

IMELDA R. MARCOS, PETITIONER, VS. THE SANDIGANBAYAN (FIRST DIVISION) AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 124680-81. February 28, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is a special civil action of certiorari and prohibition with preliminary injunction and temporary restraining order assailing the resolution of the Sandiganbayan, First Division,[1] that denied petitioner's motion to quash two informations charging her and others with malversation of public funds totalling about P97,954,000.00.

The facts are as follows:

On April 7, 1994, Special Prosecution Officer I Rodolfo T. Espinosa filed with the Sandiganbayan two informations against petitioner and other accused, charging them with malversation of public funds, one information involving the amount of P57.954 million[2] and the second information involving the amount of P40 million.[3]

On August 12, 1994, petitioner filed with the Sandiganbayan a motion to quash/dismiss the two informations, raising the following grounds, namely: (a) the informations are fatally defective for failure to adequately inform the accused of the charge against her in violation of due process guaranteed by the Constitution; (b) the informations state no offense; and (c) the court has no jurisdiction over the cases because the accused are protected by immunity from suit.[4]

On August 15, 1994, the Sandiganbayan issued an order that virtually denied the motion to quash even before the scheduled date of hearing thereof, ruling that the informations actually state a valid accusation; that immunity from suit was applicable only to acts upon orders of the President which are legitimate, and that a motion to quash at that stage was not proper.[5]

On August 31, 1994, petitioner filed a motion for reconsideration insisting on the same grounds raised in the motion to quash which was still proper at that stage.[6]

On January 16, 1996, one year and four and a half months from its filing, the Sandiganbayan issued a minute resolution denying petitioner's motion for reconsideration, ruling that the motion had become moot since the original motion to quash had been filed on August 12, 1994, after the accused had been arraigned and trial actually commenced. The minute resolution was acted upon by the Sandiganbayan, First Division, in this wise:

"Minutes of the proceeding held on January 16, 1996.

x x x

"The following resolution was adopted:

"Criminal Case Nos. 20345-20346 – Peo. vs. Imelda R. Marcos, et al.,

The "MOTION FOR RECONSIDERATION", dated August 31, 1994, of accused Imelda R. Marcos, is Denied.

x x x

"APPROVED:

"GARCHITORENA, PJ. (Sgd) 1/17/1996.

"BALAJADIA, J. (Sgd.) 1-18

"CHICO-NAZARIO, J. (Sgd.) 1/18/96".

indicating that the justices did not deliberate on the case, but individually acted thereon on different dates.[7]

Hence, this petition.[8]

On September 23, 1996, the Court resolved to require respondents to comment on the petition, not to file a motion to dismiss, within ten (10) days from notice.[9]

On November 8, 1996, the Office of the Special Prosecutor (Ombudsman), representing the People of the Philippines, filed its comment.[10]

On December 13, 1999, we gave due course to the petition.[11]

At issue is whether or not the Sandiganbayan acted with grave abuse of discretion in denying petitioner's motion to quash the informations filed after she had pleaded thereto.

Rule 117, Section 8 of the 1985 Rules on Criminal Procedure, as amended, provides that:

"Sec. 8. Failure to move to quash or to allege any ground therefor.--The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of the grounds of a motion to quash, except the grounds of no offense charged, lack of jurisdiction over the offense charged, extinction of the offense or penalty and jeopardy, as provided for in paragraphs (a), (b), (f) and (h) of Section 3 of this Rule."

Consequently, it is clear that a motion to quash is not improper even after the accused had been arraigned if the same is grounded on failure to charge an offense and lack of jurisdiction of the offense charged, extinction of the offense or penalty and jeopardy. In this case, petitioner's motion to quash is grounded on no offense charged and lack of jurisdiction over the offense charged. Hence, the Sandiganbayan erred in disregarding the plain provision of the Rules of Court and in cavalier fashion denied the motion.

Nevertheless, the consistent doctrine of this Court is that from a denial of a motion to quash, the appropriate remedy is for petitioner to go to trial on the merits, and if an adverse decision is rendered, to appeal therefrom in the manner authorized by law.[12]

Incidentally, the Sandiganbayan set the cases against petitioner for trial on continuous setting on December 4, 1995 (more than one year after arraignment) and continued on December 5, 1995, and on various dates in January, April, May and June 1996.[13] Apparently, however, trial has commenced on December 5, 1995 with witness Examining Auditor Iluminada H. Cortez testifying.[14] On August 21, 1997, the prosecution filed its formal offer of evidence.[15] On October 29, 1997, the Sandiganbayan admitted the documentary evidence offered by the prosecution over the objection of accused Marcos and Zagala.[16] On November 17, 1997, accused Zagala filed a motion to dismiss (demurrer to evidence).[17] On January 6, 1998, accused Imelda R. Marcos filed

a motion for leave to file and to admit demurrer to evidence.[18] On August 29, 1998, accused Jose Conrado Benitez filed a demurrer to evidence.[19] The Sandiganbayan has not ruled on these demurrers, though this Court has not issued a temporary restraining order or preliminary injunction. Meantime, on February 12, 1998, Congress enacted Republic Act No. 8493 mandating expeditious trial and disposition of cases in the Sandiganbayan, as a trial court, and other trial courts. This law is implemented in the Court's Administrative Circular No. 38-98, dated August 11, 1998.

IN VIEW WHEREOF, the Court hereby DISMISSES the petition for certiorari and prohibition. However, the Court directs the Sandiganbayan to forthwith proceed with further proceedings and final disposition of Criminal Case Nos. 20345-20346, in accordance with the mandates of Republic Act No. 8493, with all deliberate dispatch.

We order the Sandiganbayan to inform this court of the proceedings in the cases below within ten (10) days of the action thereon.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Francis E. Garchitorena, Presiding Justice, ponente, Jose S. Balajadia and Minita V. Chico-Nazario, Associate Justices, concurring.

[2] Information, Criminal Case No. 20345, malversation of public funds against Imelda R. Marcos, Jose Conrado Benitez, and Gilbert C. Dulay, involving the amount of P57.954 million.

[3] Information, Criminal Case No. 20346, malversation of public funds against Imelda R. Marcos, Jose Conrado Benitez and Rafael G. Zagala, involving the amount of P40 million.

[4] Petition, Annex "C", Rollo, pp. 27-39.

[5] Order, Rollo, p. 40.

[6] Petition, Annex "E", Rollo, pp. 41-48.

[7] Petition, Annex "F", Rollo, pp. 49-50; Cf. *Arocha vs. Vivo*, 128 Phil. 566, 575 (1967); *Commissioner of Immigration vs. Garcia*, 156 Phil. 603, 615 (1974); *Caoile vs. Vivo*, 125 SCRA 85, 97 (1983).

[8] Filed on May 8, 1996, Rollo, pp. 3-23.

[9] Rollo, p. 54.

[10] Rollo, pp. 55-66.

[11] Rollo, pp. 81-82.

[12] *Bulaong vs. Court of Appeals*, 181 SCRA 618 (1990); *Gamboa vs. Cruz*, 162 SCRA 642 (1988); *Buaya vs. Polo*, 169 SCRA 471 (1989); *Reyes vs. Camilon*, 192 SCRA 445 (1990); *Martinez vs. Sandiganbayan*, G.R. No. 126413, August 20, 1999.

[13] Order, dated may 15, 1995, Sandiganbayan Record, Vol. I, p. 334.

[14] *Ibid.*, p. 383.

[15] Ibid., Vol. III, pp. 98-104.

[16] Ibid., pp. 121-126.

[17] Ibid., pp. 145-148.

[18] Ibid., pp. 183-200.

[19] Ibid., pp. 234-242.

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