

WAINWRIGHT RIVERA, PETITIONER, VS. HONORABLE ASSOCIATE JUSTICES OF THE FOURTH DIVISION, SANDIGANBAYAN RODOLFO PALATTAO, GREGORY ONG, MA. CRISTINA CORTEZ-ESTRADA AND PROSECUTORS ...

G.R. No. 157824. January 17, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for certiorari under Rule 65 of the Rules of Court for the nullification of the December 17, 2002 Resolution of the Sandiganbayan in *People v. Amado S. Lagdameo, Jr., Wainwright Rivera, et al.*, and its February 11, 2003 Order, denying the motion for reconsideration thereof.

The Antecedents

On May 19, 1998, an Amended Information was filed with the Sandiganbayan charging Justiniano Montano IV, John Doe and Peter Doe with violation of Republic Act No. 3019. The case was docketed as Criminal Case No. 24642. The accusatory portion reads:

That, on or about May 31, 1995, or sometime prior or subsequent thereto, in Manila City, Philippines, and within the jurisdiction of this Honorable Court, accused Justiniano Montano IV, a public officer, being then the Deputy General Manager for Special Projects of Public Estate Authority (PEA), conspiring, confederating and cooperating with John Doe, Peter Doe, officials of the Philippine Government, whose identities are yet to be established, did then and there willfully, unlawfully and criminally receive from Amari Coastal Bay Development Corporation (AMARI), the amount of P6.25 million in consideration for a favorable action on the Joint Venture Agreement between PEA and AMARI, a transaction in which they had intervened in their official capacities.

CONTRARY TO LAW.[1]

Another Amended Information was later filed with the Sandiganbayan charging Amado S. Lagdameo, Jr., Wainwright Rivera, et al. with violation of Rep. Act No. 3019, docketed as Criminal Case No. 24643. The accusatory portion of the Information reads:

That on or about April 25, 1995, or sometime prior or subsequent thereto, in Manila City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Amado S. Lagdameo, Jr., Wainwright R. Rivera, Arturo Q. Trinidad, Gregorio B. Fider, Marylou C. Ventura, Justiniano Montano IV, Theron V. Lacson, Manuel R. Berina and Oscar I. Garcia, being then the General Manager of Public Estate Authority (PEA), Chairman, Board of Directors, Deputy General Managers and Chief, Office of the Government Corporate Counsel, respectively, while in the performance of their respective official functions and acting with evident bad faith, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and criminal give Amari Coastal Bay Development Corporation (AMARI), undue advantage, benefits and preference by entering into and confirming the Joint Venture Agreement with Amari

Coastal Bay Development Corporation (AMARI), dated April 25, 1995 and its supplement, dated August 9, 1995, a contract which is grossly disadvantageous to the government.

CONTRARY TO LAW.[2]

The graft court ordered a consolidation of the two cases. During the arraignment, the accused pleaded not guilty to the charges. After the pre-trial in both cases, the prosecution commenced presenting its testimonial evidence on November 27, 2000. By September 27, 2001, the prosecution had already presented fourteen (14) witnesses on its evidence-in-chief.[3] During trial on even date, the prosecution manifested that it had no more witnesses to present, and prayed for a period of twenty (20) days within which to file its formal offer of documentary evidence. The 4th Division of the Sandiganbayan granted the motion. It also granted the accused a period of fifteen (15) days from service of the said formal offer of evidence within which to file their comment thereon.[4] The Sandiganbayan set the trial for the accused to adduce their evidence at 8:30 a.m. of December 3, December 5 and December 11, 2001.[5]

Instead of filing its formal offer of evidence on or before October 17, 2001, the prosecution filed an “Omnibus Motion for Reconsideration and Motion for Issuance of Subpoena” on October 22, 2001.[6] The prosecution alleged that, after a serious study of the facts and the evidence, it found it imperative to withdraw its oral manifestation that it had no more witness to present which was made during the trial of September 27, 2001, and prayed that it be allowed to adduce additional testimonial and documentary evidence from the following banks:

UCPB - Binondo Branch
Far East Bank – Binondo Branch
Solid Bank – Binondo Branch
Metrobank – Arraque Branch
Allied Bank – Binondo Branch

The prosecution then prayed that the Sandiganbayan reconsider and set aside its previous Order issued in open court on September 27, 2001, mandating the prosecution to formally offer its evidence; and, instead, allow it to present additional witnesses, more specifically the Branch Managers of the five banks, to testify on the checks and/or documents enumerated therein and to offer the same in evidence.[7]

Accused Lagdameo and Gregorio Fider opposed the motion of the prosecution. In an Order[8] dated October 29, 2001 promulgated on December 12, 2001, the graft court granted the motion of the prosecution in Criminal Case No. 24642, but denied the said motion in Criminal Case No. 24643. In the latter case, the court granted the prosecution seven (7) days within which to formally offer its documentary evidence. The dispositive portion of the Order reads:

WHEREFORE, the prosecution’s Omnibus Motion for Reconsideration dated October 16, 2001, is hereby partially granted, hereby amending the Resolution of September 27, 2001, such that the evidence in chief for the prosecution in Criminal Case No. 24642 against accused Justiniano Montano IV for Violation of Section 3(b), Republic Act No. 3019 is hereby reopened for the purpose only of the issuance of subpoena duces tecum specified in paragraph 2 of the prayer in said Omnibus Motion, but limited to the bank managers therein identified and no “others.” For this purpose, let Criminal Case No. 24642 be scheduled for the reception of the additional evidence for the prosecution, as so limited, on January 15 & 16, 2002, at 8:30 in the morning; and let subpoena duces tecum prayed for by the prosecution be issued.

The prosecution’s said Omnibus Motion is hereby denied insofar as Criminal Case No. 24643 for Violation of Section 3(e) of Republic Act No. 3019, and the prosecution is hereby granted an extension of seven (7) days from receipt of this Order within which to formally offer its documentary exhibits in said Criminal Case No. 24643, furnishing copies thereof to the accused who are given fifteen (15) days from receipt of said offer

within which to file their reaction thereto.

SO ORDERED.[9]

On November 21, 2001, accused Lagdameo, Jr., filed a motion to dismiss Criminal Case No. 24643 because of the prosecution's failure to file its formal offer of evidence. The other accused adopted the motion, which the prosecution opposed.[10] The prosecution then filed a Manifestation with Prayer for Partial Reconsideration dated January 10, 2002 of the Sandiganbayan's October 29, 2001 Resolution. The accused Rivera, Lagdameo and Oscar Garcia opposed the motion.[11]

On February 7, 2002, the Sandiganbayan resolved to deny the motion to file formal offer of evidence in Crim. Case No. 24643.[12]

On February 27, 2002, the graft court issued a Resolution[13] denying the motion of the Prosecutor on the ground that such motion was a proscribed second motion for reconsideration and that no cogent reason was cited to set aside its October 29, 2001 Resolution. The Sandiganbayan gave the prosecutor seven (7) days from notice of said resolution within which to file the said formal offer of evidence in Criminal Case No. 24643. It also warned the prosecution that the failure to file the formal offer of evidence on or before the deadline shall be considered as a waiver of its right to do so. The prosecution received a copy the Resolution dated February 27, 2002 on March 5, 2002.

During the trial of March 6, 2002, the prosecutor opted not to present any witness, in view of graft court's denial of its January 10, 2002 Motion for Partial Reconsideration. The court then issued an Order[14] granting the motion of the prosecution for a resetting of the trial to May 4, 2002, and the filing of its formal offer of evidence.

On March 11, 2002, the prosecution filed a Manifestation with Motion for Reconsideration of the Sandiganbayan's October 29, 2001 Order, alleging that:

3. Indeed, on March 5, instant, the representatives of the bank appeared and confirmed with the Prosecutors, the deposit of such checks which were previously marked in evidence by the prosecution;

4. With particular reference to Citibank Check No. 278607 in the name of KDM Realty and Development Corporation reflecting the amount of P25,000,000.00, and already marked Exhibit "ZZZ" for the Prosecution, the representative of the Philippine National Bank submitted the microfilm of said check together with the Corporate Secretary's Certificate of KDM Realty and Development Corporation showing the names of the officers of the corporation who are allowed to withdraw the deposits with said bank;

5. Significantly, the President and General Manager of KDM Realty and Development Corporation in 1994 was EDUARDO G. CASTELO who signed as a witness together with Mr. THERON V. LACSON who is one of the accused in CC#24643, in the Joint Venture Agreement (JVA) between AMARI then represented by Emmanuel Sy and Public Estates Authority then represented by Amado S. Lagdameo, Jr., also one of the accused in Criminal Case No. 24643, the photocopy of the last page of the JVA is hereto attached as Annex "A;"

6. Said Eduardo Castelo also signed a Provisional Receipt for Eight Hundred Ninety Six Million Eight Hundred Sixty-Three Thousand and Fifty (896,863,050.00) from AMARI Coastal Bay Corporation on June 9, 1995 which were also the uniform dates of the checks already marked by the Prosecution;

7. Copies of the documents that will be additionally marked and offered by the Prosecution are the last page of the JVA, Microfilm of check, Secretary's Certificate and Provisional Receipt which are hereto attached as Annexes "A," "B," "C" and "D," respectively;

8. If the bank representatives will be allowed to testify in the two cases (CC #24642 and CC #24643) the

Prosecution will be able to prove where the amounts reflected in the checks already marked in evidence went thereby establishing the conspiracy between the AMARI representatives and the herein accused who facilitated and allowed the approval of the Joint Venture Agreement which was grossly disadvantageous to the government;

9. This will not be the first time that this Honorable Court will reconsider its previous Order in the supreme interest of justice as it did in the case of *People vs. Rosalinda Talingting* (Crim. Case No. 17071), where a decision of conviction promulgated on September 5, 1999 was reconsidered and a new trial was granted, but the accused repeatedly failed to present her evidence and this Honorable Court also repeatedly acted favorably on the Motion for Reconsideration filed by the accused, the latest of such Order was November 22, 2001, where this Honorable Court set aside its Order for execution of judgment and reinstated its Order granting the accused the opportunity to present her evidence on February 19 to 22, 2002 at the Hall of Justice, Davao City;

10. In another case where the accused was already convicted and the decision was already promulgated (*People vs. ROMEO D. LONZANIDA*, CC #23850, 24644-52), a third Motion for Reconsideration was also granted by this Honorable Court in the supreme interest of substantial justice;

11. As pointed out by the Prosecution in its Manifestation with Prayer for Partial Reconsideration and also in open court on March 5, 2002, the testimonies of additional witnesses representing the banks, will establish the conspiracy of all the accused in Criminal Case No. 24643 because the checks represented the commissions given by AMARI by reason of the favorable action on the Joint Venture Agreement. In short, this being a joint trial of the two (2) cases, the testimonies of the bank representatives will establish the paper trail which will prove beyond reasonable doubt the liability of all the accused in the two (2) cases.[15]

Petitioner Wainwright Rivera opposed the motion, praying that:

WHEREFORE, in view of the foregoing reasons, it is most respectfully prayed that an order be issued:

1. Denying and/or expunging from the record the Manifestation with Motion for Partial Reconsideration dated March 11, 2002 filed by the prosecution;
2. Holding that the prosecution be deemed to have waived its right to formally offer its evidence and disregarding all documentary and object object presented by the prosecution for not having been formally offered;
3. Citing the prosecutors for direct contempt; and
4. Dismissing the present case for lack of evidence against the accused.

Other just and equitable reliefs are likewise prayed for.[16]

On April 10, 2002, the court issued an Order[17] amending its March 5, 2002 Order, resetting the trial to 8:30 a.m. of May 9, 2002. On September 2, 2002, the prosecution filed its Formal Offer of Evidence[18] dated August 29, 2002 in Criminal Case No. 24643. The prosecution manifested therein that with the testimonies of all its witnesses, as well as the admission of the exhibits described therein, it was resting its case.

Nevertheless, on December 17, 2002, the Sandiganbayan made a volte face and issued a Resolution[19] granting the March 11, 2002 Motion for Partial Reconsideration of the prosecution and allowing it to adduce additional evidence in the two cases. The petitioner filed a motion for the reconsideration of the Resolution which the court denied in an Order[20] dated February 11, 2003.

Hence, the petition at bar.

The issue for resolution is whether the Sandiganbayan committed a grave abuse of its discretion amounting to

excess of lack of jurisdiction (a) in issuing Resolution of December 17, 2002 and Order dated February 11, 2003 in Criminal Case No. 24643; and (b) in ordering the dismissal of the case as against accused Oscar Garcia.

On the first issue, the petitioner contends that the Sandiganbayan committed a grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its December 17, 2002 Resolution allowing the prosecution to adduce additional evidence in Criminal Case No. 24643, and its February 11, 2003 Order denying his motion for reconsideration of the said resolution. The petitioner points out that despite the Sandiganbayan's repeated denials of the prosecution's motions to adduce additional evidence, the graft court made a volte face and allowed the prosecution to adduce additional evidence just the same. The petitioner asserts that, by filing its formal offer of evidence on September 2, 2002, the prosecution thereby waived its plea to adduce additional evidence; yet, the Sandiganbayan allowed it to adduce additional evidence. He further asserts that the graft court should have cited the respondents-prosecutors in contempt of court for their repeated failure to file their formal offer of evidence despite its order for them to do so. Finally, the petitioner insists that the Sandiganbayan gravely abused its discretion in dismissing the case against Oscar Garcia without dismissing the case as against the other accused therein, including himself.

On June 16, 2003, the Court resolved to give due course to the petition.

In their Comment on the petition, the respondents-prosecutors maintain that the matter of the reopening of the case for the reception of additional evidence for the People is addressed to the sound discretion of the Sandiganbayan, taking into account the interest of substantial justice. They posit that they filed their successive motions for the reconsideration of the October 29, 2001 Resolution of the Sandiganbayan insofar as Criminal Case No. 24643 was concerned in the exercise of this mandatory duty to prosecute the case and see to it that justice is done. They maintain that the graft court acted judiciously when it allowed the prosecution to adduce additional evidence despite their filing of a formal offer of documentary evidence. According to the respondents, such filing of formal offer of evidence was without prejudice to the resolution of their March 11, 2002 Motion for Partial reconsideration of the Sandiganbayan's Resolution of October 29, 2001.

The respondents-prosecutors further aver that the petition for certiorari assailing the dismissal of the case against accused Oscar Garcia is premature because the Sandiganbayan has yet to resolve the petitioner's October 4, 2002 motion for reconsideration thereof.

The Court's Ruling

In a petition for certiorari under Rule 65 of the Rules of Court, the petitioner is burdened to establish that the respondent tribunal acted without jurisdiction, meaning that it does not have the legal power to determine the case; or that it acted without or in excess of jurisdiction, meaning having been clothed with power to determine the case, it oversteps its authority as determined by law, or that it committed grave abuse of its discretion or acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction. Mere abuse of discretion is not enough.[21] In a petition for certiorari, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues such as errors of judgment. Such errors are to be resolved by the appellate court on appeal by writ of error or via a petition for review on certiorari in this Court under Rule 45 of the Rules of Court. An error of judgment is one in which the Court may commit in the exercise of its jurisdiction.

In the present case, we find and so hold that the Sandiganbayan committed a grave abuse of its discretion amounting to excess of jurisdiction in issuing the assailed Resolution and Order.

Section 35, Rule 132 of the Rules of Court provides that documentary and object evidence shall be offered by a

party after the presentation of its testimonial evidence. Such offer shall be done orally unless allowed by the trial court to be done in writing.

We agree with the respondents-prosecutors that the Sandiganbayan may allow the reopening of a case for the reception of additional proofs before judgment. The Rules of Court does not contain any provision prohibiting the trial court from allowing a party to offer additional proofs on the evidence-in-chief or rebuttal evidence after it had rested its case, or even after the case has been submitted for decision but before the rendition thereof. Neither does the Rules of Court contain a specific rule allowing the reopening of a case to allow a party to adduce additional proofs. However, the reopening of a case by the court either on its own motion or on motion of a party, allowing him or them to present additional proofs, is a recognized procedural recourse or device, deriving validity and acceptance from long-established usage.[22] The matter of the trial court's allowing the reopening of a case for additional proof by a party or by the parties is addressed to the court's discretion provided that, by reopening the case, the court does not commit a grave abuse of its discretion. The trial court may allow the reopening of a case and the presentation of additional proofs for the orderly administration of justice or where evidence has been omitted by a party, through inadvertence or mistake, or oversight.[23]

We also agree with the respondents-prosecutors that they are mandated to exhaust available proofs to establish the guilt of the accused and being taken to justice for their offense against the State; and, if they deliberately and willfully refused to do so, they would be prosecuted for dereliction of duty.[24] The prosecutors are mandated to lay before the court the pertinent facts at their disposal with methodical and meticulous attention, clarifying contradictions and filling up gaps and loopholes in their evidence to the end that the trial court's view may not be tortured by doubts, that the innocent may not suffer and the guilty may not escape unpunished. This is their duty to the State, the Court and the accused.[25]

In the present case, the prosecution believed that, after presenting fourteen (14) witnesses and voluminous documentary evidence, it had discharged its duty of proving the guilt of all the accused in both cases. Thus, during the trial of September 27, 2001, the prosecution manifested that it had no more witnesses to present, and prayed for a period of twenty (20) days within which to file a written offer of its documentary evidence, which the graft court granted. In the interim, however, the prosecution discovered its oversight, that it was imperative for it to present additional witnesses and documentary evidence on its evidence-in-chief consisting of the bank managers of the United Coconut Planters Bank, Far East Bank, Solid Bank, Metrobank and Allied Bank, the corporate secretary of the Public Estate Authority, thirteen (13) checks, among others, to prove the crimes charged in the Informations and filed on October 22, 2001, and filed its "Omnibus Motion for Reconsideration" of the September 17, 2001 Resolution of the Court and prayed for the issuance of subpoena duces tecum and ad testificandum to the said witnesses. The Sandiganbayan then resolved to grant the motion for reconsideration of the prosecution per its October 29, 2001 Resolution insofar as Criminal Case No. 24642 was concerned, and denied the said motion for reconsideration of the prosecution insofar as Criminal Case No. 24643 was concerned. However, the Sandiganbayan did not state therein the reason for the denial of the said motion insofar as Criminal Case No. 24643 was concerned, except for its observation that the additional proofs the prosecution wanted to adduce were only in relation to Criminal Case No. 24642. Hence, on January 10, 2002, the prosecution filed its Manifestation with prayer for partial reconsideration of the October 29, 2001 Resolution of the Sandiganbayan which the latter denied per its February 27, 2002 Resolution. Contrary to the ruling of the graft court, the January 10, 2002 Manifestation with Prayer for Partial Reconsideration filed by the prosecution was not a "proscribed second motion for reconsideration." Upon such denial of the motion, the remedy of the prosecution was two-fold: either to file a petition for certiorari under Rule 65 of the Rules of Court for the nullification of the October 29, 2001 and February 27, 2002 Resolutions predicated on grave abuse of discretion, or to file its formal offer of documentary evidence as directed by the Sandiganbayan. However, the prosecution opted not to file any petition

for certiorari in this Court. Indeed, during the trial on March 5, 2002, respondent Prosecutor John I.C. Turalba manifested, in open court, that the prosecution was opting not to present any witness because of the Sandiganbayan's denial of its January 10, 2002 Manifestation with Prayer for Partial Reconsideration. The respondent-prosecutor even prayed for a resetting of the case, presumably to enable him to file the formal offer of the documentary evidence to which all the accused offered no objection. Still, the prosecution failed to file any formal offer of its documentary evidence. Instead, barely a week thereafter, the prosecution, through respondents Prosecutors John I.C. Turalba and Jaime C. Blancaflor, made a "somersault," and filed on March 11, 2002, a Manifestation with Motion for Reconsideration of the October 20, 2001 and February 27, 2002 Resolutions of the Sandiganbayan, praying that it be allowed to adduce additional proofs in Criminal Case No. 24643 to establish conspiracy among all the accused in both cases. The prosecution made another volte face when, without waiting for the resolution of their March 11, 2002 Motion for Partial Reconsideration, respondents Prosecutors Orlando I. Ines and Jaime C. Blancaflor filed a "Formal Offer of Evidence" dated August 29, 2002, manifesting that "with the testimonies of all the prosecution witnesses, as well as the admission of the documentary evidence accounted to them, the plaintiff rested its case." [26] The respondents-prosecutors even noted in their pleading that "due to the voluminous documentary evidence previously submitted by the prosecutors to the court, the parties may directly examine the same at their convenience." [27] By filing such formal offer of evidence, without any preconditions whatsoever, the respondents-prosecutors thereby withdrew their March 11, 2002 Motion for Reconsideration of the February 27, 2002 Resolution of the Sandiganbayan; as such, there was no longer a March 11, 2002 Motion for Partial Reconsideration to speak of and to be resolved by the Sandiganbayan.

The Sandiganbayan should have merely resolved the Formal Offer of Evidence of the respondents-prosecutors. However, with grave abuse of its discretion, the graft court ignored such formal offer of evidence and resolved and granted the March 11, 2002 Motion for Reconsideration of the respondents-prosecutors per its December 17, 2002 Resolution. In effect, the Sandiganbayan set aside its October 29, 2001 and February 27, 2002 Resolutions, as well as its Order of March 6, 2002. The graft court did not even bother to explain why it ignored the Manifestation of respondent prosecutor John I.C. Turalba made in open court during the trial on March 5, 2002 that he was no longer presenting any witness, in view of the Sandiganbayan's denial of their January 10, 2002 Motion for Reconsideration. Instead, the Sandiganbayan resolved and granted the March 12, 2002 Motion for Reconsideration of the respondents-prosecutors.

We have reviewed the records and find no substantial basis for the claim of the respondents-prosecutors that their filing of formal offer of evidence on September 2, 2002 was without prejudice to the Sandiganbayan's resolution of their March 11, 2002 Motion for Reconsideration of the Resolutions of October 29, 2001 and February 27, 2002. We note that the ponente of the December 17, 2002 and February 11, 2003 Resolutions is Justice Rodolfo G. Palattao, who concurred in the October 29, 2001 and February 27, 2002 Resolutions and in the graft court's March 6, 2002 Order.

In resolving and granting the March 11, 2002 Motion for Reconsideration of the respondents-prosecutors, the Sandiganbayan declared that pleadings should be liberally construed so that the issues may be properly ventilated and resolved. Such rather curt statement is disconcerting, considering that the Sandiganbayan failed to explain in its October 29, 2001 Resolution why it declared that the additional proofs that the prosecution wanted to adduce pertained solely to Criminal Case No. 24642, and its reason for ignoring the formal offer of documentary evidence of the prosecution; instead, it granted the March 11, 2002 Motion for Reconsideration filed by the prosecution. Indeed, while it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure, to insure an orderly administration of justice. [28] It is this symbiosis between form and substance that guarantees that discernible result. The Court emphasized in *People v. Mamalias*, [29] that the great goal of our criminal law and procedure is not to send people to the gaol but

to do justice. Public order and our system of justice are well served by a conscientious observance of the rules of procedure, particularly by government officials and agencies.[30]

In the present case, the Sandiganbayan tolerated and condoned the deft but deleterious somersaults of the respondents-prosecutors and itself flip-flopped, to the prejudice of the accused, including the petitioner, and the orderly, fair and impartial administration of justice. While the Sandiganbayan may set aside and recourse its Resolutions and Orders for valid and cogent reasons, in the present case, it did so imprudently and capriciously.

On the second issue, we find the petition bereft of merit, and insufficient in form and in substance. Under Section 1, Rule 65, in relation to Section 3,[31] Rule 46 of the Rules of Court, the petitioner is mandated to append to his petition a certified true copy of the assailed resolution, that is, the September 19, 2002 Resolution of the Sandiganbayan dismissing Criminal Case No. 24643 insofar as accused Oscar Garcia is concerned; and his motion for the reconsideration of said resolution. The petitioner failed to do so. Under the last paragraph of the said Rule, the Court may dismiss the petition on such ground. Besides, the petition was premature, considering that the Sandiganbayan had not as yet resolved the said motion for reconsideration of the petitioner. Finally, the petitioner failed to implead Oscar Garcia as party-respondent who is an indispensable party, considering that what is being assailed is the September 19, 2003 Resolution of the Sandiganbayan dismissing the case as against him.

IN LIGHT OF ALL THE FOREGOING, the petition is PARTIALLY GRANTED. The December 17, 2002 and February 11, 2003 Resolutions of the Sandiganbayan, insofar as Criminal Case No. 24643 is concerned are NULLIFIED. The petition, in so far as it assails the September 19, 2002 Order of the Sandiganbayan dismissing Criminal Case No. 24643 as to Oscar Garcia is DENIED due course and is hereby DISMISSED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Chico-Nazario, JJ., concur. Tinga, J., no part. Close relation to a party.

[1] Rollo, p. 633.

[2] Id. at 633-634.

[3] Id. at 632.

[4] Id. at 260-263.

[5] Id. at 248.

[6] Id. at 247-257.

[7] Id. at 252-255.

[8] Penned by Associate Justice Nicodemo T. Ferrer, with Associate Justices Narciso S. Nario and Raoul V. Victorino, concurring.

[9] Rollo, pp. 262-263.

[10] Id. at 269.

[11] Id. at 286.

[12] 4th Division composed of Associate Justice Nicodemo T. Ferrer, Narciso S. Nario and Rodolfo G. Palattao; Id. at 269-271.

[13] Rollo, pp. 285-287.

[14] Id. at 300.

[15] Id. at 607-610.

[16] Id. at 297.

[17] Id. at 299.

[18] Id. at 301-317.

[19] Penned by Associate Justice Rodolfo G. Palattao (retired), with Associate Justices Gregory S. Ong and Ma. Cristina G. Cortez-Estrada, concurring; Rollo, pp. 33-37.

[20] Id. at 32.

[21] *People of the Philippines v. Court of Appeals, et al.*, G.R. No. 144332, June 10, 2004.

[22] *Alegre v. Judge Manuel T. Reyes*, 161 SCRA 226 (1998).

[23] *Lopez v. Liboro*, 81 Phil. 429 (1948).

[24] *Merciales v. Court of Appeals*, 379 SCRA 345 (2002).

[25] *People v. Dramayo*, 42 SCRA 59 (1971).

[26] Rollo, p. 317.

[27] Id. at 318.

[28] *Dulos v. Court of Appeals*, 188 SCRA 413 (1990).

[29] 328 SCRA 760 (2000).

[30] *Commissioner of Internal Revenue v. Court of Appeals*, 351 SCRA 436 (2001).

[31] SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly-authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly-authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit, together with the petition, a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he

undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

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