

LYNN PAZ T. DELA CRUZ, FERNANDO SERRANO, NATHANIEL LUGTU, AND JANET S. PINEDA, PETITIONERS, VS. SANDIGANBAYAN, THE DEL CASTILLO, AND SPECIAL PROSECUTOR THE PEOPLE OF THE PHILIPP...*G.R. No. 161929. December 08, 2009*

Ponente: DEL CASTILLO, J.

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The principle of the law of the case is an established rule in this jurisdiction. Thus, when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal. The court reviewing the succeeding appeal will not re-litigate the case but instead apply the ruling in the previous appeal. This enables the appellate court to perform its duties satisfactorily and efficiently which would be impossible if a question, once considered and decided by it, were to be litigated anew in the same case and upon any and subsequent appeal.[1] While the applicability of this principle in this case is straightforward, the cunning attempt of the parties to evade the application thereof is what we unequivocally deplore here. The accused often decry the snail pace of the administration of justice but when they themselves give cause for the delay, they have no reason to complain. We again remind the parties and their counsels to act with candor and not to test the patience of this Court.

This is a Petition for Certiorari and Prohibition assailing the Sandiganbayan's (1) December 8, 2003 Resolution[2] in Criminal Case No. 26042, which ordered petitioners' suspension pendente lite and its (2) February 5, 2004 Resolution,[3] which denied petitioners' motion for reconsideration.

Factual Antecedents

The instant criminal complaint arose from the construction and/or renovation project involving several multi-purpose halls located in various barangays in the City of Tarlac. Upon post audit, the Provincial Auditor of the Commission on Audit (COA) issued Notice of Disallowance No. 99-001-100(98) dated January 29, 1999 and Notice of Disallowance No. 99-003-101(98) dated July 22, 1999 on the ground that what were actually constructed and/or renovated were barangay chapels in violation of Section 29(2),[4] Article VI of the Constitution and Section 335[5] of the Local Government Code prohibiting public expenditure for religious purposes.[6] On February 6, 1998, private complainants Jesus B. David and Ana Alamo Aguas filed a complaint with the Office of the Ombudsman in connection with the approval and implementation of the aforesaid projects against several local government officials of the City of Tarlac, namely:

Gelacio R. Manalang- Mayor
Alfredo D. Baquing- Engineer
Nathaniel B. Lugtu- Accountant
Lynn Paz T. Dela Cruz- Assistant Accountant
Fernando L. Serrano- Budget Officer

Janet S. Pineda- Planning & Development Officer

for violation of Section 3(e)[7] of Republic Act (RA) No. 3019[8] or "The Anti-Graft and Corrupt Practices Act". In his July 13, 1999 Resolution,[9] the Ombudsman dismissed the complaint for insufficiency of evidence and prematurity. On September 8, 1999, private complainants moved for reconsideration. As a result, the Ombudsman referred the case to the Office of the Chief Legal Counsel for review and recommendation. In its April 13, 2000 Memorandum,[10] the Office of the Chief Legal Counsel recommended that the corresponding information be filed against the aforesaid local officials because there is probable cause to hold them liable for violation of the anti-graft law. Acting favorably thereon, on May 16, 2000, the Ombudsman issued an Order[11] directing the Office of the Special Prosecutor to file the necessary information with the Sandiganbayan, viz:

That sometime on 6 February 1998 or thereabouts, in the City of Tarlac, province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, accused Gelacio R. Manalang, Alfredo D. Baquing, Lynn Paz T. dela Cruz, Fernando Serrano, Nathaniel Lugtu and Janet S. Pineda, accused Gelacio R. Manalang being the mayor of Tarlac City, Tarlac, a high ranking officer pursuant to R.A. 8249 in relation to Sec. 455(d) of R.A. 7160, and all the other accused then occupying different positions in the government of Tarlac City, conspiring and confederating with one another, committing the crime herein charged in relation to their office, taking advantage of their official position, acting with evident bad faith and manifest partiality, or gross inexcusable negligence, did then and there, wilfully, unlawfully and criminally, cause undue injury to the government and give unwarranted benefits, advantage or preference to a specific group of constituents by approving and releasing the amount of Five Hundred Forty Three Thousand Eight Hundred Pesos (P543,800.00) for the construction of the "multi-purpose halls" in barangays Sapang Tagalog, Sapang Maragul and Dalayap in Tarlac City despite the fact, as Accused knew fully well, that what were being constructed are in truth chapels which would serve private purposes, and not barangay multi-purpose halls and, thereafter, proceeded to implement such construction.[12]

The case was docketed as Criminal Case No. 26042 and raffled to the Fourth Division. The accused then moved for reinvestigation on the ground that they were not given an opportunity to be heard when the Ombudsman reversed his earlier finding of lack of probable cause.

In its July 17, 2000 Order,[13] the Sandiganbayan granted the motion and gave the prosecution 20 days to re-evaluate the evidence and submit a report to the court. On July 31, 2001, the prosecution filed a Manifestation[14] with the Sandiganbayan that after conducting its reinvestigation, it found probable cause to charge the accused with violation of the anti-graft law and prayed that the case be set for arraignment. As a consequence, the Sandiganbayan in its August 8, 2001 Resolution[15] set the case for arraignment and pre-trial.

Undeterred, the accused filed separate motions[16] to quash the information and/or to dismiss the case. On April 24, 2003, the Sandiganbayan issued a Resolution[17] which denied all of the aforesaid motions and upheld the validity of the subject information. It ruled that the information contained sufficient allegations to charge the accused with violation of Section 3(e) of RA No. 3019, that there exists probable cause to indict the accused and that the motions raise factual issues that cannot be resolved without an adversarial proceeding.

The accused then moved for reconsideration which was denied by the Sandiganbayan in its June 2, 2003 Resolution.[18] In addition to the reasons stated in its April 24, 2003 Resolution, the Sandiganbayan held that there was no violation of the right of the accused to due process based on the records forwarded to the court by the Ombudsman.

On May 12, 2003, the accused were arraigned and pleaded not guilty.[19] The prosecution subsequently filed a motion[20] to suspend the accused pendente lite.

On June 10, 2003, the accused filed a consolidated petition for certiorari and prohibition before this Court against

public respondents Fourth Division of the Sandiganbayan, the Ombudsman and the People of the Philippines. They ascribed grave abuse of discretion on the public respondents for filing the information and upholding the validity of the same despite the violation of the right of the accused to due process and the patent lack of probable cause. On June 17, 2003, we resolved to dismiss the petition for lack of merit.

Sandiganbayan's Ruling

On December 8, 2003, the Sandiganbayan issued the assailed Resolution which granted the prosecution's motion and ordered the preventive suspension of the accused for a period of 90 days. It ruled that the validity of the information has been previously settled in its April 24, 2003 Resolution. Thus, under Section 13 of RA No. 3019, the preventive suspension of the accused becomes mandatory. Petitioners thereafter filed a motion for reconsideration which was denied by the Sandiganbayan in its February 5, 2004 Resolution.

From the aforesaid adverse rulings, only accused Dela Cruz, Serrano, Lugtu and Pineda (petitioners) sought review before this Court via the instant petition for prohibition and certiorari under Rule 65 of the Rules of Court.

Issues

Petitioners raise the following issues for our resolution:

- Whether the subject criminal case was prematurely instituted considering the pendency of petitioners' appeals before the COA En Banc.
- Whether the Ombudsman may still reconsider his Resolution dated July 13, 1999, dismissing the complaint, after the same has already become final and executory.
- Whether the subject information is fatally defective.
- Whether, on the basis of the admitted or undisputed facts, there is probable cause to prosecute petitioners and their co-accused for violation of Section 3(e) of RA No. 3019.[21]

Petitioners' Arguments

First, petitioners claim that they have been exonerated by the COA En Banc, thus, there is no more basis to prosecute them for violation of the anti-graft law. The filing of the subject criminal case against them was based on the results of a post-audit showing the alleged illegal disbursement of public funds for religious purposes. Consequently, the Provincial Auditor issued notices of disallowance against petitioners and their co-accused Manalang and Baquing. Petitioners thereafter appealed from said notices. Considering that these cases were still on appeal before the COA En Banc, the Ombudsman gravely abused his discretion when he ordered the filing of the subject criminal case against petitioners and their co-accused.

Moreover, in the interim and after a series of separate appeals, petitioners Lugtu, Dela Cruz and Serrano were exonerated by the COA En Banc on the common ground that as Accountant, Assistant Accountant and Budget Officer, respectively, they did not take part in the review of the plans and specifications as well as in the implementation, prosecution and supervision of the subject construction and/or renovation project. As for petitioner Pineda, no notice of disallowance was ever issued to her. Thus, with more reason subject criminal case should be dismissed in order to save petitioners from an expensive and vexatious trial.

In the same vein, there is no probable cause to hold petitioners liable for violation of the anti-graft law because the Ombudsman himself admitted that what were built were multi-purpose halls and not chapels in his November 16, 1999 Decision in OMB-ADM-1-99-0759 which absolved petitioners' co-accused Baquing from administrative liability.

Second, petitioners contend that the subject information is fatally defective because of the irregularities and due process violations committed during the preliminary investigation of this case. The Ombudsman acted without jurisdiction when he reversed his July 13, 1999 Resolution, which dismissed the criminal complaint, considering that this resolution had long become final and executory. Assuming that private complainants timely moved for reconsideration, the same was defective for failure to furnish all the accused with copies of said motion. The information should, thus, have been quashed under Section 3(d)[22] of Rule 117 of the Rules of Court for lack of authority of the Ombudsman to file the same.

Finally, petitioners argue that the allegations in the subject information do not constitute an offense because the alleged specific group that was benefited by the construction and/or renovation of the barangay chapels as well as the alleged private purposes served thereby were sufficiently identified and described. Hence, the right of the accused to be informed of the nature and cause of the accusation against them was violated.

Respondents' Arguments

First, respondents counter that the COA is not vested with jurisdiction to determine the criminal liability of petitioners. Its power is limited to the determination of the violation of its accounting and auditing rules and regulations. Hence, the COA En Banc's exclusion of petitioners from liability under the notices of disallowance only relates to the administrative aspect of their accountability. This, however, does not foreclose the Ombudsman's authority to investigate and determine whether there is a crime to be prosecuted. For similar reasons, the exoneration of Baquing from administrative liability by the Ombudsman in his November 16, 1999 Decision in OMB-ADM-1-99-0759, specifically, the finding therein that what were constructed were multi-purpose halls and not chapels is not binding on the subject criminal case against petitioners and their co-accused. The dismissal of an administrative case does not necessarily bar the filing of a criminal prosecution for the same or similar acts which were the subject of the administrative complaint.

Second, respondents aver that there was no denial of due process during the preliminary investigation stage. Private complainants timely moved for reconsideration from the July 13, 1999 Resolution of the Ombudsman. They received a copy of the aforesaid Resolution on August 25, 1999 and filed a letter seeking reconsideration on September 8, 1999 or within the 15-day reglementary period under the Rules of Procedure of the Ombudsman. The Sandiganbayan also found that there was no due process violation as borne out by the records forwarded to said court by the Ombudsman. Further, any defect in the preliminary investigation should be deemed cured because the Sandiganbayan ordered the reinvestigation of this case in its July 17, 2000 Order. After the reinvestigation, the Ombudsman maintained that there is probable cause to indict petitioners and their co-accused. This was affirmed by the Sandiganbayan when it set the case for arraignment and pre-trial.

Finally, respondents assert that the identity of the specific group and the private purposes served by the subject construction and/or renovation project are evidentiary matters that should be threshed out during the trial on the merits of this case.

Our Ruling

The petition lacks merit.

The preventive suspension of the
accused under Section 13 of RA
No. 3019 is mandatory upon a
finding that the information is valid.

Section 13 of RA No. 3019 provides:

Section 13. Suspension and loss of benefits - Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

Pursuant to this provision, it becomes mandatory for the court to immediately issue the suspension order upon a proper determination of the validity of the information.[23] The court possesses no discretion to determine whether a preventive suspension is necessary to forestall the possibility that the accused may use his office to intimidate witnesses, or frustrate his prosecution, or continue committing malfeasance. The presumption is that unless the accused is suspended, he may frustrate his prosecution or commit further acts of malfeasance or do both.[24]

In *Luciano v. Mariano*,[25] we laid down the guidelines for the exercise of the court's power to suspend the accused:

(c) By way of broad guidelines for the lower courts in the exercise of the power of suspension from office of public officers charged under a valid information under the provisions of Republic Act 3019 or under the provisions of the Revised Penal Code on bribery, pursuant to Section 13 of said Act, it may be briefly stated that upon the filing of such information, the trial court should issue an order with proper notice requiring the accused officer to show cause at a specific date of hearing why he should not be ordered suspended from office pursuant to the cited mandatory provisions of the Act. Where either the prosecution seasonably files a motion for an order of suspension or the accused in turn files a motion to quash the information or challenges the validity thereof, such show-cause order of the trial court would no longer be necessary. What is indispensable is that the trial court duly hear the parties at a hearing held for determining the validity of the information, and thereafter hand down its ruling, issuing the corresponding order of suspension should it uphold the validity of the information or withholding such suspension in the contrary case.

(d) No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him, e.g. that he has not been afforded the right of due preliminary investigation; that the acts for which he stands charged do not constitute a violation of the provisions of Republic Act No. 3019 or of the bribery provisions of the Revised Penal Code which would warrant his mandatory suspension from office under Section 13 of the Act; or he may present a motion to quash the information on any of the grounds provided in Rule 117 of the Rules of Court. The mandatory suspension decreed by the Act upon determination of the pendency in court of a criminal prosecution for violation of the Anti-graft Act or for bribery under a valid information requires at the same time that the hearing be expeditious, and not unduly protracted such as to thwart the prompt suspension envisioned by the Act. Hence, if the trial court, say, finds the ground alleged in the quashal motion not to be indubitable, then it shall be called upon to issue the suspension order upon its upholding the validity of the information and setting the same for trial on the merits.[26]

The issues proper for a pre-suspension hearing are, thus, limited to ascertaining whether: (1) the accused had been afforded due preliminary investigation prior to the filing of the information against him, (2) the acts for which he was charged constitute a violation of the provisions of RA No. 3019 or of the provisions of Title 7, Book II of the Revised Penal Code, or (3) the information against him can be quashed under any of the grounds provided in Section 2, Rule 117 of the Rules of Court.[27]

While ordinarily we would proceed to determine whether the ruling of the Sandiganbayan upholding the validity

of the information and directing the preventive suspension suffer from the vice of grave abuse of discretion, the peculiar circumstances of this case constrain us to dismiss the petition outright. As will be discussed hereunder, all of the above issues proper in a pre-suspension hearing were previously passed upon by the Sandiganbayan and then by us via G.R. No. 158308. Petitioners conveniently failed to reveal that this is the second time that they are appealing before us, raising the same issues and arguments, via the instant petition. The present recourse is, thus, but a futile attempt to reopen settled rulings with the deplorable consequence of delaying the prompt disposition of the main case.

The validity of the subject information has been raised and resolved in G.R. No. 158308. Under the principle of the law of the case, this issue can no longer be re-litigated.

Upon a review of the records of this case, we find that the issue as to the validity of the information, inclusive of all matters proper for a pre-suspension hearing, has already been passed upon by us. As stated earlier, the records indicate that on June 10, 2003, petitioners, along with their co-accused Manalang and Baquing, filed a consolidated petition for certiorari and prohibition before this Court against public respondents Fourth Division of the Sandiganbayan, the Ombudsman and the People of the Philippines. This case was docketed as G.R. No. 158308. Petitioners, Manalang and Baquing assailed therein, for having been issued with grave abuse of discretion, the following: (1) Sandiganbayan's April 24, 2003 Resolution which upheld the validity of the information charging them with violation of Section 3(e) of RA No. 3019, (2) Sandiganbayan's June 2, 2003 Resolution which denied petitioners, Manalang and Baquing's separate motions for reconsideration and (3) Ombudsman's May 16, 2000 Order which directed the Office of the Special Prosecutor to file the aforesaid information.

In its April 24 and June 2, 2003 Resolutions, the Sandiganbayan had earlier ruled, among others, that the subject information contains sufficient allegations to charge the accused with violation of the anti-graft law; that there was no denial of due process during the preliminary investigation stage; that there exists probable cause to indict the accused; and that the accused's other arguments, including the pendency of petitioners' separate appeals before the COA En Banc, lacked merit. On June 17, 2003, the Court En Banc issued a Resolution dismissing the petition for failure to sufficiently show that the public respondents committed grave abuse of discretion in rendering the assailed issuances and for having raised factual issues. This Resolution became final and executory on July 31, 2003 as per the entry of judgment.[28]

The issues and arguments in the instant petition were already included in the issues and arguments raised and resolved in G.R. No. 158308.[29] The Court En Banc's June 17, 2003 Resolution should, thus, have put to rest the issue of the validity of the subject information. Yet, petitioners would have us now revisit the same issue in the instant petition. This cannot be done. Under the principle of the law of the case, when a question is passed upon by an appellate court and the case is subsequently remanded to the lower court for further proceedings, the question becomes settled upon a subsequent appeal. Whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[30] Thus, considering that the validity of the information has long been settled in G.R. No. 158308, the Sandiganbayan properly granted the motion to suspend the accused *pendente lite*.

In conclusion, we note with deep disapproval the failure of petitioners to properly apprise this Court of the proceedings previously taken in G.R. No. 158308. Petitioners did not act forthrightly when they omitted in their statement of facts that they had earlier challenged the validity of the subject information before the

Sandiganbayan and this Court, which issue they now seek to resuscitate in the instant petition. That the accused should be allowed to arduously and zealously defend his life, liberty and property is not in question. But this is so only within the permissible limits of the framework of our criminal laws and rules of procedure. Indubitably, the accused should not give ground for delay in the administration of criminal justice, much less, hide from this Court the patent unworthiness of his cause.

WHEREFORE, the petition is DISMISSED. The Sandiganbayan's December 8, 2003 Resolution, which ordered petitioners' suspension pendente lite and February 5, 2004 Resolution, which denied petitioners' motion for reconsideration, are AFFIRMED. This case is REMANDED to the Sandiganbayan for further proceedings.

Treble costs against petitioners.

SO ORDERED.

Carpio,[*] (Chairperson), Leonardo-De Castro,**] Brion, and Abad, JJ., concur.

[*] Per Special Order No. 775 dated November 3, 2009.

**] Additional member per Special Order No. 776 dated November 3, 2009.

[1] Ariola v. Philex Mining Corporation, G.R. No. 147756, August 9, 2005, 466 SCRA 152, 176-177.

[2] Records, Vol. III, pp. 158-164; penned by Associate Justice Gregory S. Ong and concurred in by Associate Justices Rodolfo G. Palattao and Norberto Y. Geraldez.

[3] Id. at 234-235. The Resolution was adopted by Associate Justices Gregory S. Ong, Norberto Y. Geraldez and Efren N. De la Cruz.

[4] Section 29(2). No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

[5] Section 335. Prohibitions Against Expenditures for Religious or Private Purposes. -- No public money or property shall be appropriated or applied for religious or private purposes.

[6] Records, Vol. I, pp. 145-149.

[7] Section 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.

[8] Effective: August 17, 1960.

[9] Records, Vol. I, pp. 3-6.

[10] Id. at 7, 9-10.

[11] Id. at 8.

[12] Id at 1.

[13] Id. at 253.

[14] Id at. 292-294.

[15] Id. at 299.

[16] Motion to Dismiss dated February 15, 2002 filed by accused Dela Cruz, Serrano, Lugtu and Pineda; Supplemental Motion to Dismiss dated March 4, 2002 filed by accused Serrano; Omnibus Motion dated March 21, 2002 (to dismiss for lack of probable cause and violation of due process, to suspend proceedings and to hold in abeyance the pre-trial) filed by accused Manalang; and Motion to Dismiss dated October 29, 2002 filed by accused Bacquing.

[17] Records, Vol. II, pp. 353-358; penned by Associate Justice Rodolfo G. Palattao and concurred in by Associate Justices Gregory S. Ong and Ma. Cristina G. Cortez-Estrada.

[18] Id. at 429-432.

[19] Id. at 413.

[20] Records, Vol. III, pp. 8-10.

[21] Rollo, p. 191.

[22] SECTION 3. Grounds. -- The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(d) That the officer who filed the information had no authority to do so; x x x

[23] *Socrates v. Sandiganbayan*, 324 Phil. 151, 179 (1996).

[24] Id. at 180.

[25] 148-B Phil. 178 (1971).

[26] Id. at 192-193.

[27] *Supra* note 23 at 179.

[28] Rollo (G.R. No. 158308), p. 197.

[29] In G.R. No. 158308, petitioners, Manalang and Baquing raised the following arguments:

I. The Honorable Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in not finding that the dismissal of the complaint by the Ombudsman himself, upon the recommendation of the Deputy Ombudsman for Luzon after conducting preliminary investigation, is valid for it was based on findings supported by evidence and done so within the vast powers vested by law in the Ombudsman and his deputies;

II. The Honorable Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction

in not finding that the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction when the latter ordered the filing of the information considering that:

1. After the previous resolution of dismissal by the Ombudsman became final and executory, the subsequent filing of the information is flawed as it is deemed null and void because of lack of authority of the Hon. Ombudsman pursuant to section 3, paragraph (d) of Rule 117 of the Rules of Criminal Procedure on the ground of a motion to quash that "the officer who filed the information had no authority to do so." And that the action taken by the Hon. Ombudsman was without or in excess of authority.
2. The accused were effectively deprived of their right to a preliminary investigation pursuant to sections 2 & 4, Rule II of Administrative Order No. 07 (Rules of Procedure of the Office of the Ombudsman), when the previous resolutions dismissing the complaint that the Ombudsman himself approved were reversed by him, merely because of the recommendation of a legal counsel and even though no motion for reconsideration was filed by private complainants; and
3. That even assuming that the review and recommendation of the legal counsel and the approval thereof by the Ombudsman were part of preliminary investigation, there was inordinate delay in terminating the same thereby depriving the accused of their rights to due process and to a speedy disposition of the case.

III. The Honorable Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in not finding that there is no probable cause or any sufficient basis, in fact and in law, to charge the petitioners for allegedly violating section 3(e) of R.A. 3019 in that:

1. There was an appropriation ordinance passed by the Sangguniang Panlungsod of Tarlac authorizing the expenditures for such purpose;
2. Petitioners acted in good faith and were clothed with full legal authority by the Sangguniang Panlungsod when the questioned contracts were entered into for the construction of such multi-purpose halls in various barangays;
3. The petitioners had only to rely upon the certifications issued by the duly authorized technical and financial personnel of the city that the projects were properly constructed and funds disbursed pursuant to the approved purpose;
4. The fact that the Commission on Audit and the Ombudsman had already acquitted several of the petitioners in administrative proceedings lending considerable credence to the veracity of their claim of innocence and reflecting the glaring lack of probable cause of the action.

IV. That The Honorable Sandiganbayan committed grave abuse of discretion in denying the corresponding motions to dismiss or quash for lack of probable cause x x x on the ground that the issuance of the warrant of arrest already presupposes the existence of probable cause, in that:

1. A question as to the existence of probable cause, or absence thereof, may be raised and resolved even after the issuance of a warrant of arrest and even after the arraignment.
2. The lack of probable cause, though not included in the grounds enumerated by the Rules of Procedure in a motion to quash, is nonetheless a long established ground in jurisprudence and such ground, once proven, is fatal to any criminal action.

V. That the petitioners have no plain, speedy and adequate remedy in the ordinary course of law. [Rollo (G.R. No. 158308), pp. 15-17.]

[30] Cucueco v. Court of Appeals, G.R. No. 139278, October 25, 2004, 441 SCRA 290, 301.

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