

ROGELIO M. ESTEBAN, PETITIONER, VS. THE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. Nos. 146646-49. March 11, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolution[1] dated December 18, 2000 of the Sandiganbayan (1st Division) and Order[2] dated January 11, 2000 in Criminal Cases Nos. 24703-04.

The instant petition stemmed from the sworn complaint[3] of Ana May V. Simbajon against Judge Rogelio M. Esteban, filed with the Office of the City Prosecutor, Cabanatuan City on September 8, 1997, docketed as I.S. Nos. 9-97-8239.

In her complaint, Ana May alleged that she was a casual employee of the City Government of Cabanatuan City. Sometime in February 1997, she was detailed with the Municipal Trial Court in Cities (MTCC), Branch 1, Cabanatuan City, upon incessant request of Presiding Judge Reogelio Esteban, herein petitioner.

After her detail with Branch 1, the item of bookbinder became vacant. Thus, she applied for the position but petitioner did not take any action on her application. On July 25, 1997, when she approached petitioner in his chambers to follow up her application, he told her, “Ano naman ang magiging kapalit ng pagpirma ko rito? Mula ngayon, girlfriend na kita. Araw-araw papasok ka dito sa opisina ko, at araw-araw, isang halik.” (“What can you offer me in exchange for my signature? From now on, you are my girlfriend. You will enter this office everyday and everyday, I get one kiss.”)[4] Ana May refused to accede to his proposal as she considered him like her own father.

Petitioner nonetheless recommended her for appointment. Thereafter, he suddenly kissed her on her left cheek. She was shocked and left the chambers, swearing never to return or talk to petitioner.

On August 5, 1997, at around 9:30 in the morning, Virginia S. Medina, court interpreter, informed Ana May that petitioner wanted to see her in his chambers regarding the payroll. As a subordinate, she complied. Once inside, petitioner asked her if she has been receiving her salary as a bookbinder. When she answered in the affirmative, he said, “Matagal na pala eh, bakit hindi ka pumapasok dito sa kuwarto ko? Di ba sabi ko say iyo, girlfriend na kita?” (“So you’ve been getting the salary for sometime already. Why didn’t you report here in my office? Didn’t I tell you, you’re my girlfriend.”)[5]

Again, Ana May protested to his proposal, saying he is like a father to her and that he is a married man with two sons.

Petitioner suddenly rose from his seat, grabbed her and said, “Hindi pwede yan, mahal kita.” (“I can’t allow that for I love you.”) He embraced her, kissing her all over her face and touching her right breast.

Ana May freed herself and dashed out of the chambers crying. She threw the payroll on the table of her co-employee, Elizabeth Q. Manubay. The latter sensed something was wrong and accompanied Ana May to the restroom. There she told Elizabeth what happened.

On March 9 and July 1, 1998, two Informations for violation of R.A. 7877 (the Anti-Sexual Harassment Law of 1995) were filed against petitioner with the Sandiganbayan, docketed therein as Criminal Cases Nos. 24490 and 24702.

Also on July 1, 1998, two Informations for acts of lasciviousness were filed with the same court, docketed as Criminal Cases. 24703-04.

On September 18, 1998, petitioner filed a motion to quash the Informations in Criminal Cases Nos. 24703-04 for acts of lasciviousness on the ground that he has been placed four (4) times in jeopardy for the same offense.

The Sandiganbayan denied the motion to quash but directed the prosecution to determine if the offenses charged in Criminal Cases Nos. 24703-04 were committed in relation to petitioner's functions as a judge.

On September 3, 1999, the prosecution filed Amended Informations in Criminal Cases Nos. 24703 and 24704 quoted as follows:

Criminal Case No. 24703:

That on or about the 5th day of August 1997 in Cabanatuan City, Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, JUDGE ROGELIO M. ESTEBAN, a public officer, being then the Presiding Judge of Branch 1 of the Municipal Trial Court in Cabanatuan City, who after having been rejected by the private complainant, Ana May V. Simbajon, of his sexual demands or solicitations to be his girlfriend and to enter his room daily for a kiss as a condition for the signing of complainant's permanent appointment as a bookbinder in his Court, thus in relation to his office or position as such, with lewd design and malicious desire, did then and there willfully, unlawfully and feloniously planted a kiss on her left cheek against her will and consent, to her damage and detriment.

CONTRARY TO LAW.[6]

Criminal Case No. 24704

That on or about the 25th day of June 1997 in in Cabanatuan City, Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, JUDGE ROGELIO M. ESTEBAN, a public officer, being then the Presiding Judge of Branch 1 of the Municipal Trial Court in Cabanatuan City, who after having been rejected by the private complainant, Ana May V. Simbajon, of his sexual demands or solicitations to be his girlfriend and to enter his room daily for a kiss as a condition for the signing of complainant's permanent appointment as a bookbinder in his Court, thus in relation to his office or position as such, with lewd design and malicious desire, did then and there willfully, unlawfully and feloniously planted a kiss on her left cheek against her will and consent, to her damage and detriment.

CONTRARY TO LAW.[7]

On September 29, 1999, petitioner filed a motion to quash the Amended Informations on the ground that the Sandiganbayan has no jurisdiction over the crimes charged considering that they were not committed in relation to his office as a judge.

On November 22, 1999, before the Sandiganbayan could resolve the motion to quash, the prosecution filed the following Re-Amended Information in Criminal Case No. 24703:

"That on or about the 5th day of August 1997 in Cabanatuan City, Nueva Ecija, Philippines and within the

jurisdiction of this Honorable Court, the above-named accused, JUDGE ROGELIO M. ESTEBAN, a public officer, being then the Presiding Judge of Branch 1 of the Municipal Trial Court in Cabanatuan City, who after having been rejected by the private complainant, Ana May V. Simbajon, of his sexual demands or solicitations to be his girlfriend and to enter his room daily for a kiss as a condition for the signing of complainant's permanent appointment as a bookbinder in his Court, thus in relation to his office or position as such, with lewd design and malicious desire, did then and there willfully, unlawfully and feloniously grab private complainant, kiss her all over her face and touch her right breast against her will and consent, to her damage and detriment.

CONTRARY TO LAW.”[8]

which was admitted by the Sandiganbayan.

On December 18, 2000, the Sandiganbayan denied petitioner's motion to quash the Amended Informations, holding that “the act of approving or indorsing the permanent appointment of complaining witness was certainly a function of the office of the accused so that his acts are, therefore, committed in relation to his office.”[9]

Petitioner then moved for a reconsideration, but was denied by the Sandiganbayan in its Order dated January 11, 2001.

Hence, the instant petition for certiorari.

The sole issue for our resolution is whether the Sandiganbayan has jurisdiction over Criminal Cases Nos. 24703-04 for acts of lasciviousness filed against petitioner.

Petitioner contends that the alleged acts of lasciviousness were not committed in relation to his office as a judge; and the fact that he is a public official is not an essential element of the crimes charged.

The Ombudsman, represented by the Office of the Special Prosecutor, maintains that the allegations in the two (2) Amended Informations in Criminal Cases Nos. 24703-04 indicate a close relationship between petitioner's official functions as a judge and the commission of acts of lasciviousness.

The petition is bereft of merit.

Section 4 of Presidential Decree No. 1606, as amended by Republic Act No. 8249,[10] reads in part:

SEC. 4. Jurisdiction. – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

x x x

b. Other offenses or felonies whether simple or complexed with other crime committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

In *People v. Montejo*,[11] we ruled that an offense is said to have been committed in relation to the office if the offense is “intimately connected” with the office of the offender and perpetrated while he was in the performance of his official functions. This intimate relation between the offense charged and the discharge of official duties must be alleged in the Information.[12] This is in accordance with the rule that the factor that characterizes the charge is the actual recital of the facts in the complaint or information.[13] Hence, where the information is wanting in specific factual averments to show the intimate relationship/connection between the offense charged and the discharge of official functions, the Sandiganbayan has no jurisdiction over the case.[14]

Under Supreme Court Circular No. 7 dated April 27, 1987,[15] petitioner, as presiding judge of MTCC, Branch 1, Cabanatuan City, is vested with the power to recommend the appointment of Ana May Simbajon as bookbinder. As alleged in the Amended Informations in Criminal Cases Nos. 24703-04, she was constrained to approach

petitioner on June 25, 1997 as she needed his recommendation. But he imposed a condition before extending such recommendation - she should be his girlfriend and must report daily to his office for a kiss. There can be no doubt, therefore, that petitioner used his official position in committing the acts complained of. While it is true, as petitioner argues, that public office is not an element of the crime of acts of lasciviousness, defined and penalized under Article 336 of the Revised Penal Code, nonetheless, he could not have committed the crimes charged were it not for the fact that as the Presiding Judge of the MTCC, Branch I, Cabanatuan City, he has the authority to recommend the appointment of Ana May as bookbinder. In other words, the crimes allegedly committed are intimately connected with his office.

The jurisdiction of a court is determined by the allegations in the complaint or information.[16] The Amended Informations in Criminal Cases Nos. 24703-04 contain allegations showing that the acts of lasciviousness were committed by petitioner in relation to his official function.

Accordingly, we rule that the Sandiganbayan did not gravely abuse its discretion amounting to lack or excess of jurisdiction in admitting the Amended Informations for acts of lasciviousness in Criminal Cases Nos. 24703-04.

WHEREFORE, the petition is DISMISSED. The assailed Resolution and Order of the Sandiganbayan dated December 18, 2000 and January 11, 2001, in Criminal Cases Nos. 24703-04 are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Panganiban, (Chairman), Corona, and Garcia, JJ., concur.

Carpio-Morales, J., on leave.

[*]On leave[1] Rollo, pp. 24-28. Per then Presiding Justice Francis E. Garchitorena (deceased), and concurred in by Associate Justice Catalino R. Castañeda (retired) and Associate Justice Gregory S. Ong.

[2] Id. at 29-30.

[3] Id. at 32-34.

[4] Id. at 32.

[5] Id. at 33.

[6] Id. at 48-49.

[7] Id. at 51-52.

[8] Id. at 26.

[9] Id. at 27.

[10] The statute is entitled "An Act Further Defining The Jurisdiction of the Sandiganbayan, Amending For the Purpose, Presidential Decree No. 1605, As Amended, Providing Funds Therefore, And For Other Purposes."

[11] 108 Phil. 613 (1960).

[12] *People v. Magallanes*, G.R. Nos. 118013-14, October 11, 1995, 249 SCRA 212; *Republic v. Asuncion*, G.R. No. 108208, March 11, 1994, 231 SCRA 211

[13] *People v. Mendoza*, G.R. No. 67610, July 31, 1989, 175 SCRA 743; *People v. Cosare*, 95 Phil. 657 (1954).

[14] *Lacson v. Executive Secretary*, G.R. No. 128095, January 20, 1999, 301 SCRA 298.

[15] The Circular is entitled “Appointments to Vacant Positions In The Judiciary.”

[16] *People v. Magallanes*, *supra*; *Republic v. Asuncion*, *supra*.

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