

BERNARDO GALLEGO AND FELIX AGONCILLO, PETITIONERS, VS. SANDIGANBAYAN, RESPONDENT.

G.R. No. 57841. July 30, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

In this petition for certiorari, prohibition and mandamus, petitioners seek to set aside in toto the Sandiganbayan's resolution promulgated on August 27, 1981 in Criminal Case No. 2940, entitled: People of the Philippines vs. Ramon Deseo, et al.; to restrain the Sandiganbayan from further proceeding with said Criminal Case No. 2940; and to quash the information in said case.

The antecedent facts are as follows:

An information was filed in the Sandiganbayan by Tanodbayan Special Prosecutor Mariflor Punzalan-Castillo against Ramon Deseo, Bernardo Gallego, Herminio Erorita and Felix Agoncillo, for violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, which reads:

"That on or about the period from May to September, 1979, 4n Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the following accused: RAMON DESEO, Chairman of the Board for Marine Engine Officers in the May 28-30, 1979 examinations, in checking Test Paper No. 839 in the subject Steam Boiler, Engines, Turbines, Internal Combustion and Machine Shop, gave a rating of 18% out of a total of 20% to Test II thereof, the answer of the examinee being a recital of the prayer 'Hail Mary' and in Test III of the same Test Paper, gave a rating of 18% out of 20%, the answer of the examinee being the prayer 'Our Father'; BERNARDO GALLEGO, Member of the Board for Marine Engine Officers, acting as Second Corrector to Ramon Deseo, affirmed the ratings given by the latter to Test Paper No. 839; FELIX AGONCILLO, Member of the Board for Marine Deck Officers in the May 28-30, 1979 examinations, in checking Test Paper No. 144, in the subject Meteorology and Electronics, gave a rating of 19% out of 20% to Test I A and B thereof, the answer of the examinee to Test I A being a long love letter; and HERMINIO ERORITA, Member of the Board for Marine Deck Officers, acting as Second Corrector to Felix Agoncillo, affirmed the ratings given by the latter to Test Paper No. 144, the above acts of all the accused resulting in the passing of Examinee No. 839 in the Board for Marine Engine Officers and Examinee No. 144 in the Board for Marine Deck Officers, thereby giving unwarranted benefits to the said examinees in the discharge of their official and/or administrative functions through manifest partiality, evident bad faith or gross inexcusable negligence."

Petitioners Bernardo Gallego and Felix Agoncillo filed a motion to quash the information against them on the following grounds:

1. the facts alleged do not constitute an offense; or, in the alternative,
2. the information charges more than one offense.

Petitioners claim that the information concludes that the ratings given by the accused to particular examinees

constituted the giving to them of "unwarranted benefits"; that the statutory provision defines as a corrupt practice of the public officer "the giving to any private party any unwarranted benefits in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence"; that Section 3(e) of the Anti-Graft and Corrupt Practices Act is null and void because it is unconstitutionally vague and therefore cannot be a basis of any criminal prosecution; that even if said Section 3(e) of the Anti-Graft and Corrupt Practices Act were to be sustained as definite, "still the allegations of the information are not sufficiently definite to charge an offense to which the accused may be required to plead." Further, petitioners allege that the term "unwarranted" is a "highly imprecise and elastic term which has no common law meaning or settled definition by prior judicial or administrative precedents"; that for its vagueness, said Section 3(e) violates due process in that it does not give fair warning or sufficient notice of what it seeks to penalize.

Finally, petitioners claim that the information charges the accused with three (3) distinct offenses, to wit: "(a) the giving of 'unwarranted' benefits through manifest partiality; (b) the giving of 'unwarranted' benefits through evident bad faith; and (c) the giving of 'unwarranted' benefits through gross inexcusable negligence" while in the discharge of their official and/or administrative functions; that the right of the accused to be informed of the nature and cause of the accusation against them is violated because they are left to guess which of the three, if not all, offenses they are being prosecuted.

The motion to quash was opposed by the prosecution alleging that the term "unwarranted" in Section 3(e) of Republic Act 3019 is clear, unambiguous and unequivocal and is presumed to have been used in its primary and general acceptance; that the objection by petitioners on the clarity of the term "unwarranted" does not suffice for the courts to declare said section unconstitutional; that said Section 3(e) of Republic Act 3019 is valid unless otherwise held by final judgment of a competent court.

With respect to petitioners' allegation that the information charges more than one offense, the prosecution avers that what is charged in the information "is the giving of unwarranted benefits to the owners of Test Booklets Nos. 839 and 144, while manifest partiality, evident bad faith or gross inexcusable negligence are only the means of commission."

Respondent Sandiganbayan sustained the prosecution and denied the motion to quash.

We hold that Section 3(e) of the Anti-Graft and Corrupt Practices Act does not suffer from the constitutional defect of vagueness. The phrases "manifest partiality," "evident bad faith" and "gross inexcusable negligence" merely describe the different modes by which the offense penalized in Section 3(e) of the statute may be committed, and the use of all these phrases in the same information does not mean that the indictment charges three distinct offenses.

The information definitely states the names of the parties, the time, place, manner of commission and designation of the offense. The argument that failure in the information to state the reasons why the benefits bestowed are unwarranted renders it defective is without merit. Informations need only state the ultimate facts; the reasons therefor could be proved during the trial. As aptly observed by respondent Sandiganbayan in its resolution dated August 27 1981:

"The word 'unwarranted' is not uncertain. It means lacking adequate or official support; unjustified; unauthorized (Webster, Third New International Dictionary, p. 2514); or without justification or adequate reason. (Philadelphia Newspapers, Inc. vs. U.S. Dept. of Justice, C.D. Pa., 405 F. Supp. 8, 12, cited in Words and Phrases, Permanent Edition, Vol. 43-A 1978, Cumulative Annual Pocket Part, p. 19.)

"The assailed provisions of the Anti-Graft and Corrupt Practices Act considers a corrupt practice and makes unlawful the act of a public officer in:

"x x x 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, x x x." (Section 3(e), Rep. Act 3019, as amended.)

"It is not all difficult to comprehend that what the aforequoted penal provision penalizes is the act of a public officer, in the discharge of his official, administrative or judicial functions, in giving any private party benefits, advantage or preference which are unjustified, unauthorized or without justification or adequate reason, through manifest partiality, evident bad faith or gross inexcusable negligence."

Neither is the information defective. As held in the case of *People vs. Buenviaje*, 47 Phil. 536, where the defendant was charged with violation of the Medical Law and the information charged both illegal practice of medicine and illegally advertising oneself as a doctor, it was held that "the information was not bad for duplicity inasmuch as the acts charged were merely different means of committing the same offense, notwithstanding the fact that they are prohibited by separate sections of the statute."

ACCORDINGLY, for lack of merit, instant petition is hereby dismissed.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, and Gutierrez, Jr., JJ.,concur.
Aquino, J., in the result.

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