II of the 1[st] Engineering District of Zamboanga del Norte, that the check for P20,847.17 had been released to petitioner.[6]

Mejorada thereupon went to the Office of the Auditor of the DPWH and requested that he be furnished with certified true copies of the relevant documents pertaining to the contract, including the disbursement voucher and the corresponding check representing the last payment made by the DPWH for the project.[7]

Confronted with Disbursement Voucher No. B-1019707309[8] issued by the DPWH, 1[st] Engineering District, Sta. Isabel, Dipolog City, in the amount of P20,847.17 for payment to him as PTA President, approved by District Engineer Jesus T. Estimo, Mejorada detected that the signature above his printed name thereon acknowledging receipt of the check from Releasing Officer-Cashier Peñaranda was not his. And he noticed that petitioner's signature was affixed on the voucher.[9]

Upon perusal of DBP Check No. 0000718668[10] dated July 18, 1997 issued to payee "PTA Pres. By: Felix Mejorada" and drawn by OIC Assistant District Engineer Jesus G. Sy and District Engineer Estimo, Mejorada noticed that there were two signatures at the dorsal portion thereof, his forged signature and another which he

found to be that of Aristela Adaza (Aristela), wife of petitioner.[11]

Asked by Mejorada to explain the circumstances behind the release of the check, Peñaranda related that one afternoon in July 1997, petitioner approached her and inquired whether the check for the final installment payment on the contract was already prepared, to which she replied that the check was ready but that it could not be released without claimant Mejorada affixing his signature on the disbursement voucher. Peñaranda further related that petitioner offered to take the disbursement voucher and have it signed by Mejorada, hence, she handed it to petitioner but kept the check in her custody; and when petitioner returned the voucher to Peñaranda later that day, the check already bore a signature purporting to be that of Mejorada.[12]

Continuing, Peñaranda related that petitioner thereupon requested that the corresponding check be given to him in behalf of Mejorada.[13] In order to exculpate herself from any liability, Peñaranda asked petitioner to sign the voucher before releasing the check. Petitioner obliged by affixing his signature on the space below the purported signature of Mejorada. Peñaranda then released the check to petitioner.

The check was allegedly encashed by Aristela on July 22, 1997.[14]

Mejorada was later to claim that on November 2, 1997, petitioner went to his house informing him, in the presence of his brother Rotchel Mejorada and his nephew Anecito Mejorada, that he would be paid within the week. No payment was, however, made.[15]

On December 16, 1997, Mejorada repaired to the National Bureau of Investigation (NBI), Dipolog City where he filed a complaint against petitioner and his wife Aristela, and executed a Sworn Statement.[16]

On January 6, 1998, Peñaranda likewise executed a Sworn Statement[17] before the NBI.

The complaint, for falsification of public document, was forwarded to the Office of the Ombudsman where it was docketed as Case No. OMB-MIN-98-0096. During the pendency of the preliminary investigation, Mejorada executed an Affidavit of Desistance[18] dated May 8, 1998 alleging that his and the PTA's claims had been paid in full by the spouses Adaza and requesting that the cases against them be dismissed or considered withdrawn.

Petitioner and Aristela subsequently filed their Joint Counter-Affidavit[19] dated May 28, 1998, stating that Mejorada's claim had already been paid in full and that they had not in any way benefited from the proceeds of the subject disbursement voucher and check as the proceeds thereof were actually paid to the laborers who constructed the school building pursuant to the contract. They likewise stated that there was only "a communication gap" between them and Mejorada and that "after the records have been reconciled and verified, Mejorada was convinced that the money in question had been paid to the laborers."

On July 31, 1998, the Office of the Ombudsman issued a Resolution[20] finding probable cause against petitioner and Aristela. The dispositive portion of the Resolution reads, quoted verbatim:

WHEREFORE, premises considered, this Office finds probable cause to conclude that the crimes (sic) of Falsification of Public Document are (sic) probably committed [by] Mayor Ludwig Adaza and another crime of Falsification of Public Document was probably committed by respondents (sic) Mayor and his co-respondent wife. Accordingly, let the appropriate Informations be filed in court.

SO RESOLVED.[21]

On even date, petitioner was charged in two Informations filed before the Sandiganbayan. The inculpatory portion of the first, docketed as Criminal Case No. 24854, reads as follows:

That sometime on or about 18 July 1997, or shortly subsequent thereto, in Dipolog City, Philippines and within the jurisdiction of this Honorable Court, the accused Ludwig Adaza, a public officer being then the Mayor with

salary grade 27 of Jose Dalman, Zamboanga del Norte, while in the performance of his official duties, committing the offense in relation to his official function and taking advantage of his public position, did there and then, wilfully, unlawfully and feloniously, falsify a public document, namely Disbursement Voucher No. B-1019707309 of the DPWH 1[st] Engineering District, Dipolog City, by counterfeiting therein the signature of Felix Mejorada when in truth and in fact, as the accused well knew, Felix Mejorada did not affix his signature on the document and did not authorize the accused to affix Mejorada's signature therein.

CONTRARY TO LAW.[22] (Underscoring supplied)

Petitioner was charged together with Aristela in the second Information, docketed as Criminal Case No. 24853, the inculpatory portion of which reads:

That sometime on or about 18 July 1997, or shortly subsequent thereto, in Dipolog City, Philippines and within the jurisdiction of this Honorable Court, the accused Ludwig Adaza, a public officer being then the Mayor with salary grade 27 of Jose Dalman, Zamboanga del Norte, while in the performance of his official duties, committing the offense in relation to his official function and taking advantage of his public position, conspiring, cooperating and confederating with accused Aristela Adaza, did there and then, wilfully, unlawfully and feloniously, falsify a public document, namely DPB Check No. 0000718668 issued by the DPWH 1[st] Engineering District, Dipolog City, by counterfeiting therein the signature of indorsement of Felix Mejorada when in truth and in fact, as the accused well knew, Felix Mejorada did not affix his signature on the document and did not authorize the accused to affix Mejorada's signature therein.

CONTRARY TO LAW.[23] (Underscoring supplied)

After petitioner and his co-accused wife Aristela posted their respective bail bonds for their provisional liberty, Mejorada filed an Affidavit of Confirmation[24] dated October 28, 1998 affirming the truth and veracity of the contents of his Affidavit of Desistance dated May 22, 1998 and further alleging that he believed that there was no crime of falsification committed.

Mejorada subsequently filed still another Affidavit of Confirmation[25] dated November 9, 1998 reiterating his allegations in the Affidavit of Confirmation dated October 28, 1998.

Petitioner and Aristela later filed a Motion for Reconsideration[26] dated November 9, 1998 of the July 31, 1998 Resolution of the Office of the Ombudsman finding probable cause against them, which motion was denied by Resolution[27] of December 10, 1998.

On arraignment, petitioner and Aristela, duly assisted by counsel, pleaded not guilty[28] to the charges, whereupon trial commenced.

By Decision of June 19, 2002, the Sandiganbayan found petitioner guilty in the first case, and acquitted him and his wife Aristela in the second case for insufficiency of evidence.

Petitioner filed on June 28, 2002 a Motion for Reconsideration[29] of the decision which was denied by Resolution of July 3, 2002, the Sandiganbayan holding that the same was pro forma as it was not properly set for hearing in accordance with the Rules of Court.

Petitioner filed an Urgent Motion for Reconsideration[30] of the July 3, 2002 Sandiganbayan Resolution and attached thereto a Notice[31] setting his June 28, 2002 Motion for Reconsideration for hearing.

By Resolution[32] of August 21, 2002, the Sandiganbayan denied petitioner's Urgent Motion for lack of merit.

On August 23, 2002, a Bench Warrant of Arrest[33] was issued by the Sandiganbayan against petitioner for execution of judgment.

Hence, petitioner's present petition for certiorari[34] faulting the Sandiganbayan to have committed grave abuse of discretion:

1

... BY CONSIDERING THE MOTION FOR RECONSIDERATION OF ITS DECISION AS PRO FORMA

2

... BY ALLOWING BALD TECHNICALITY TO PREVAIL OVER THE MERITS OF THE MOTION FOR RECONSIDERATION THUS IGNORING SECTION 6 OF RULE 1 OF THE REVISED RULES AND THE APPROPRIATELY APPLICABLE JURISPRUDENCE

3

... BY IGNORING THE MERITS OF THE MOTION FOR RECONSIDERATION AND BY CONVICTING THE ACCUSED/PETITIONER WHEN THERE IS ABSOLUTELY NO EVIDENCE WHATSOEVER FOR CONVICTING THE ACCUSED/PETITIONER BEYOND A REASONABLE DOUBT[35] (Underscoring supplied)

On October 29, 2002, the law office of Atty. Felipe Antonio B. Remollo entered its appearance for petitioner.[36] On even date, petitioner filed a Supplement[37] to the petition raising the following additional arguments:

I

WITH ALL DUE RESPECT, THE HONORABLE RESPONDENT SANDIGANBAYAN HAS NO JURISDICTION OVER THE OFFENSE CHARGED OF FALSIFICATION OF PUBLIC DOCUMENTS UNDER ARTICLE 172 PARAGRAPH 1 IN RELATION TO ARTICLE 171 PARAGRAPH 1 OF THE REVISED PENAL CODE AGAINST THE ACCUSED (FORMER) MUNICIPAL MAYOR (WITH SALARY GRADE 27) WHO DID NOT TAKE ADVANTAGE OF HIS OFFICIAL POSITION IN THE ALLEGED COMMISSION OF THE CRIME AS RULED BY THE SANDIGANBAYAN. SUCH BEING THE CASE, THE ALLEGED OFFENSE WAS NOT COMMITTED IN RELATION TO THE OFFICE OF THE MUNICIPAL MAYOR WHICH IS OUTSIDE THE JURISDICTION OF THE SANDIGANBAYAN.

II

THE RIGHT OF THE ACCUSED TO "A COMPETENT AND INDEPENDENT" COUNSEL IS ENSHRINED IN THE 1987 CONSTITUTION. THIS RIGHT SHOULD BE UPHELD AT ALL TIMES AND SHOULD NOT BE OUTWEIGHT (sic) OR DISLODGED BY WHATEVER GROSS PROCEDURAL LAPSES IN SUCCESSION THAT DEFENSE COUNSEL MAY HAVE COMMITTED TANTAMOUNT TO DENIAL OF DUE PROCESS IN THE INTEREST OF SUBSTANTIVE JUSTICE.

III

THE PETITION WAS FILED WITH A STRONG SENSE OF URGENCY IN THE LIGHT OF THE FACT THAT PUBLIC RESPONDENT SANDIGANBAYAN ORDERED THE IMMEDIATE ARREST OF THE ACCUSED IN ITS AUGUST 21, 2002 RESOLUTION (SUBJECT OF HEREIN PETITION FOR CERTIORARI) ON THE THEORY THAT THE ORDER OF CONVICTION OF THE ACCUSED PETITIONER HAS BECOME FINAL BY SHEER TECHNICALITY THAT ON (sic) THE ACCUSED'S MOTION FOR RECONSIDERATION DID NOT BEAR A NOTICE OF HEARING.[38] (Emphasis and underscoring supplied)

Petitioner's counsel of record Homobono A. Adaza later withdrew his appearance.[39]

The Office of the Special Prosecutor has filed its Comment[40] on the petition, to which petitioner filed his Reply[41] reiterating his arguments raised in his Supplement to the petition.

On the issue of jurisdiction, Section 4 of Republic Act No. 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) provides:

Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade `27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other city department heads;

(b) City mayor, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of superior superintendent or higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

(2) Members of Congress and officials thereof classified as Grade `27' and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

B. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

C. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

xxx (Emphasis and underscoring supplied)

For an offense to fall under the exclusive original jurisdiction of the Sandiganbayan, the following requisites must

concur: (1) the offense committed is a violation of (a) R.A. 3019, as amended (the Anti-Graft and Corrupt Practices Act), (b) R.A. 1379 (the law on ill-gotten wealth), (c) Chapter II, Section 2, Title VII, Book II of the Revised Penal Code (the law on bribery), (d) Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986 (sequestration cases), or (e) other offenses or felonies whether simple or complexed with other crimes; (2) the offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee^[42] holding any of the positions enumerated in paragraph A of Section 4; and (3) the offense committed is in relation to the office.^[43]

Discussion shall be limited to the first case, subject of the present petition.

The charge against petitioner falls under above-quoted Section 4, paragraph B of R.A. 8249. It is undisputed that at the time the alleged crime was committed, he was the municipal mayor of Jose Dalman, a position corresponding to salary grade 27 under the Local Government Code of 1991,^[44] which fact was properly alleged in the information. It is thus imperative to determine whether the offense, as charged, may be considered as having been committed "in relation to office" as this phrase is employed in the above-quoted provision of R.A. 8249. For, for the Sandiganbayan to have exclusive jurisdiction, it is essential that the facts showing the intimate relation between the office of the offender and the discharge of official duties be alleged in the information.^[45]

In *Montilla v. Hilario*,^[46] this Court held 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, such that the offense cannot exist without the office.

People v. Montejo,^[47] by way of exception, enunciated the principle that although public office is not an element of the offense charged, as long as the offense charged in the information is intimately connected with the office of the offender and perpetrated while he was in the performance, though improper or irregular, of his official functions, the accused is held to have been indicted for an offense committed in relation to his office.

These rulings were reiterated in *Sanchez v. Demetriou*,^[48] *Republic v. Asuncion*,^[49] *Cunanan v. Arceo*,^[50] *People v. Magallanes*,^[51] *Alarilla v. Sandiganbayan*^[52] and *Soller v. Sandiganbayan*.^[53]

That the jurisdiction of a court is determined by the allegations in the complaint or information, and not by the evidence presented by the parties at the trial,^[54] is settled.

As early as 1954, we pronounced that "the factor that characterizes the charge is the actual recital of the facts." "The real nature of the criminal charge is determined not from the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the complaint or information."^[55] (Emphasis and underscoring supplied)

It does not thus suffice to merely allege in the information that the crime charged was committed by the offender in relation to his office or that he took advantage of his position as these are conclusions of law.^[56] The specific factual allegations in the information that would indicate the close intimacy between the discharge of the offender's official duties and the commission of the offense charged, in order to qualify the crime as having been committed in relation to public office,^[57] are controlling.

It bears noting that in *Montejo*,^[58] where this Court held that the allegations in the information for murder were sufficient to bring the case squarely within the meaning of an offense committed in relation to the accused's public office, the phrase "committed in relation to public office" does not even appear in the information, which only underscores the fact that said phrase is not what determines the jurisdiction of the Sandiganbayan. Thus the information in said case read:

Leroy S. Brown, City Mayor of Basilan City, as such, has organized groups of police patrol and civilian

commandoes consisting of regular policemen and xxx special policemen appointed and provided by him with pistols and high power guns and then established a camp xxx at Tipo-tipo which is under his command xxx supervision and control where his co-defendants were stationed, entertained criminal complaints and conducted the corresponding investigations as well as assumed the authority to arrest and detain persons without due process of law and without bringing them to the proper court and that in line with this set-up established by said Mayor of Basilan City as such, and acting upon his orders, his co-defendants arrested and maltreated Awalin Tebag who died in consequence thereof.

In *Alarilla*,^[59] apart from the phrase "in relation to and taking advantage of his official functions," the information alleged specific factual allegations showing how the therein petitioner committed the crime of grave threats as a consequence of his office as municipal mayor, which allegations led this Court to conclude that the crime charged was intimately connected with the discharge of his official functions. Thus it read:

That on or about October 13, 1982, in Meycauayan, Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Municipal Mayor of Meycauayan, Bulacan, committing the crime herein charged in relation to and taking advantage of his official functions, did then and there wilfully, unlawfully and feloniously level and aim a .45 caliber pistol at and threaten to kill one Simeon G. Legaspi, during a public hearing about the pollution from the operations of the Giant Achievers Enterprises Plastic Factory and after the said complainant rendered a privilege speech critical of the abuses and excesses of the administration of said accused.

Although herein petitioner was described in the information as "a public officer being then the Mayor with salary grade 27 of Jose Dalman, Zamboanga del Norte," there was no allegation showing that the act of falsification of public document attributed to him was intimately connected to the duties of his office as mayor to bring the case within the jurisdiction of the Sandiganbayan. Neither was there any allegation to show how he made use of his position as mayor to facilitate the commission of the crimes charged. The information merely alleges that petitioner falsified the disbursement voucher by counterfeiting therein the signature of Mejorada. For the purpose of determining jurisdiction, it is this allegation that is controlling, not the evidence presented by the prosecution during the trial.

In *Bartolome v. People*^[60] where the therein accused was charged with falsification of official document, the information alleged as follows:

That on or about the 12th day of January, 1977, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused Rolando Bartolome y Perez, a public officer having been duly appointed and qualified as Senior Labor Regulation Officer and Chief of the Labor Regulations Section, Ministry of Labor, National Capital Region, Manila, conspiring and conniving with the other accused Elinio Coronel y Santos, also a public officer having been duly appointed and qualified as Labor Regulation Officer of the same office, taking advantage of their official positions, did then and there wilfully, unlawfully and feloniously prepare and falsify an official document, to wit: the CS Personal Data Sheet (Civil Service Form No. 212) which bears the Residence Certificate No. A-9086374 issued at Manila on January 12, 1977, by making it appear in said document that accused Rolando Bartolome y Perez had taken and passed the 'Career Service (Professional Qualifying Examination)' on 'May 2, 1976' with a rating of '73.35% in Manila' and that he was a '4th Year AB' student at the Far Eastern University (FEU), when in truth and in fact, as both accused well knew, accused Rolando Bartolome y Perez had not taken and passed the same nor was he a '4th Year AB' student, thereby making untruthful statements in a narration of facts. (Underscoring supplied)

This Court held:

In the instant case, there is no showing that the alleged falsification was committed by the accused, if at all, as a consequence of, and while they were discharging, official functions. The information does not allege that

there was an intimate connection between the discharge of official duties and the commission of the offense.
xxx

Clearly therefore, as the alleged falsification was not an offense committed in relation to the office of the accused, it did not come under the jurisdiction of the Sandiganbayan. It follows that all its acts in the instant case are null and void ab initio.[61] (Underscoring supplied)

As for petitioner's assertion that the Sandiganbayan has no jurisdiction over the offense of falsification under Article 172 in relation to Article 171 of the Revised Penal Code, to buttress which he argues that the offender under Article 172, paragraph 1 is not supposed to be a public official who takes advantage of his position, thus equating the requirement of "taking advantage of one's public position" as stated in the aforementioned provisions of the Revised Penal Code with the prerequisite "in relation to one's office" for the acquisition of jurisdiction of the Sandiganbayan as provided for in R.A. 8249, the same must be discredited.

Article 171 reads:

ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

- Counterfeiting or imitating any handwriting, signature or rubric;
- Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
- Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
- Making untruthful statements in a narration of facts;
- Altering true dates;
- Making any alteration or intercalation in a genuine document which changes its meaning;
- Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
- Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

xxx

On the other hand, Article 172, paragraph 1 reads:

ART. 172. Falsification by private individuals and use of falsified documents. - The penalty of prision correccional in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

- Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; xxx

The offender under Article 172 must be a private individual or maybe a public officer, employee or notary public who does not "take advantage of his official position." [62] Under Article 171, an essential element of the crime is that the act of falsification must be committed by a public officer, employee or notary who "takes advantage of his official position."

The offender "takes advantage of his official position" in falsifying a document when (1) he has the duty to make or to prepare or otherwise intervene in the preparation of the document; or (2) he has the official custody of the document which he falsifies.[63]

It is thus apparent that for purposes of acquisition of jurisdiction by the Sandiganbayan, the requirement imposed by R.A. 8249 that the offense be "committed in relation" to the offender's office is entirely distinct from the concept of "taking advantage of one's position" as provided under Articles 171 and 172 of the Revised Penal Code.

R.A. 8249 mandates that for as long as the offender's public office is intimately connected with the offense charged or is used to facilitate the commission of said offense and the same is properly alleged in the information, the Sandiganbayan acquires jurisdiction.[64] Indeed, the law specifically states that the Sandiganbayan has jurisdiction over all "other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of Section 4 in relation to their office." Public office, it bears reiterating, need not be an element of the offense charged.

On the other hand, the element of "taking advantage of one's position" under the Revised Penal Code becomes relevant only in the present case, not for the purpose of determining whether the Sandiganbayan has jurisdiction, but for purposes of determining whether petitioner, if he is held to be liable at all, would be legally responsible under Article 171 or Article 172.

While the Sandiganbayan is declared bereft of jurisdiction over the criminal case filed against petitioner, the prosecution is not precluded from filing the appropriate charge against him before the proper court.

In light of the foregoing, further discussion on the other issues raised has become unnecessary.

WHEREFORE, the petition is GRANTED. The Decision dated June 19, 2002 and Resolution dated July 3, 2002 of the Sandiganbayan are SET ASIDE and declared NULL and VOID for lack of jurisdiction.

No pronouncement as to costs.

SO ORDERED.

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

[1] Rollo at 90-112.

[2] Id. at 38-39.

[3] Sworn Statement of Felix Meorada, OMB Records at 6.

[4] Id. at 10.

[5] Sworn Statement of Felix Meorada, Id. at 6.

[6] Ibid.

[7] Ibid.

[8] Id. at 11.

[9] Sworn Statement of Felix Meorada, Id. at 6.

[10] Id. at 12.

- [11] Sworn Statement of Felix Meiorada, Id. at 6.
- [12] Sworn Statement of Hazel Peñaranda, Id. at 9.
- [13] Ibid.
- [14] Sworn Statement of Felix Meiorada, Id. at 6.
- [15] Id. at 7.
- [16] Id. at 6-7.
- [17] Id. at 8-9.
- [18] Rollo at 63.
- [19] OMB Records at 18.
- [20] Sandiganbayan Records at 3-8.
- [21] Id. at 7.
- [22] Rollo at 113.
- [23] Sandiganbayan Records at 1.
- [24] Rollo at 62.
- [25] Id. at 64.
- [26] Sandiganbayan Records at 123-124.
- [27] Id. at 46-48.
- [28] Id. at 77-78.
- [29] Rollo at 40-61.
- [30] Id. at 72-76.
- [31] Id. at 76.
- [32] Id. at 65-70.
- [33] Sandiganbayan Records at 5.
- [34] Rollo at 3-37.
- [35] Id. at 9-10.
- [36] Id. at 136-137.
- [37] Id. at 138-160.
- [38] Id. at 142-143.
- [39] Id. at 161-162.
- [40] Id. at 167-179.
- [41] Id. at 188-208.

[42] The Sandiganbayan has jurisdiction over a private individual when the complaint charges him either as a co-principal, accomplice or accessory of a public officer or employee who has been charged with a crime within its jurisdiction.

[43] *Lacson v. Executive Secretary*, 301 SCRA 298, 318 (1999) (citations omitted).

[44] Section 444 (b)(5)(d) provides that the municipal mayor should receive a minimum monthly compensation corresponding to Salary Grade twenty-seven (27) as prescribed under R.A. 6758 and the implementing guidelines issued pursuant thereto.

[45] *Escobal v. Garchitorena*, 422 SCRA 45, 53 (2004).

[46] 90 Phil. 49 (1951).

[47] 108 Phil. 613 (1960).

[48] 227 SCRA 627 (1993).

[49] 231 SCRA 211 (1994).

[50] 242 SCRA 88 (1995).

[51] 249 SCRA 212 (1995).

[52] 338 SCRA 485 (2000).

[53] 357 SCRA 677 (2001).

[54] *Rodriguez v. Sandiganbayan*, 424 SCRA 236, 249 (2004) (citation omitted), *Escobal v. Garchitorena*, 422 SCRA 45, 53 (2004) (citation omitted), *Madarang v. Sandiganbayan*, 355 SCRA 525, 532 (2001) (citation omitted), *Alarilla v. Sandiganbayan*, 338 SCRA 485, 498 (citations omitted), *Lacson v. Executive Secretary*, 301 SCRA 298, 325 (1999) (citations omitted), *People v. Cawaling*, 293 SCRA 267, 291 (1998) (citation omitted), *People v. Magallanes*, 249 SCRA 212, 222 (1995) (citations omitted), *Republic v. Asuncion*, 231 SCRA 211, 232 (1994) (citations omitted).

[55] *Lacson v. Executive Secretary*, 301 SCRA 298, 327 (1999) (citations omitted).

[56] *Escobal v. Garchitorena*, 422 SCRA 45, 53 (2004) (citation omitted), *People v. Magallanes*, 249 SCRA 212, 223 (1995).

[57] *Soller v. Sandiganbayan*, 357 SCRA 677, 686 (2001) (citation omitted), *Lacson v. Executive Secretary*, 301 SCRA 298, 332 (1999).

[58] *Supra*, note 47.

[59] 338 SCRA 485 (2000).

[60] 142 SCRA 459 (1986).

[61] *Id.* at 465-466 (citations omitted).

[62] II L. Reyes, *THE REVISED PENAL CODE*, 233 (1998 ed).

[63] Id. at 216.

[64] Vide: *Monteverde v. People*, 387 SCRA 196 (2002), where this Court impliedly recognized the jurisdiction of the Sandiganbayan over the crime of falsification penalized under Article 172 in relation to Article 171 of the Revised Penal Code.

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