

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. DEMOSTHENES L. MAGALLANES, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 54, BACOLOD CITY, AND P/COL. NICOLAS M. TORRES,...

G.R. Nos. 118013-14. October 11, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

At issue in this special civil action for certiorari is whether it is the Regional Trial Court (RTC) of Bacolod City or the Sandiganbayan that has jurisdiction over the two criminal cases for kidnapping for ransom with murder wherein some of the accused implicated as principals are members of the Philippine National Police (PNP).

On 13 January 1994, two informations for kidnapping for ransom with murder were filed with the RTC of Bacolod City against fourteen persons, five of whom are members of the PNP, namely, P/Col. Nicolas M. Torres, P/Insp. Adonis C. Abeto, Police Officers Mario Lamis, Jose Pahayupan, and Vicente Canuday, Jr.; the other nine are civilians. The informations, later docketed as Criminal Cases Nos. 15562 and 15563 in Branch 47 of the said court, are similarly worded, except as to the names of the victims, who are Rufino Gargar, Jr. in the first case and Danilo Lumangyao in the second, thus:

The undersigned hereby accuses JEANETTE YANSON-DUMANCAS, CHARLES DUMANCAS (BOTH AS PRINCIPALS BY INDUCTION), POLICE COL. NICOLAS M. TORRES (AS PRINCIPAL BY INDUCTION AND BY DIRECTION AND/OR INDISPENSABLE COOPERATION), POLICE INSPECTOR ADONIS C. ABETO, POLICE OFFICERS MARIO LAMIS Y FERNANDEZ, JOSE PAHAYUPAN, VICENTE CANUDAY, JR., DOMINADOR GEROCHE Y MAHUSAY, JAIME GARGALLANO, ROLANDO R. FERNANDEZ, EDWIN DIVINAGRACIA, TEODY DELGADO, ALL AS PRINCIPALS BY PARTICIPATION, CESAR PECHA AND EDGAR HILADO, BOTH AS ACCESSORIES, of the crime of KIDNAPPING FOR RANSOM WITH MURDER, committed as follows:

That during the period beginning in the late afternoon of August 6, 1992 and ending the late evening of the following day in Sitio Pedrosa, Barangay Alijis, Bacolod City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and concurring in a common criminal intent and execution thereof with one another, save for the accessories for the purpose of extracting or extorting the sum of P353, 000.00, did, then and there wilfully, unlawfully, and feloniously to wit:

Acting upon the inducement of spouses Jeanette Yanson-Dumancas and Charles Dumancas, under the direction cooperation and undue influence, exerted by P/Col. Nicolas M. Torres, taking advantage of his position as Station Commander of the Philippine National Police, Bacolod City Station, with the direct participation and cooperation of Police Inspector Adonis C. Abeto, other police officers Vicente Canuday, Jr., Jose Pahayupan, Mario Lamis, civilian (police) agents Rolando R. Fernandez, Edwin Divinagracia, Teody Delgado, Jaime Gargallano, also taking advantage of their respective positions, and Dominador Geroche,

concurring and affirming in the said criminal design, with the use of motor vehicle abduct, kidnap and detain one RUFINO GARGAR, JR. (Criminal Case No. 94-15562 and DANILO LUMANGYAO (Criminal Case No. 94-15563), shortly thereafter at around 11:00 o'clock in the evening of August 7, 1992, failing in their aforesaid common purpose to extort money and in furtherance of said conspiracy, with evident premeditation and treachery nocturnity and the use of motor vehicle, did then and there shot and kill the said victims, while being handcuffed and blindfolded; that accused Cesar Pecha and Edgar Hilado, with knowledge that the said Gargar [and Lumangyao, in Crim. Case No. 94-15563 were victims] of violence, did then and there secretly bury the corpses in a makeshift shallow grave for the purpose of concealing the crime of murder in order to prevent its discovery for a fee of P500.00 each; aforesaid act or acts has caused damage and prejudice to the heirs of said victims, to wit:

P 50,000.00 - as indemnity for death;

50,000.00 - actual damages;

300,000.00 - compensatory damages
(lost income);

100,000.00 - moral damages;

50,000.00 - exemplary damages.

CONTRARY TO LAW (Articles 268 and 248 in relation to Article 48 of the Revised Penal Code).[1]

These cases were consolidated.

Each of the accused pleaded not guilty upon arraignment. Later, they filed their respective motions for bail. At the hearings thereof, the prosecution presented state witness Moises Grandeza, the alleged lone eyewitness and co-conspirator in the commission of the complex crimes. After the completion of his testimony, the trial court, per Judge Edgar G. Garvilles, granted bail in favor of only six of the accused, namely, P/Insp. Adonis Abeto, Police Officers Jose Pahayupan and Vicente Canuday, Jr., Charles Dumancas, Edgar Hilado, and Cesar Pecha. The other eight accused who were denied bail are now detained at the City Jail of Bacolod City.[2]

Through the testimony of Grandeza, the prosecution established that in response to the complaint of spouses Charles and Jeanette Dumancas, P/Col. Nicolas Torres instructed his men to look for Rufino Gargar and Danilo Lumangyao who were allegedly members of the group that had swindled the Dumancas spouses. On 6 August 1992, Police Officer Mario Lamis, together with civilian agents, namely, Teody Delgado, Edwin Divinagracia, Jaime Gargallano, Rolando Fernandez, and Moises Grandeza, arrested and abducted the two swindling suspects. Conformably with Torres's order, the two suspects were brought to Dragon Lodge Motel. There, they were investigated, by Police Inspector Adonis Abeto and Police Officers Jose Pahayupan and Vicente Canuday, Jr.. They were then taken to the Ceres Compound, where Jeanette Dumancas identified Lumangyao as a member of the group that had swindled her. She then asked about the money that the group had received from her. Upon being told by Lumangyao that the money had already been divided among his partners long time ago, she said to the accused, specifically to Dominador Geroche: "Doming, bring these two to the PC or police and I will call Atty. Geocadin so that proper cases could be filed against them." Thereafter, the two suspects were transferred to D' Hacienda Motel, then to Moonlit Inn, then to Casa Mel Lodge, and back to D' Hacienda Motel, where the two were shot and killed. The team forthwith went to the office of P/Col. Torres and reported that the killing had been done. The latter told them: "You who are here inside, nobody knows what you have done, but you have to hide because the NBI's are after you." [3]

Thereafter, the prosecution rested its case and the trial court started to receive the evidence for the accused.

Accused Torres and Abeto presented their respective evidence. Presentation of evidence by the other accused was, however, suspended because of the motions of several accused for the inhibition of Judge Garvilles. Despite opposition by the prosecution, Judge Garvilles voluntarily inhibited himself from further hearing both cases, which were thereafter re-raffled to Branch 54, presided by herein public respondent Judge Demosthenes L. Magallanes.

On 24 June 1994, the private prosecutors moved for the transmittal of the records of the cases to the Sandiganbayan on the ground that, pursuant to our decision of 11 March 1994 in *Republic of the Philippines vs. Asuncion*,^[4] the trial court has no jurisdiction over the cases because the offenses charged were committed in relation to the office of the accused PNP officers. In his *Manifestation with Urgent Motion to Transmit Records*, the State Prosecutor adopted the motion of the private prosecutors.^[5]

In its order of 15 August 1994,^[6] the trial court, thru the respondent Judge, ruled that the Sandiganbayan does not have jurisdiction over the subject cases because the informations do not state that the offenses were committed in relation to the office of the accused PNP officers. Citing *People vs. Montilla*,^[7] it held that the allegation in the informations that the accused PNP officers took advantage of their office in the commission of the offense charged is merely an allegation of an aggravating circumstance. It further stated that a public office is not a constituent element of the offense of kidnapping with murder nor is the said offense intimately connected with the office. It then denied the motion for transfer of the records to the Sandiganbayan and declared that the trial of the case should continue.

Relying on *People vs. Montejo*,^[8] the prosecution moved to reconsider the said order.^[9]

On 7 September 1994,^[10] the trial court issued an order denying the motion because *People vs. Montejo* is not applicable, since in that case there was (a) an intimate connection between the offense charged and the public position of the accused and (b) a total absence of personal motive; whereas, in these cases, no such intimate connection exists and the informations emphasize that the accused were moved by selfish motives of ransom and extortion.

The respondent Judge then resumed the reception of the evidence for the other accused. Accused Gargallano, Fernandez, Lamis, Delgado, and Geroche, as well as his three witnesses, had already completed their respective testimonies when, upon motion of the prosecution, the respondent Judge voluntarily inhibited himself on 15 September 1994. The cases were then re-raffled to Branch 49 of the RTC of Bacolod City.

On 5 December 1994, the prosecution, represented by the Office of the Solicitor General, filed with us a petition for certiorari, prohibition, and mandamus with a prayer for a temporary restraining order challenging the refusal of the respondent Judge to transfer the cases to the Sandiganbayan.

On 12 December 1994, we required the respondents to comment on the petition and issued a temporary restraining order enjoining the public respondent or his successor to desist from proceeding with the trial of the subject cases.^[11]

On 27 February 1995, after considering the allegations, issues, and arguments adduced in the petition as well as in the comments of the private respondents, we gave due course to the petition and required the parties to submit their respective memoranda. Most of them submitted their memoranda, while the petitioner and some of the private respondents adopted their initiatory pleadings as their memoranda.

On 22 March 1995, private respondent Jeanette Yanson--Dumancas filed an urgent motion for the grant of bail,^[12] which we noted on 15 May 1995.^[13]

Deliberating on the arguments adduced by the parties, we are convinced that public respondent Judge Magallanes committed no grave abuse of discretion in holding that it is his court and not the Sandiganbayan which has jurisdiction over the two cases for kidnapping for ransom with murder.

At the time the informations in the said cases were filed, the law governing the jurisdiction of the Sandiganbayan was Section 4 of P.D. No. 1606, as amended by P.D. No. 1861, which pertinently provides as follows:

SEC. 4. Jurisdiction. — The Sandiganbayan shall exercise:

(a)

Exclusive original jurisdiction in all cases involving:

(1)

Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2)

Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by Law is higher than prision correccional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by Law does not exceed prision correccional or imprisonment of six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

(b)

Exclusive appellate jurisdiction:

(1)

On appeal, from the final judgments, resolutions or orders of the Regional Trial Courts in cases originally decided by them in their respective territorial jurisdiction.

(2)

By petition for review, from the final judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Court, in their respective jurisdiction.

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In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

Applying this section, we held in *Aguinaldo vs. Dornagas*[14] that for the Sandiganbayan to have exclusive original jurisdiction over offenses or felonies committed by public officers or employees under Section 4(a)(2)

above, it is not enough that the penalty prescribed therefor is higher than prison correccional or imprisonment for six years, or a fine of P6,000.00; it is also necessary that the offenses or felonies were committed in relation to their office. We reiterated this pronouncement in *Sanchez vs. Demetriou*,^[15] *Natividad vs. Felix*,^[16] and *Republic vs. Asuncion*.^[17] In *Sanchez*, we restated the principle laid down in *Montilla vs. Hilario*^[18] that an offense may be considered as committed in relation to the office if it cannot exist without the office, or if the office is a constituent element of the crime as defined in the statute, such as, for instance, the crimes defined and punished in Chapter Two to Six, Title Seven, of the Revised Penal Code. We also reiterated the principle in *People vs. Montejo*^[19] that the offense must be intimately connected with the office of the offender, and we further intimated that the fact that the offense was committed in relation to the office must be alleged in the information.^[20]

There is no dispute that the prescribed penalties for the offenses charged in Criminal Cases Nos. 15562 and 15563 before the court below are higher than prison correccional or imprisonment for more than six years. The only question that remains to be resolved then is whether the said offenses were committed in relation to the office of the accused PNP officers.

Relying on its evidence and on the *Montejo* case, the petitioner submits that the crimes charged in the subject cases were connected with public office because the accused PNP officers, together with the civilian agents, arrested the two swindling suspects in the course of the performance of their duty and not out of personal motive, and if they demanded from the two suspects the production of the money of the Dumancas spouses and later killed the two, they did so in the course of the investigation conducted by them as policemen. The petitioner further asserts that the allegations in the informations reading "taking advantage of his position as Station Commander of the Philippine National Police" and "taking advantage of their respective positions" presuppose the exercise of the functions attached to the office of the accused PNP officers and are sufficient to show that the offenses charged were committed in relation to their office. The petitioner then concludes that the cases below fall within the exclusive original jurisdiction of the Sandiganbayan.

It is an elementary rule that jurisdiction is determined by the allegations in the complaint or information,^[21] and not by the result of evidence after trial.^[22]

In *Montejo*^[23] where the amended information alleged:

Leroy S. Brown, City Mayor of Basilan City, as such, has organized groups of police patrol and civilian commandoes consisting of regular policemen and *** special policemen, appointed and provided by him with pistols and high power guns and then established a camp *** at Tipo-tipo, which is under his command *** supervision and control, where his codefendants were stationed, entertained criminal complaints and conducted the corresponding investigations, as well as assumed the authority to arrest and detain persons without due process of law and without bringing them to the proper court, and that in line with this set-up established by said Mayor of Basilan City as such, and acting upon his orders, his codefendants arrested and maltreated Awalin Tebag, who died in consequence thereof.

we held that the offense charged was committed in relation to the office of the accused because it was perpetrated while they were in the performance, though improper or irregular, of their official functions and would not have been committed had they not held their office; besides, the accused had no personal motive in committing the crime; thus, there was an intimate connection between the offense and the office of the accused.

Unlike in *Montejo*, the informations in Criminal Cases Nos. 15562 and 15563 in the court below do not indicate that the accused arrested and investigated the victims and then killed the latter in the course of the investigation. The informations merely allege that the accused, for the purpose of extracting or extorting the sum of

P353,000.00, abducted, kidnapped, and detained the two victims, and failing in their common purpose, they shot and killed the said victims. For the purpose of determining jurisdiction, it is these allegations that shall control, and not the evidence presented by the prosecution at the trial.

The allegation of "taking advantage of his position" or "taking advantage of their respective positions" incorporated in the informations is not sufficient to bring the offenses within the definition of "offenses committed in relation to public office." In *Montilla vs. Hilario*,^[24] such an allegation was considered merely as an allegation of an aggravating circumstance,^[25] and not as one that qualifies the crime as having been committed in relation to public office. It says:

But the use or abuse of office does not adhere to the crime as an element; and even as an aggravating circumstance, its materiality arises, not from the allegations but on the proof, not from the fact that the criminals are public officials but from the manner of the commission of the crime.

Also, in *Bartolome vs. People of the Philippines*,^[26] despite the allegation that the accused public officers committed the crime of falsification of official document by "taking advantage of their official positions," this Court held that the Sandiganbayan had no jurisdiction over the case because "[t]he information [did] not allege that there was an intimate connection between the discharge of official duties and the commission of the offense."

Accordingly, for lack of an allegation in the informations that the offenses were committed in relation to the office of the accused PNP officers or were intimately connected with the discharge of the functions of the accused, the subject cases come within the jurisdiction of the Regional Trial Court^[27] and not of the Sandiganbayan as insisted by the petitioner.

In *Dumancas's* and *Torres's* motions for the early resolution of this case and in *Abeto's* Supplement to Comment with Motion to Dismiss all filed in July 1995, it is contended that even assuming that the informations do charge the accused PNP officers with crimes committed in relation to their office, still the Regional Trial Court would have jurisdiction over the subject cases in view of the amendments to Section 4 of P.D. No. 1606, as amended, introduced by R.A. No. 7975, which was approved on 30 March 1995, whose Section 2 provides:

SEC. 2. Section 4 of the same decree [Presidential Decree No. 1606, as amended] is hereby further amended to read as follows:

"SEC. 4. Jurisdiction. — The Sandiganbayan shall exercise original jurisdiction in all cases involving:

a.

Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1)

Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a)

Provincial governors, vice-governors, members of the sanggunian panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads;

(b)

City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c)

Officials of the diplomatic service occupying the position of consul and higher;

(d)

Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e)

PNP chief superintendent and PNP officers of higher rank;

(f)

City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g)

Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

(2)

Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;

(3)

Members of the judiciary without prejudice to the provisions of the Constitution;

(4)

Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5)

All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

b.

Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

c.

Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A.

In cases where none of the principal accused are occupying the positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129.

The Sandiganbayan shall exercise exclusive appellate jurisdiction on appeals from the final judgments, resolutions or orders of regular courts where all the accused are occupying positions lower than grade "27," or not otherwise covered by the preceding enumeration.

x x x

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or -controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall have exclusive jurisdiction over them. (emphasis supplied).

As a consequence of these amendments, the Sandiganbayan partly lost its exclusive original jurisdiction in cases involving violations of R.A. No. 3019,[28] as amended; R.A. No. 1379;[29] and Chapter II, Section 2, Title VII of the Revised Penal Code;[30] it retains only cases where the accused are those enumerated in subsection a, Section 4 above and, generally, national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989 (R.A. No. 6758). Moreover, its jurisdiction over other offenses or felonies committed by public officials and employees in relation to their office is no longer determined by the prescribed penalty, viz., that which is higher than prison correccional or imprisonment for six years or a fine of P6,000.00; it is enough that they are committed by those public officials and employees enumerated in subsection a, Section 4 above. However, it retains its exclusive original jurisdiction over civil and criminal cases filed pursuant to or in connection with E.O. Nos. 1,[31] 2,[32] 14,[33] and 14-A.[34]

The respondents maintain that the Sandiganbayan has no jurisdiction over Criminal Cases Nos. 15562 and 15563 because none of the five PNP officers involved therein occupy the rank of chief superintendent or higher, or are classified as Grade "27" or higher under R.A. No. 6758 and of the five, P/Col. Nicolas Torres has the highest

rank, viz., Senior Superintendent whose salary grade under the said Act is Grade "18."

Assuming then for the sake of argument that the informations in the said cases allege that the crimes charged were committed by the five PNP officers in relation to their office, it would appear indubitable that the cases would fall within the jurisdiction of the court a quo. Under Section 4 of P.D. No. 1606, as further amended by R.A. No. 7975:

In cases where none of the principal accused are occupying the positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent[35] or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambansa Blg. 129."

However, the jurisdiction of a court is determined by the law in force at the time of the commencement of the action.[36] Under the above assumption then, the cases should have been filed with the Sandiganbayan since at the time the informations were filed, the governing law was Section 4 of P.D. No. 1606, as amended by P.D. No. 1861. But, would that jurisdiction of the Sandiganbayan be affected by R.A. No. 7975?

Ordinarily, jurisdiction once acquired is not affected by subsequent legislative enactment placing jurisdiction in another tribunal. It remains with the court until the case is finally terminated.[37] Hence, the Sandiganbayan or the courts, as the case may be, cannot be divested of jurisdiction over cases filed before them by reason of R.A. No. 7975. They retain their jurisdiction until the end of the litigation.

In the instant case, the Sandiganbayan has not yet acquired jurisdiction over the subject criminal cases, as the informations were filed not before it but before the Regional Trial Court. Even if we labor under the foregoing assumption that the informations in the subject cases do charge the respondent PNP officers with offenses committed in relation to their office so that jurisdiction thereof would fall under the Sandiganbayan, and assuming further that the informations had already been filed with the said tribunal but hearing thereon has not begun yet, the Sandiganbayan can no longer proceed to hear the cases in view of the express provision of Section 7 of R.A. No. 7975. That section provides that upon the effectivity of the Act, all criminal cases in which trial has not yet begun in the Sandiganbayan shall be referred to the proper courts. Hence, cases which were previously cognizable by the Sandiganbayan under P.D. No. 1606, as amended, but are already under the jurisdiction of the courts by virtue of the amendment introduced by R.A. No. 7975, shall be referred to the latter courts if hearing thereon has not yet been commenced in the Sandiganbayan.

It would, therefore, be a futile exercise to transfer the cases to the Sandiganbayan because the same would anyway be transferred again to the Regional Trial Court pursuant to Section 7 of the new law in relation to Section 2 thereof.

As regards the motions for bail of accused-respondents Jeanette Dumancas and Nicolas Torres, the same must fail. Section 17, Rule 114 of the Rules of Court provides:

SEC. 17. Bail, where filed. — (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with another branch of the same court within the province or city. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed also with any regional trial court of said place, or, if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein.

(b) Whenever the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application therefor may be filed only in the particular court where the case is pending, whether for preliminary

investigation, trial, or on appeal.

(c) Any person in custody who is not yet charged in court may apply for bail with any court in the province, city or municipality where he is held.

In the instant case, the motions for bail filed by the said accused-respondents with the Regional Trial Court where the cases against them are pending were denied sometime in February, 1994.

In *Enrile vs. Salazar*,^[38] as reiterated in *Galvez vs. Court of Appeals*,^[39] this Court said: "Only after that remedy [petition to be admitted to bail] was denied by the trial court should the review jurisdiction of this Court [be] invoked, and even then, not without first applying to the Court of Appeals if appropriate relief was also available there."

There is no showing that the said accused-respondents have questioned the denial of their applications for bail in a petition for certiorari either before the Court of Appeals or this Court. It was only on 26 December 1994, when they filed their respective comments on the instant petition, that they challenged the denial premised on the ground that the evidence of guilt against them was not strong. Even if their respective Comment and Reiteration of Motion for Bail^[40] and respondent Dumancas's Motion for Bail^[41] filed on 22 March 1995, were treated as petitions for certiorari, still the same would not prosper for not having been seasonably filed. While the Rules of Court does not fix a time-frame for the filing of a special civil action for certiorari under Rule 65 of the Rules of Court, existing jurisprudence requires that the same be filed within a reasonable period of time from receipt of the questioned judgment or order.^[42] And, in *Philec Workers' Union vs. Hon. Romeo A. Young*^[43] it was held that a petition for certiorari under Rule 65 of the Rules of Court should be filed within a reasonable period of three months from notice of the decision or order. Here, about nine to ten months had already elapsed before the respondents assailed the denial of their motions for bail. In any event, the private respondents who were denied bail are not precluded from reiterating before the trial court their plea for admission to bail.

WHEREFORE, the instant petition is DENIED. The challenged orders are AFFIRMED, and the motions for bail of accused-respondents Jeanette Dumancas and Nicolas Torres are DENIED.

The temporary restraining order issued on 12 December 1994 is LIFTED, and the Regional Trial Court of Bacolod City is directed to immediately resume the hearings of Criminal Cases Nos. 15562 and 15563 and to thereafter resolve them with reasonable and purposeful dispatch.

This decision is immediately executory.

SO ORDERED.

Bellosillo and Hermosisima, Jr., JJ., concur.

Padilla, (Chairman), and Kapunan, JJ., concurring and dissenting opinion.

[1] Rollo, 5-7, 49-51.

[2] *Id.*, 324-325.

[3] TSN, 14 February 1994, 6-9, 30, 43, 52-59; 9 March 1994, 43.

[4] G.R. No. 108208, 11 March 1994, 231 SCRA 211.

[5] Annex "A" of Petition; Rollo, 26.

[6] Annex "B," *Id.*; *Id.*, 30.

[7] 90 Phil. 49 [1951].

[8] 108 Phil. 613 [1960].

[9] Annex "C" of Petition; Rollo, 34.

[10] Annex "D," Id.; Id., 49.

[11] Rollo, 59 & 66.

[12] Id., 263.

[13] Id., 320.

[14] G.R. No. 98452, En Banc Resolution, 26 September 1991.

[15] G.R. Nos. 111771-77, 9 November 1993, 227 SCRA 627.

[16] G.R. No. 111616, 4 February 1994, 229 SCRA 680.

[17] Supra note 4.

[18] Supra note 7.

[19] Supra note 8.

[20] See Republic vs. Asuncion, supra note 4, at 233.

[21] Republic vs. Asuncion, supra note 4.

[22] U.S. vs. Mallari, 24 Phil. 366 [1913]; People vs. Co Hiok, 62 Phil. 501 [1935]; People vs. Ocaya, 83 SCRA 218 [1978].

[23] Supra note 8.

[24] Supra note 7.

[25] Article 14(1), Revised Penal Code.

[26] 142 SCRA 459 [1986].

[27] Section 20 of B.P. Blg. 129, which provides: "Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter."

[28] Anti-Graft and Corrupt Practices Act.

[29] Entitled, "An Act Declaring Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceeding Therefor."

[30] Article 210, Direct Bribery; Article 211, Indirect Bribery; and Article 212, Corruption of Public Officials.

[31] Creating the Presidential Commission on Good Government.

[32] Regarding the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Their Close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees.

[33] Defining the Jurisdiction Over Cases Involving the Ill-gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of Their Immediate Family, Close Relatives, Subordinates, Close and/or Business Associates, Dummies, Agents, and Nominees.

[34] Amending E.O. No. 14.

[35] Should be read as chief superintendent in view of Section 4(a)(1)(e) of P.D. No. 1606, as further amended by R.A. No. 7975.

[36] *People vs. Pegarum*, 58 Phil. 715 [1933]; *People vs. Paderna*, 22 SCRA 273 [1968]; *People vs. Mariano*, 71 SCRA 600 [1976]; *Tiongson vs. Court of Appeals*, 214 SCRA 197 [1992].

[37] *Iburan vs. Labes*, 87 Phil. 234 [1950]; *Uypaunco vs. Leuterio*, 27 SCRA 776 [1969]; *Paulino vs. Belen*, 37 SCRA 357 [1971]; *Bengson vs. Inciong*, 91 SCRA 248 [1979].

[38] 186 SCRA 217 [1990].

[39] 237 SCRA 685 [1994].

[40] Rollo, 84 & 102.

[41] *Id.*, 263.

[42] *Tupas vs. Court of Appeals*, 193 SCRA 597 [1991]; *Allied Leasing & Finance Corp. vs. Court of Appeals*, 197 SCRA 71 [1991]; *People vs. Court of Appeals*, 199 SCRA 539 [1991]; *Torres vs. NLRC*, 200 SCRA 424 [1991].

[43] G.R. No. 101734, 22 January 1992.

CONCURRING AND DISSENTING OPINION

PADILLA, J.:

While I agree with the ponencia of Mr. Justice Hilario G. Davide, Jr. that the two (2) informations subject of the present petition should remain in the Regional Trial Court, I arrive at this conclusion based solely on the provisions of Rep. Act No. 7975.

It is my considered opinion, unlike the majority, that the accused PNP personnel committed the crime alleged in the two (2) informations in relation to their office. The wording of the two (2) informations clearly shows that P/Col. Nicolas M. Torres used his authority over his subordinate officers when he ordered them to arrest the two (2) swindling suspects/victims in connection with the complaint of the Dumancas spouses. This act of Torres is undoubtedly "intimately connected" with his position as Station Commander of the PNP, Bacolod Station. In turn, the other accused PNP personnel who detained the two (2) victims were performing their functions as law enforcers under orders from their direct superior. Under such circumstances, the two (2) informations would have been properly filed with the Sandiganbayan since the law in force at the time was P.D. No. 1606 which gave the Sandiganbayan jurisdiction over offenses committed by public officers in relation to their office where the penalty prescribed by law is higher than prison correctional or imprisonment of six (6) years or a fine of P6,000.00.

The above view notwithstanding, Rep. Act No. 7975 has revised the jurisdiction of the Sandiganbayan. Under said revised jurisdiction, the Regional Trial Courts now have jurisdiction over offenses committed by PNP officers with ranks below that of superintendent or its equivalent, whether or not the offenses are committed in

relation to their office. In the present case, none of the accused PNP officers has the rank of superintendent or higher.

Section 7 of Rep. Act No. 7975 also provides that upon effectivity of said Act, all criminal cases within the jurisdiction of the Sandiganbayan under P.D. No. 1606 where trial has not begun in said court, shall be referred to the proper courts.

In the present case, even if the criminal cases were then within the jurisdiction of the Sandiganbayan, the offenses having been committed in relation to the accuseds' office, as earlier discussed, yet, the cases were not filed in said court. Since the cases now fall within the jurisdiction of the Regional Trial Court under the express provisions of Rep. Act No. 7975, they can remain in said regional trial court.

On the issue of whether accused Jeanette Yanson-Dumancas should be granted bail, I agree with Mr. Justice Santiago M. Kapunan that the Court should exercise its discretion, disregard technicalities and rule on the motion for bail filed with this Court.

Accused Jeanette Yanson-Dumancas should, in my view, be released on bail for the following reasons:

1. The spouses Dumancas were included in the informations as accused merely because they were the ones who complained to the police that the two (2) victims had swindled them. There is no showing that the spouses knew, much less instigated, the kidnapping and murder of the victims. Of note is a portion of the testimony of the alleged lone eyewitness and co-conspirator turned state witness, Moises Grandeza, where he declared that Jeanette Dumancas told accused Dominador Geroche to bring the two (2) swindling suspects to the police station and that she would call a certain Atty. Geocadin so the proper cases could be filed against them. Such statements of Dumancas indicate lack of any criminal intent unless the contrary is later proven during the trial.
2. The situation of Jeanette Dumancas is no different from that of her husband who was granted bail by the trial court.
3. Jeanette Dumancas came back from abroad even after the charges against her had been filed. Certainly, this is not indicative of a probability of her later jumping bail should she be released on bail.
4. To deny bail to a mother of two (2) minor children in the absence of direct evidence that she was indeed a principal by inducement as alleged in the two (2) informations, is antagonistic not only to her constitutional right to bail but also to the ideals and demands of a just and humane society.

CONCURRING-DISSENTING OPINION

KAPUNAN, J.:

I fully agree with much of what my esteemed colleague, Justice Hilario G. Davide, Jr. has written in this case. However, at least with respect to petitioner Jeanette Dumancas, I think this Court, mainly for humanitarian reasons, should exercise its discretion to grant said petitioner her constitutional right to bail, pending the determination of her guilt or innocence in the trial court.

The facts so far established in the case at bench with respect to the spouses Dumancas as narrated in the court's opinion simply show that they were civilians who complained to the authorities (respondents herein) to the effect that they were swindled by Rufino Gangar and Danilo Lumangyao, the alleged murder-kidnapping victims. After respondent Jeanette Yanson-Dumancas identified them, the lone witness for the prosecution in this case testified that she requested the accused, specifically Domingo Geroche to "bring (the two men) to the PC or police" so that

she could in the meantime locate her attorney for the purpose of filing the proper charges against them. Possibly out of sheer overzealousness, or for reasons not yet established in the trial court, both men were brought elsewhere and shot. Thus, apparently, the only reason why the spouses were charged as principals by inducement was because, as possible victims of a group of alleged swindlers, they initiated-through their apparently legitimate complaint - the chain of events which led to the death of the victims in the case at bench.

This narration clearly casts enough doubt regarding the strength of the evidence of guilt against Mrs. Dumancas, which ought to be sufficient for us for us to exercise our discretion to grant bail in her case. The trial court has already refused to grant her petition for bail, which under the facts and circumstances so far available to the lower court, constitutes a grave abuse of discretion, subject to this court's action. While I agree that normally, a motion for reconsideration should be addressed to the trial court or to the Court of Appeals (if the said motion were denied by the lower court), I see no reason why, here and now, we should not exercise our discretion, for compelling humanitarian reasons, to grant Mrs. Dumancas her constitutional right to bail. Firstly, she is the mother of two minor children, aged seven (7) and one (1) years old, who have been deprived of her care for over a year. Second, even with the knowledge that she would face possible arrest, she came back to the country from abroad, risking incarceration in order to face the charges against her.

Without prejudice to whatever the lower court would in the course of hearing the case, deem appropriate, I vote to grant Mrs. Dumancas' petition for bail.

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