

LAURO G. SORIANO, JR., PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 65952. July 31, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The principal issue in this petition to review a decision of the Sandiganbayan is whether or not the preliminary investigation of a criminal complaint conducted by a Fiscal is a "contract or transact-ion" so as to bring it within the ambit of Section 3 (b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The factual background is as follows:

Thomas N. Tan was accused of qualified theft in a complaint lodged with the City Fiscal of Quezon City. The case was docketed as I.S. No. 82-2964 and assigned for investigation to the petitioner who was then an Assistant City Fiscal. In the course of the investigation the petitioner demanded P4,000.00 from Tan as the price for dismissing the case. Tan reported the demand to the National Bureau of Investigation which set up an entrapment. Because Tan was hard put to raise the required amount only P2,000.00 in bills were marked by the NBI which had to supply one-half thereof. The entrapment succeeded and an information was filed with the Sandiganbayan in Criminal Case No. 7393 which reads as follows:

"The undersigned Tanodbayan Special Prosecutor accuses LAURO SORIANO, for Violation of Section 3, paragraph (b) of Republic Act 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:

That on or about the 21st day of March 1983, at Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then and still is an Assistant City Fiscal of the Quezon City Fiscal's Office, detailed as the Investigating Fiscal in the case of MARIANNE Z. LACAMBRA versus THOMAS N. TAN, docketed as I.S. No. 82-2964, for Qualified Theft, taking advantage of his official position and with grave abuse of authority, did then and there wilfully, unlawfully and feloniously demand and request from Thomas N. Tan the amount of FOUR THOUSAND PESOS (P4,000.00) Philippine Currency, and actually received from said Thomas N. Tan the amount of TWO THOUSAND PESOS (P2,000.00) Philippine Currency, in consideration for a favorable resolution by dismissing the above-mentioned case, wherein said accused has to intervene in his official capacity as such Investigating Fiscal.

CONTRARY TO LAW.

Manila, Philippines, March 22, 1983.

(SGD.) EDGARDO C. LABELLA
Special Prosecutor"

After trial the Sandiganbayan rendered a decision with the following dispositive portion:

"WHEREFORE, the Court finds accused Lauro G. Soriano, Jr., GUILTY beyond reasonable doubt, as Principal, in the Information, for Violation of Section 3, paragraph (b), of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and hereby sentences him to suffer the indeterminate penalty of imprisonment ranging from SIX (6) YEARS and ONE (1) MONTH, as minimum, to NINE (9) YEARS and ONE (1) DAY, as maximum; to suffer perpetual disqualification from public office; to suffer loss of all retirement or gratuity benefits under any law; and, to pay costs.

"Of the sum of Two Thousand Pesos (P2,000.00) used in the entrapment operations, and which was fully recovered from the accused. One Thousand Pesos (P1,000.00) shall be returned to private complainant Thomas N. Tan, and the other half, to the National Bureau of Investigation, National Capital Region."

A motion to reconsider the decision was denied by the Sandiganbayan; hence the instant petition.

The petitioner has raised several legal questions plus one factual question. The latter is to the effect that the Sandiganbayan convicted him on the weakness of his defense and not on the strength of the prosecution's evidence. This claim is not meritorious not only because it is riot for Us to review the factual findings of the court a quo but also because a reading of its decision shows that it explicitly stated the facts establishing the guilt of the petitioner and the competence of the witnesses who testified against him.

As stated above, the principal issue is whether or not the investigation conducted by the petitioner can be regarded as a "contract or transaction" within the purview of Sec. 3 (b) of R.A. No. 3019. On this issue the petition is highly impressed with merit.

The afore-mentioned provision reads 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:

(a) x x x

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law."

The petitioner states:

"Assuming in gratia argumenti, petitioner's guilt, the facts make out a case of Direct Bribery defined and penalized under the provision of Article 210 of the Revised Penal Code and not a violation of Section 3, subparagraph (b) of Rep. Act 3019, as amended.

"The evidence for the prosecution clearly and undoubtedly support, if at all, the offense of Direct Bribery, which is not the offense charged and is not likewise included in or is necessarily included in the offense charged, which is for violation of Section 3, subparagraph (b) of Rep. Act 3019, as amended. The prosecution showed that: the accused is a public officer; in consideration of P4,000.00 which was allegedly solicited, P2,000.00 of which was allegedly received, the petitioner undertook or promised to dismiss a criminal complaint pending preliminary investigation before him, which may or may not constitute a crime; that the act of dismissing the criminal complaint pending before petitioner was related to the exercise of the function of his office. Therefore, it is with pristine clarity that the offense proved, if at all, is Direct Bribery." (Petition, p. 5.).

Upon the other hand, the respondents claim:

"A reading of the above-quoted provision would show that the term 'transaction' as used thereof is not limited

in its scope or meaning to a commercial or business transaction but includes all kinds of transaction, whether commercial, civil or administrative in nature, pending with the government. This must be so, otherwise, the Act would have so stated in the 'Definition of Terms', Section 2 thereof. But it did not, perforce leaving no other interpretation than that the expressed purpose and object is to embrace all kinds of transaction between the government and other party wherein the public officer would intervene under the law." (Comment, p. 8)

It is obvious that the investigation conducted by the petitioner was not a contract. Neither was it a transaction because this term must be construed as analogous to the term which precedes it. A transaction, like a contract, is one which involves some consideration as in credit transactions and this element (consideration) is absent in the investigation conducted by the petitioner.

In the light of the foregoing, We agree with the petitioner that it was error for the Sandiganbayan to have convicted him of violating Sec. 3 (b) of R.A. No. 3019.

The petitioner also claims that he cannot be convicted of bribery under the Revised Penal Code because to do so would be violative of his constitutional right to be informed of the nature and cause of the accusation against him. Wrong. A reading of the information which has been reproduced herein clearly makes out a case of bribery so that the petitioner cannot claim deprivation of the right to be informed.

IN THE LIGHT OF THE FOREGOING, the judgment of the Sandiganbayan is modified in that the petitioner is deemed guilty of bribery as defined and penalized by Article 210 of the Revised Penal Code and is hereby sentenced to suffer an indeterminate penalty of six (6) months of arresto mayor, as minimum, to two (2) years of prision correccional, as maximum, and to pay a fine of Two Thousand (P2,000.00) Pesos. The rest of the judgment is hereby affirmed. Costs against the petitioner. SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Concepcion, Jr., Guerrero, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and Cuevas, JJ., concur.

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