

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HONORABLE SANDIGANBAYAN (FOURTH DIVISION) AND CAMILO LOYOLA SABIO, RESPONDENTS.*G.R. Nos. 228494-96. March 21, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-228494-96/>**REYES, JR., J:**

Before this Court is a Petition for Certiorari[1] under Rule 65 of the 1997 Rules of Court instituted by People of the Philippines (petitioner), represented by the Office of the Ombudsman, assailing the Decision[2] dated April 20, 2016 and Resolution[3] dated October 18, 2016 of the Sandiganbayan acquitting private respondent Camilo Loyola Sabio (Sabio), for having been issued with grave abuse of discretion, amounting to lack or excess of jurisdiction, thereby denying petitioner's right to due process.

The Facts

Sabio, the then Chairperson of the Presidential Commission on Good Government (PCGG) with Salary Grade 30, was charged before the Sandiganbayan with (a) one count for violation of Section 3(e) of Republic Act No. 3019,[4] as amended, otherwise known as the Anti-Graft and Corrupt Practices Act; and (b) two counts for Malversation of Public Funds as defined and penalized under Article 217[5] of the Revised Penal Code.[6] The three sets of Information are quoted as follow:

CRIMINAL CASE NO. SB-11-CRM-0276

(For Violation of Sec. 3 (e), R.A. No. 3019, as amended)

"That on or about the period from February 14, 2006 to October 3, 2006 or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused. [SABIO], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and committing the offense in relation to and/or taking advantage of his official position, did then and there wilfully, unlawfully and criminally cause undue injury to the government through evident bad faith by appropriating, misappropriating, and converting to his own personal use and benefit, the following remittances of Mid-Pasig Land Development Corporation (MPLDC) from , the proceeds of the sale of A. Soriano Corporation shares which form part of the ill-gotten wealth of Former President Ferdinand E. Marcos and his cronies in the amount of TEN MILLION THREE HUNDRED FIFTY THOUSAND PESOS (P10,350,000.00) consisting of:

Voucher No.

Check No.

Date

Amount

a. Unnumbered

56626

02/14/2006

P 500,000.00

b. 03-45

56643

03/08/2006

1,000,000.00

c. 03-46

56644

03/13/2006

2,000,000.00

d. 04-57

56659

04/21/2006

500,000.00

e. 05-86

56688

05/03/2006

700,000.00

f. 05-94

56696

05/11/2006

350,000.00

g. 05-100

56702

05/25/2006

1,300,000.00

h. 06-125

56722

06/30/2006

1,000,000.00

i. 08-147

56744

08/18/2006

500,000.00

j. 09-150

56747

09/07/2006

1,000,000.00

k. 10-164

56761

10/03/2006

1,500,000.00

TOTAL

P10,350,000.00

which amount although he received as cash advances was supposed to be remitted to the Bureau of Treasury (BOT) as part of the CARP Fund, thereby causing damage and prejudice to the Philippine Government in the aforementioned amount."[7]

CRIMINAL CASE NO. SB-11-CRM-0277

(For Malversation of Public Funds under Sec. 217 of the Revised Penal Code)

"That on or about the period from February 14, 2006 to October 3, 2006 or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [SABIO], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and as such is accountable for the public funds or property collected and received by reason of his office, committing the offense in relation to and/or taking advantage, of his official position, did then and there wilfully, unlawfully, feloniously and with grave abuse of confidence, appropriate, misappropriate, misapply, embezzle and convert to his own personal use and benefit the following remittances of Mid-Pasig Land Development Corporation (MPLDC) from the proceeds of sale of A. Soriano Corporation shares which form part of the ill-gotten wealth of Former President Ferdinand E. Marcos and his cronies in the amount of TEN MILLION THREE HUNDRED FIFTY THOUSAND PESOS (P10,350,000.00), consisting of:

Voucher No.

Check No.

Date

Amount

a. Unnumbered

56626

02/14/2006

P 500,000.00

b. 03-45

56643

03/08/2006

1,000,000.00

c. 03-46

56644

03/13/2006

2,000,000.00

d. 04-57

56659

04/21/2006

500,000.00

e. 05-86

56688

05/03/2006

700,000.00

f. 05-94

56696

05/11/2006

350,000.00

g. 05-100

56702

05/25/2006

1,300,000.00

h. 06-125

56722

06/30/2006

1,000,000.00

i. 08-147

56744

08/18/2006

500,000.00

j. 09-150

56747

09/07/2006

1,000,000.00

k. 10-164

56761

10/03/2006

1,500,000.00

TOTAL

P10,350,000.00

which amount although he received as cash advances was supposed to be remitted to the Bureau of Treasury (BOT) as part of the CARP Fund, thereby causing damage and prejudice to the Philippine Government in the aforementioned amount."[8]

CRIMINAL CASE NO. SB-11-CRM-0278[9]

(For Malversation of Public Funds under Sec. 217 of the Revised Penal Code)

"That on or about the period from May 30, 2007 to August 14, 2008, or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [SABIO], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and as such, accountable for the public funds and property collected and received by reason of his office, committing the offense in relation to and/or taking advantage, of his official position, did then and there wilfully, unlawfully, feloniously and with grave abuse of confidence, appropriate, misappropriate, misapply, embezzle and convert to his own personal use and benefit the following cash advances from the [PCGG] to defray expenses in connection with litigation, accommodation and contingency fund in his trip to Kuala Lumpur, Malaysia in the total amount of ONE MILLION FIVE HUNDRED FIFTY-FIVE THOUSAND EIGHT HUNDRED SIXTY-TWO PESOS AND THREE CENTAVOS (P1,555,862.03), consisting of:

Date

Nature / Purpose

Disbursement Voucher No.

Amount

a. 05/30/2007 Emergency / Miscellaneous, etc.

2007-05-0617

P 500,000.00

b. 08/16/2007 Litigation and other related expenses

2007-08-0972

P 450,000.00

c. 09/30/2007 Litigation and other related expenses

2007-09-1122

P 500,000.00

d. 04/17/2008 Plane fare, per diem hotel accommodation, contingency fund re: trip to Kuala Lumpur, Malaysia

2008-04-0358

P 55,862.03

e. 08/14/2008 Litigation and other related expenses

2008-08-0795

P 50,000.00

TOTAL

P1,555,862.03

Upon arraignment on January 12, 2012, Sabio entered a 'plea of not guilty on all the three charges filed against him.[10]

After the termination of the pre-trial conference and compliance with the pre-trial order, the trial ensued between the parties.[11]

During the trial, the prosecution presented the testimonies of numerous witnesses and submitted their respective documentary exhibits to prove the guilt of Sabio on the offenses charged.[12]

Among the pertinent testimonies as gathered from the decision of the Sandiganbayan are the following:

Lorna Gaerlan Reyes (Reyes), the Chief Administrative Officer of the Collection Division of the Finance and Administrative Department of the PCGG, testified that she was called to the office of Atty. Manuel Paras (Atty. Paras), the former General Manager of Independent Realty Corporation (IRC) Group of Companies (one of the surrendered companies to PCGG), to receive remittances. In connection thereof, Reyes was given RCBC Check No. 955805 dated November 23, 2006 issued in the name of PCGG from IRC in the amount of P26,930,670.99 and PNB Manager's Check No. 1528106 in the amount of P13,069,329.01 representing remittances for the Comprehensive Agrarian Reform Program to be remitted to the Bureau of Treasury (BOT). Thereafter, Atty. Paras asked for an official receipt in a total amount of P50,350,000.00 which Reyes refused to issue since she only received an amount of P40,000,000.00. Reyes then prepared a transmittal letter addressed to the BOT and had it signed by then PCGG Chairman Sabio and Commissioner Ricardo Abcede (Commissioner Abcede). The official receipts were all issued in the name of IRC as payee and the checks issued to her 'were all in the name of PCGG. The checks, on the other hand, were deposited in the name of BOT. During cross-examination, Reyes admitted that the Chairman of IRC, and not Sabio, determined the amount to be remitted to BOT. Sabio's participation was only limited to the signing of the transmittal letter to BOT.[13]

Primitiva Solinap Hingco-Millado (Millado), the former Cashier of IRC, testified that she prepared the vouchers, checks (Exhibits S to NN, PP, QQ and SS) and documents of IRC in the name of Sabio. During cross-examination, she disclosed that Atty. Paras verbally instructed her to prepare the voucher marked as Exhibit S, which turned out to be MPLDC Cash Voucher dated February 14, 2007, despite lack of supporting document. She likewise prepared a check marked as Exhibit T, referring to MPLDC dated March 8, 2006 payable to Sabio in the amount of P1,000,000.00, upon instruction of Atty. Paras through the IRC Chief Accountant Corazon San

Mateo Escorpizo (Escorpizo), even without the approval of the approving officer. Similarly, she prepared MPLDC Cash Voucher No. 03-46 dated March 13, 2006 in the name of Sabio amounting to P2,000,000.00 marked as Exhibit W, PNB Check in the name of MPLDC with Sabio as payee in the amount of P2,000,000.00 dated March 13, 2006 marked as Exhibit X, MPLDC Cash Voucher No. 04-57 dated April 21, 2006 payable to Sabio amounting to P500,000.00 marked as Exhibit Y, all upon verbal instructions of Atty. Paras. During cross-examination, Millado admitted that she has no evidence to show that the checks payable under the name of Sabio were received by the latter.[14]

Escorpizo, testified that the preparation of the check voucher with regard to cash advances and remittances to the National Treasury depended upon the instruction of the Office of the General Manager and/or the President of IRC. She clarified that Commissioners Abcede and Nicasio Conti (Commissioner Conti) facilitated the transaction of the cash advances but the checks must be made in the name of Sabio since he was authorized as the Chairman of PCGG. Escorpizo added further that she facilitated the preparation of the checks and cash advances premised upon the collective promise of Atty. Paras, IRC President Ernesto R. Jalandoni (President Jalandoni) and Commissioners Abcede and Conti that a board resolution will be submitted to authorize the cash advance.[15]

Finally, Marcial Velarga Flores, the Chief Administrative Officer of the Finance Department of the PCGG testified that he issued a Memorandum addressed to Sabio for his failure to liquidate the issued cash advances and the same was received by an office staff named Wilson.[16]

On his part, Sabio stood as the lone witness of the defense. He denied having misappropriated, embezzled, misapplied and converted to his own personal use and benefit the amount of P10,350,000.00 as remitted by MPLDC. He explained that as the Chairman of the PCGG, he signed and endorsed the checks to be delivered to the cashier for encashment for the operational expense of PCGG in view of the one-peso budget of the office for the year 2006. In the same note, he alleged that he endorsed to his office staff the cash advance of P1,550,862.03 for proper liquidation.[17]

On April 20, 2016, the Sandiganbayan rendered the assailed Decision,[18] the dispositive portion of which reads as follows:

WHEREFORE, premises considered, and for insufficiency of evidence engendering reasonable doubt, judgment is hereby rendered Acquitting herein accused [Sabio] from the charge of Violation of Sec. 3(e), RA 3019 in Crim. Case No. SB-11-CRM-0276 and Malversation in Crim. Cases Nos. SB-11-CRM-0277 and SB-11-CRM-0278.

SO ORDERED.[19]

The petitioner filed its motion for reconsideration which was denied in a Resolution[20] dated October 18, 2016. Thus:

Acting on the prosecution's MOTION FOR RECONSIDERATION (Re: Decision dated April 20, 2016) dated May 5, 2016, this Court must emphasize that it had already acquitted the accused after trial on the merits. The rule against double jeopardy proscribes a reconsideration or reversal of a judgment of acquittal on the merits. It is well-settled that acquittal in a criminal case is final and executory upon its promulgation, and that accordingly, the State may not seek its review without placing the accused in double jeopardy.

Accordingly, the subject motion for reconsideration is DENIED.[21]

Hence, this petition.

In this present petition for certiorari, the Office of the Ombudsman raises the following issues:

A.

THE HONORABLE SANDIGANBAYAN (FOURTH DIVISION) COMMITTED ORAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR IN EXCESS OF ITS JURISDICTION WHEN IT CAPRJCIOSLY AND WANTONLY RULED THAT THE PARTIAL REMITTANCES SUBJECT OF CRJMINAL CASES NOS. SB-11-CRM-0276 AND SB-11-CRM-0277 WERE USED AND ISSUED TO THE PCGG AS CASH ADVANCES

B.

SANDIGANBAYAN (FOURTH DIVISION) ACTED WITHOUT OR IN EXCESS OF JURJSDICTION OR WITH ORAVE ABUSE OF DISCRETION EFFECTIVELY DENYING PETITIONER OF ITS RJGHT TO DUE PROCESS WHEN IT CONCLUDED IN CRJMINAL CASE SB-11-CRM-0276 AND SB-11-CRM-0277 THAT THERE IS NO SHOWING THAT SABIO MISAPPROPRIATED OR CONVERTED THE FUNDS INVOLVED

C.

THE HONORABLE SANDIGANBAYAN (FOURTH DIVISION) ORAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF ITS JURJSDICTION WHEN IT RULED IN ALL THE CASES THAT THERE IS INSUFFICIENT EVIDENCE THAT SABIO MISAPPROPRIATED OR CONVERTED THE FUNDS INVOLVED.[22]

In his Comment[23] on the petition, Sabio refuted the arguments of the petitioner and emphasized on his constitutional right against double jeopardy. In addition, Sabio disproved grave abuse of discretion on the part of the Sandiganbayan when the latter acquitted him due to insufficiency of evidence engendering reasonable doubt.

In its Reply,[24] petitioner argued that the petition does not place the accused at risk of double jeopardy. Though it has long been settled that the prosecution cannot appeal a decision to reverse an acquittal, the same may be questioned in an action for certiorari when a judgment was tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, thus rendering the assailed judgment void. The petitioner argued on Sandiganbayan's capncwus disregard that there was indeed a misappropriation of the money which should have been remitted to the BOT. Moreover, Sandiganbayan failed to take in consideration Sabio's blatant failure to liquidate the cash advances he received by virtue of his position as PCGG's Chairperson.

Ruling of the Court

The Court finds the petition unmeritorious.

The constitutionally guaranteed right against double jeopardy is enshrined in the Bill of Rights under the 1987 Constitution:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

This right was further embodied in Section 7 of Rule 117 of the Rules of Court on Criminal Procedure, to wit:

Sec. 7. Former conviction or acquittal; double jeopardy. - When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included

in the offense charged in the former complaint or information. x x x.

Generally, a judgment of acquittal is immediately final and executory.[25] The prosecution cannot appeal the acquittal lest the constitutional prohibition against double jeopardy be violated.[26] However, the rule admits of two exceptional grounds that can be challenged in a certiorari proceeding under Rule 65 of the Rules of Court: (1) in a judgment of acquittal rendered with grave abuse of discretion by the court; and (2) where the prosecution had been deprived of due process.[27]

A cursory reading of the present petition for certiorari demonstrates a prodding to review the judgment of acquittal rendered by the Sandiganbayan on account of grave abuse of discretion. However, though enveloped on a pretext of grave abuse, the petition in actuality aims to overturn the decision of Sandiganbayan due to perceived mistake in the appreciation of facts and evidence. Unfortunately for the petitioner, the correction of this mistake does not fall within the ambit of Rule 65.

In *People v. Hon. Tria-Tirona*,[28] the Court emphasized the limitation of review in certiorari proceeding:

Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by certiorari. An error of judgment is one in which the court may commit in the exercise of its jurisdiction. An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari. Certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law. Since no error of jurisdiction can be attributed to fpublic respondent in her assessment of the evidence, certiorari will not lie.[29] (Citations omitted)

In this case, the prosecution was given adequate opportunity to present several witnesses and all necessary documentary evidence to prove the guilt of Sabio. However, Sandiganbayan warranted the acquittal of Sabio due to insufficiency of evidence engendering reasonable doubt on whether Sabio committed the offenses charged.

Records show that after taking into consideration the testimonies and evidence of both parties, Sandiganbayan arrived at a conclusion that the participation of Sabio with respect to the P10,350,000.00 was limited to the act of signing of the transmittal letter, checks and vouchers. The court likewise opined that the alleged untransmitted amount of P10,350,000.00 appearing in the breakdown of P50,350,000.00 as "remittance to the National Treasury for 2006" was misleading. The amount was never intended for remittance to the BOT but for the operational expenses of the PCGG.[30] As can be inferred from the testimony of Escorpizo, the cash advance of P10,350,000.00 was put in the name of Sabio since he was the Chairperson of PCGG under the instructions of PCGG Commissioners Abcede and Conti, who in turn promised Escorpizo that they will issue a board resolution for the authorization of the cash advance.[31] On the other hand, the charge of malversation was likewise dismissed due to the prosecution's failure to prove that Sabio failed to liquidate or settle the cash advance of P1,550,862.03 despite demand.[32] Clearly, an action for certiorari will not lie to reverse the judgment of acquittal which was rendered after the court's appreciation of evidence.

Premised on the following factual findings and conclusion, the Court finds no indication that the Sandiganbayan gravely abused its discretion when it gave a verdict of acquittal in favor of Sabio. The "grave abuse of discretion" contemplated by law involves a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.[33] Petitioner failed to discharge the burden that Sandiganbayan blatantly abused its discretion in acquitting Sabio such that it was deprived of its authority to dispense justice.[34]

An action for certiorari does not correct errors of judgment but only errors of jurisdiction.[35] The nature of a Rule 65 petition does not entail a review of facts and law on the merits in the manner done in an appeal.[36]

Misapplication of facts and evidence, and erroneous conclusions based on evidence do not, by the mere fact that errors were committed, rise to the level of grave abuse of discretion.[37] Even granting that the Sandiganbayan erred in weighing the sufficiency of the prosecution's evidence, such error does not necessarily amount to grave abuse of discretion.[38]

By way of final note, the Court finds it apt to reiterate the underlying principle behind the general rule of stay judgment of acquittal in *People v. Hon. Velasco*: [39]

The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State x x x." Thus Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."

It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.[40] (Citations omitted)

WHEREFORE, petition is DISMISSED.

SO ORDERED.

Carpio,[*] Acting C. J., (Chairperson), Peralta, Perlas-Bernabe, and Caguioa, JJ., concur.

[*]Designated as Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Rollo, pp. 3-25.

[2] Penned by Associate Justice Maria Cristina J. Cornejo, with Associate Justices Jose R. Hernandez, Rodolfo A. Ponferrada and Michael Frederick L. Musngi, concurring and with Associate Justice Alex L. Quiroz, dissenting; id. at 28-66.

[3] Rendered by Associate Justices Jose R. Hernandez, Rodolfo A. Ponferrada, Alex L. Quiroz, Michael Frederick L. Musngi and Zaldy V. Trespeses (sitting as Special Member in lieu of Associate Justice Maria Cristina J. Cornejo per Administrative Order No. 274-2016 dated September 21, 2016); id. at 67-68.

[4] Section 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:

(e) Causing any undue injury to any party, including the Government, 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. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other

concessions.

[5] Art. 217. Malversation of public funds or property Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property x x x.

[6] Rollo, pp. 1-2.

[7] Id. at 28-29.

[8] Id. at 29-30.

[9] Id. at 30-31.

[10] Id. at 31-32.

[11] Id. at 32.

[12] Id. at 32-49.

[13] Id. at 33-36.

[14] Id. at 36, 40-41.

[15] Id. at 41-45.

[16] Id. at 47.

[17] Id. at 50-52.

[18] Id. at 63.

[19] Id.

[20] Id. at 67-68.

[21] Id. at 67.

[22] Id. at 10-11.

[23] Id. at 90-122.

[24] Id. at 139-148.

[25] *Morillo v. People, et al.*, 775 Phil. 192, 211 (2015).

[26] *People, et al. v. CA, et al.*, 755 Phil. 80, 97 (2015).

[27] *Ysidoro v. Justice Leonardo-De Castro, et al.*, 681 Phil. 1, 16 (2012).

[28] 502 Phil. 31 (2005).

[29] Id. at 38-39.

[30] Rollo, p. 55.

[31] Id. at 56-57.

[32] Id. at 60-61.

[33] *Bangayan v. Bangayan*, 675 Phil. 656, 668-669 (2011).

[34] Id. at 669.

[35] *People v. Sandiganbayan (2[nd] Division), et al.*, 765 Phil. 845, 858 (2015).

[36] *Ysidoro v. Justice Leonardo-De Castro, et al.*, supra note 27, at 16.

[37] Id. at 17.

[38] *People v. Sandiganbayan (2[nd] Division), et al.*, supra note 35, at 864.

[39] 394 Phil. 517 (2000).

[40] Id. at 555-556.

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