

RAMON A. ALBERT, PETITIONER, VS. THE SANDIGANBAYAN, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 164015. February 26, 2009

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-164015/>

CARPIO, J.:

The Case

This is a petition for certiorari[1] of the Resolutions dated 10 February 2004[2] and 3 May 2004[3] of the Sandiganbayan. The 10 February 2004 Resolution granted the prosecution's Motion to Admit the Amended Information. The 3 May 2004 Resolution denied the Motion For Reconsideration of petitioner Ramon A. Albert (petitioner).

The Facts

On 24 March 1999, the Special Prosecution Officer (SPO) II of the Office of the Ombudsman for Mindanao charged petitioner and his co-accused, Favio D. Sayson and Arturo S. Asumbrado, before the Sandiganbayan with violation of Section 3(e) of Republic Act No. 3019 (RA 3019) or the Anti-Graft and Corrupt Practices Act in Criminal Case No. 25231. The Information alleged:

The undersigned Special Prosecution Officer II of the Office of the Ombudsman for Mindanao hereby accuses RAMON A. ALBERT, FAVIO D. SAYSON, and ARTURO S. ASUMBRADO for (sic) violation of Section 3(e) R.A. 3019, as amended, committed as follows:

That in (sic) or about May 1990 and sometime prior or subsequent thereto, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, accused RAMON A. ALBERT, a public officer, being then the President of the National Home Mortgage and Finance Corporation, occupying the said position with a salary grade above 27, while in the performance of his official function, committing the offense in relation to his office, taking advantage of his official position, conspiring and confederating with accused FAVIO D. SAYSON, then the Project Director of CODE Foundation Inc. and accused ARTURO S. ASUMBRADO, then the President of the Buhangin Residents and Employees Association for Development, Inc., acting with evident bad faith and manifest partiality and or gross neglect of duty, did then and there willfully, unlawfully and criminally cause undue injury to the government and public interest, enter and make it appear in Tax Declaration Nos. D-3-1-7691 and D-3-1-7692 that two parcels of real property particularly described in the Certificate of Titles Nos. T-151920 and T-151921 are residential lands which Tax Declarations accused submitted to the NHMFC when in truth and in fact, as accused well knew, the two pieces of real property covered by Certificate of Titles Nos. T-151920 and T-151921 are agricultural land, and by reason of accused's misrepresentation, the NHMFC released the amount of P4,535,400.00 which is higher than the loanable amount the land could command being agricultural, thus causing undue injury to the government.

CONTRARY TO LAW.[4]

On 26 March 1999, a Hold Departure Order was issued by the Sandiganbayan against petitioner and his co-accused.

On 25 May 1999, petitioner filed a Motion to Dismiss Criminal Case No. 25231 on the following grounds: (1) the accused (petitioner) was denied due process of law; (2) the Office of the Ombudsman did not acquire jurisdiction over the person of the accused; (3) the constitutional rights of the accused to a speedy disposition of cases and to a speedy trial were violated; and (4) the resolution dated 26 February 1999 finding the accused guilty of violation of Section 3(e) of RA 3019 is not supported by evidence.[5]

On 18 December 2000, pending the resolution of the Motion to Dismiss, petitioner filed a Motion to Lift Hold Departure Order and to be Allowed to Travel. The prosecution did not object to the latter motion on the condition that petitioner would be "provisionally" arraigned.[6] On 12 March 2001, petitioner filed an Urgent Motion to Amend Motion to Lift Hold Departure Order and to be Allowed to Travel. The following day, or on 13 March 2001, the Sandiganbayan arraigned petitioner who entered a plea of "not guilty." In the Resolution dated 16 April 2001, the Sandiganbayan granted petitioner's Urgent Motion to Amend Motion to Lift Hold Departure Order and to be Allowed to Travel.

On 26 November 2001, the Sandiganbayan denied petitioner's Motion to Dismiss and ordered the prosecution to conduct a reinvestigation of the case with respect to petitioner. In a Memorandum dated 6 January 2003, the SPO who conducted the reinvestigation recommended to the Ombudsman that the indictment against petitioner be reversed for lack of probable cause. However, the Ombudsman, in an Order dated 10 March 2003, disapproved the Memorandum and directed the Office of the Special Prosecutor to proceed with the prosecution of the criminal case. Petitioner filed a Motion for Reconsideration of the Order of the Ombudsman.

In a Resolution promulgated on 16 May 2003, the Sandiganbayan scheduled the arraignment of petitioner on 24 July 2003. However, in view of the pending motion for reconsideration of the order of the Ombudsman, the arraignment was reset to 2 October 2003.

In a Manifestation dated 24 September 2003, the SPO informed the Sandiganbayan of the Ombudsman's denial of petitioner's motion for reconsideration. On even date, the prosecution filed an Ex-Parte Motion to Admit Amended Information. During the 2 October 2003 hearing, this ex-parte motion was withdrawn by the prosecution with the intention of filing a Motion for Leave to Admit Amended Information. The scheduled arraignment of petitioner was reset to 1 December 2003.[7]

On 7 October 2003, the prosecution filed a Motion for Leave to Admit Amended Information. The Amended Information reads:

The undersigned Special Prosecution Officer I of the Office of Special Prosecutor, hereby accuses RAMON A. ALBERT, FAVIO D. SAYSON, and ARTURO S. ASUMBRADO for (sic) violation of Section 3(e) R.A. 3019, as amended, committed as follows:

That in (sic) or about May 1990 and sometime prior or subsequent thereto, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, accused RAMON A. ALBERT, a public officer, being then the President of the National Home Mortgage and Finance Corporation, occupying the said position with a salary grade above 27, while in the performance of his official function, committing the offense in relation to his office, taking advantage of his official position, conspiring and confederating with accused FAVIO D. SAYSON, then the Project Director of CODE Foundation Inc. and accused ARTURO S. ASUMBRADO, then the President of the Buhangin Residents and Employees Association for Development, Inc., acting with evident bad faith and manifest partiality and/or gross inexcusable negligence, did then and there willfully,

unlawfully and criminally cause undue injury to the government and public interest, enter and make it appear in Tax Declaration Nos. D-3-1-7691 and D-3-1-7692 that two parcels of real property particularly described in the Certificate of Titles Nos. T-151920 and T-151921 are residential lands which Tax Declarations accused submitted to the NHMFC when in truth and in fact, as accused well knew, the two pieces of real property covered by Certificate of Titles Nos. T-151920 and T-151921 are agricultural land, and by reason of accused's misrepresentation, the NHMFC released the amount of P4,535,400.00 which is higher than the loanable amount the land could command being agricultural, thus causing undue injury to the government.

CONTRARY TO LAW.[8]

Petitioner opposed the motion, alleging that the amendment made on the information is substantial and, therefore, not allowed after arraignment.

The Ruling of the Sandiganbayan

In its Resolution of 10 February 2004,[9] the Sandiganbayan granted the prosecution's Motion to Admit Amended Information. At the outset, the Sandiganbayan explained that "gross neglect of duty" which falls under Section 3(f) of RA 3019 is different from "gross inexcusable negligence" under Section 3(e), and held thus:

In an information alleging gross neglect of duty, it is not a requirement that such neglect or refusal causes undue injury compared to an information alleging gross inexcusable negligence where undue injury is a constitutive element. A change to this effect constitutes substantial amendment considering that the possible defense of the accused may divert from the one originally intended.

It may be considered however, that there are three modes by which the offense for Violation of Section 3(e) may be committed in any of the following:

- Through evident bad faith;
- Through manifest partiality;
- Through gross inexcusable negligence.

Proof of the existence of any of these modes in connection with the prohibited acts under said section of the law should suffice to warrant conviction.[10]

However, the Sandiganbayan also held that even granting that the amendment of the information be formal or substantial, the prosecution could still effect the same in the event that the accused had not yet undergone a permanent arraignment. And since the arraignment of petitioner on 13 March 2001 was merely "provisional," then the prosecution may still amend the information either in form or in substance.

Petitioner filed a Motion for Reconsideration, which was denied by the Sandiganbayan in its Resolution of 3 May 2004. Hence this petition.

The Issues

The issues raised in this petition are:

- WHETHER THE SANDIGANBAYAN GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ADMITTING THE AMENDED INFORMATION; AND
- WHETHER THE SANDIGANBAYAN GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FURTHER PROCEEDING WITH THE CASE DESPITE THE VIOLATION OF THE RIGHT OF THE ACCUSED TO A SPEEDY TRIAL.

The Ruling of the Court

The petition has no merit.

On Whether the Sandiganbayan
Should Admit the Amended Information

Section 14 of Rule 110 of the Revised Rules of Criminal Procedure provides:

Sec. 14. Amendment or Substitution.-- A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

x x x

Petitioner contends that under the above section, only a formal amendment of the information may be made after a plea. The rule does not distinguish between a plea made during a "provisional" or a "permanent" arraignment. Since petitioner already entered a plea of "not guilty" during the 13 March 2001 arraignment, then the information may be amended only in form.

An arraignment is that stage where in the mode and manner required by the rules, an accused, for the first time, is granted the opportunity to know the precise charge that confronts him.[11] The accused is formally informed of the charges against him, to which he enters a plea of guilty or not guilty. As an indispensable requirement of due process, an arraignment cannot be regarded lightly or brushed aside peremptorily.[12]

The practice of the Sandiganbayan of conducting "provisional" or "conditional" arraignments is not sanctioned by the Revised Internal Rules of the Sandiganbayan or by the regular Rules of Court.[13] However, in *People v. Espinosa*,[14] this Court tangentially recognized such practice, provided that the alleged conditions attached thereto should be "unmistakable, express, informed and enlightened." Moreover, the conditions must be expressly stated in the Order disposing of the arraignment; otherwise, the arraignment should be deemed simple and unconditional.[15]

In the present case, the arraignment of petitioner is reflected in the Minutes of the Sandiganbayan Proceedings dated 13 March 2001 which merely states that the "[a]ccused when arraigned entered a plea of not guilty. The Motion to Travel is granted subject to the usual terms and conditions imposed on accused persons travelling (sic) abroad." [16] In the Resolution of 16 April 2001,[17] the Sandiganbayan mentioned the arraignment of petitioner and granted his Urgent Motion to Amend Motion to Lift Hold Departure Order and to be Allowed to Travel, setting forth the conditions attendant thereto which, however, were limited only to petitioner's itinerary abroad; the setting up of additional bailbond; the required appearance before the clerk of court; and written advice to the court upon return to the Philippines. Nothing on record is indicative of the provisional or conditional nature of the arraignment. Hence, following the doctrine laid down in *Espinosa*, the arraignment of petitioner should be deemed simple and unconditional.

The rules mandate that after a plea is entered, only a formal amendment of the Information may be made but with leave of court and only if it does not prejudice the rights of the accused.

Petitioner contends that replacing "gross neglect of duty" with "gross inexcusable negligence" is a substantial amendment of the Information which is prejudicial to his rights. He asserts that under the amended information, he has to present evidence that he did not act with "gross inexcusable negligence," evidence he was not required to present under the original information. To bolster his argument, petitioner refers to the 10 February 2004

Resolution of the Sandiganbayan which ruled that the change "constitutes substantial amendment considering that the possible defense of the accused may divert from the one originally intended." [18]

We are not convinced.

Petitioner is charged with violation of Section 3(e) of RA 3019 which provides as follows:

SEC. 3. Corrupt practices of public officers.-- In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(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.

This crime has the following essential elements:[19]

- The accused must be a public officer discharging administrative, judicial or official functions;
- He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- His action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.

The second element provides the different modes by which the crime may be committed, that is, through "manifest partiality," "evident bad faith," or "gross inexcusable negligence." [20] In *Uriarte v. People*, [21] this Court explained that Section 3(e) of RA 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence. There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. [22] "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. [23] "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. [24] "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. [25]

The original information filed against petitioner alleged that he acted with "evident bad faith and manifest partiality and or (sic) gross neglect of duty." The amended information, on the other hand, alleges that petitioner acted with "evident bad faith and manifest partiality and/or gross inexcusable negligence." Simply, the amendment seeks to replace "gross neglect of duty" with "gross inexcusable negligence." Given that these two phrases fall under different paragraphs of RA 3019—specifically, "gross neglect of duty" is under Section 3(f) while "gross inexcusable negligence" is under Section 3(e) of the statute—the question remains whether or not the amendment is substantial and prejudicial to the rights of petitioner.

The test as to when the rights of an accused are prejudiced by the amendment of a complaint or information is when a defense under the complaint or information, as it originally stood, would no longer be available after the amendment is made, and when any evidence the accused might have, would be inapplicable to the complaint or

information as amended.[26] On the other hand, an amendment which merely states with additional precision something which is already contained in the original information and which, therefore, adds nothing essential for conviction for the crime charged is an amendment to form that can be made at anytime.[27]

In this case, the amendment entails the deletion of the phrase "gross neglect of duty" from the Information. Although this may be considered a substantial amendment, the same is allowable even after arraignment and plea being beneficial to the accused.[28] As a replacement, "gross inexcusable negligence" would be included in the Information as a modality in the commission of the offense. This Court believes that the same constitutes an amendment only in form. In *Sistoza v. Desierto*,[29] the Information charged the accused with violation of Section 3(e) of RA 3019, but specified only "manifest partiality" and "evident bad faith" as the modalities in the commission of the offense charged. "Gross inexcusable negligence" was not mentioned in the Information. Nonetheless, this Court held that the said section is committed by *dolo* or *culpa*, and although the Information may have alleged only one of the modalities of committing the offense, the other mode is deemed included in the accusation to allow proof thereof.[30] In so ruling, this Court applied by analogy the pronouncement in *Cabello v. Sandiganbayan*[31] where an accused charged with willful malversation was validly convicted of the same felony of malversation through negligence when the evidence merely sustained the latter mode of perpetrating the offense. The Court held that a conviction for a criminal negligent act can be had under an information exclusively charging the commission of a willful offense upon the theory that the greater includes the lesser offense. Thus, we hold that the inclusion of "gross inexcusable negligence" in the Information, which merely alleges "manifest partiality" and "evident bad faith" as modalities in the commission of the crime under Section 3(e) of RA 3019, is an amendment in form.

On Whether Petitioner's Right to a Speedy Trial was Violated

Petitioner contends that the complaint-affidavit against him was filed on 15 June 1992, but it was resolved by the Office of the Ombudsman-Mindanao only on 26 February 1999, or after a period of almost seven (7) years. Four (4) years thereafter, the SPO, upon reinvestigation of the case, recommended that the case against petitioner be dismissed for lack of probable cause, but this recommendation was denied by the Ombudsman. A Motion for Leave to Admit Amended Information was later filed by the prosecution and granted by the Sandiganbayan in the questioned Resolution of 10 February 2004. Thus, petitioner maintains that it took the Office of the Ombudsman twelve (12) years since the initial filing of the complaint-affidavit in 1992 to charge accused with the offense under the Amended Information, in violation of petitioner's right to a speedy trial.

Petitioner's contentions are futile.

The right of an accused to a speedy trial is guaranteed under Section 16, Article III of the Philippine Constitution which provides: "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies." This right, however, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried.[32] A simple mathematical computation of the period involved is not sufficient. We concede that judicial proceedings do not exist in a vacuum and must contend with the realities of everyday life.[33]

After reviewing the records of the case, we believe that the right of petitioner to a speedy trial was not infringed upon. The issue on the inordinate delay in the resolution of the complaint-affidavit filed against petitioner and his co-accused and the filing of the original Information against petitioner was raised in petitioner's Motion to

Dismiss, and was duly addressed by the Sandiganbayan in its Resolution denying the said motion. It appears that the said delays were caused by the numerous motions for extension of time to file various pleadings and to reproduce documents filed by petitioner's co-accused, and that no actual preliminary investigation was conducted on petitioner. The Sandiganbayan properly held that a reinvestigation of the case as to petitioner was in order. Although the reinvestigation inadvertently resulted to further delay in the proceedings, this process could not have been dispensed with as it was done for the protection of the rights of petitioner himself. It is well-settled that although the conduct of an investigation may hold back the progress of a case, it is necessary so that the accused's right will not be compromised or sacrificed at the altar of expediency.[34] The succeeding events appear to be parts of a valid and regular course of judicial proceedings not attended by delays which can be considered vexatious, capricious, oppressive, or unjustified. Hence, petitioner's contention of violation of his right to a speedy trial must fail.

WHEREFORE, we DISMISS the petition. We AFFIRM the Resolutions dated 10 February 2004 and 3 May 2004 of the Sandiganbayan in Criminal Case No. 25231.

SO ORDERED.

Puno, C.J., Corona, Leonardo-De Castro, and Brion,[*] JJ., concur.

[*] Designated member per Special Order No. 570.

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Godofredo L. Legaspi with Associate Justices Raoul V. Victorino, and Roland B. Jurado, concurring.

[3] Approved by Associate Justices Godofredo L. Legaspi, Raoul V. Victorino, and Diosdado M. Peralta (now a member of this Court).

[4] Rollo, pp. 34-35.

[5] Id. at 36.

[6] Records, Vol. I, p. 173.

[7] Due to various pending matters, the arraignment of petitioner was postponed several times and was finally conducted on 10 March 2005. (Records, Vol. II, p. 221)

[8] Rollo, pp. 59-60.

[9] Id. at 28-29.

[10] Citing *Fonacier v. Sandiganbayan*, G.R. No. 50691, 5 December 1994, 238 SCRA 655.

[11] *Borja v. Mendoza*, 168 Phil. 83, 87 (1977).

[12] *People v. Espinosa*, 456 Phil. 507, 516 (2003).

[13] Id.

[14] Id.; *Cabo v. Sandiganbayan*, G.R. No. 169509, 16 June 2006, 491 SCRA 264, 273.

[15] Id. at 274.

[16] Records, Vol. I, p. 192.

[17] Id. at 198-199.

[18] Rollo, pp. 12 and 28.

[19] Uriarte v. People, G.R. No. 169251, 20 December 2006, 511 SCRA 471, 486, citing Santos v. People, G.R. No. 161877, 23 March 2006, 485 SCRA 185, 194; Cabrera v. Sandiganbayan, G.R. Nos. 162314-17, 25 October 2004, 441 SCRA 377, 386; and Jacinto v. Sandiganbayan, G.R. No. 84571, 2 October 1989, 178 SCRA 254, 259.

[20] Gallego v. Sandiganbayan, 201 Phil. 379, 383 (1982).

[21] Supra note 19.

[22] Id., citing Alvizo v. Sandiganbayan, 454 Phil. 34, 72 (2003).

[23] Id., citing Sistoza v. Desierto, 437 Phil. 117, 132 (2002).

[24] Id., citing Air France v. Carrasco, 124 Phil. 722, 737 (1966).

[25] Id., citing Sistoza v. Desierto, supra.

[26] People v. Montenegro, G.R. No. L-45772, 25 March 1988, 159 SCRA 236, 241, citing Sec. 2, CJS, Sec. 240, pp.1249-1250.

[27] Id., citing United States v. Alabot, 38 Phil. 698 (1918).

[28] Fronda-Baggao v. People, G.R. No. 151785, 10 December 2007, 539 SCRA 531, 535, citing Matalam v. Sandiganbayan, G.R. No. 165751, 12 April 2005, 455 SCRA 736, 746 and People v. Janairo, 370 Phil. 59 (1999).

[29] Supra note 23.

[30] Id. at 325.

[31] 274 Phil. 369 (1991).

[32] Lumanlaw v. Peralta, Jr., G.R. No. 164953, 13 February 2006, 482 SCRA 396, 410, citing Gonzales v. Sandiganbayan, G.R. No. 94750, 16 July 1991, 199 SCRA 298, 307.

[33] Id.

[34] Matalam v. Sandiganbayan, G.R. No. 165751, 12 April 2005, 455 SCRA 736, 752.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.