

ARTURO A. MEJORADA, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 51065-72. June 30, 1987

Ponente: CORTES, J.

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CORTES, J.:

This petition for certiorari seeks to reverse the May 23, 1979 decision of the Sandiganbayan finding the accused Arturo A. Meiorada in Criminal Cases Nos. 002-009 guilty beyond reasonable doubt of violating Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

Eight informations were filed by the Provincial Fiscal against the petitioner and jointly tried before the Sandiganbayan. The eight informations substantially allege the same set of circumstances constituting the offense charged. Criminal Case No. 002 reads as follows:

That in (sic) or about and during the period comprised from October 1977 to February 1978, in the municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being employed in the Office of the Highway District Engineer, Pasig, Metro Manila as Right-of-Way-Agent, conspiring and confederating together with two (2) other John Does whose true identities and present whereabouts are still unknown, with evident bad faith, and for personal gain, did then and there willfully, unlawfully, and feloniously, directly intervene, work for, and facilitate the approval of one Isagani de Leon's claim for the payment in the removal and reconstruction of his house and a part of his land expropriated by the government having been affected by the proposed Pasig-Sta.Cruz-Calamba Road, 2nd IBRD Project at Binangonan, Rizal, while the accused, Arturo A. Meiorada is in the discharge of his official and/or administrative functions and after said claim was approved and the corresponding PNB Check No. SN 5625748 was issued and encashed in the amount of P7,200.00 give only P1,000.00 to claimant (Isagani de Leon), appropriating, applying and converting to themselves the amount of P6,200.00, thereby causing damage and prejudice to Isagani de Leon and the government in the aforementioned amount of P6,200.00.

Contrary to law.

Except for the date of the commission of the offense, the name of the aggrieved private party, the PNB Check number, the amount involved and the number of John Does, the seven other informations are verbatim repetitions of the above.

The facts as found by the respondent Sandiganbayan are as follows:

Arturo A. Meiorada was a public officer who was first employed as a temporary skilled laborer in the Bureau of Public Works on March 16, 1947, and then as right-of-way agent in the Office of the Highway District Engineer, Pasig, Metro Manila, from February, 1974 up to December 31, 1978. As a right-of-way agent, his main duty was to negotiate with property owners affected by highway constructions or improvements for the purpose of compensating them for the damages incurred by said owners.

Among those whose lots and improvements were affected by the widening of the proposed Pasig-Sta. Cruz-Calamba Road, 2nd IBRD Project, at Binangonan, Rizal were Isagani de Leon, Isaac Carlos, Napoleon Maybituin, Dominga Villaroza, Florentino de la Cruz, Cipriano Aran, Celestina S. Mallari and Rodolfo Rivera, all residents of Mambog, Binangonan, Rizal.

Sometime in October or November, 1977, petitioner contacted the aforementioned persons and informed them that he could work out their claims for payment of the values of their lots and/or improvements affected by the widening of said highway. In the process, Mejorada required the claimants to sign blank copies of the "Sworn Statement on the Correct and Fair Market Value of Real Properties" and "Agreement to Demolish, Remove and Reconstruct improvements" pertinent to their claims. The claimants complied without bothering to find out what the documents were all about as they were only interested in the payment of damages.

In said "Sworn Statements" and "Agreements to Demolish" the value of the respective properties of the claimants were made to appear very much higher than the actual value claimed by them. Likewise, the said "Agreements to Demolish" reflected the value of the improvements "as per assessor" which on the average was only P2,000.00 lower than the value declared by the owners in their sworn statements. The value as per assessor was in turn supported by the Declarations of Real Property in the names of the claimants containing an assessed value exactly the same as that stated in the Agreements to Demolish as per assessor", except the claims of De la Cruz and Aran where there is only a difference of P400.00 and P200.00, respectively, it turned out, however, that said Declarations of Property are not really intended for the claimants as they were registered in the names of other persons, thus showing that they were all falsified.

A few months after processing the claims, accused accompanied the claimants to the Office of the Highway District Engineer at the provincial Capitol of Pasig, Metro Manila, to receive payments and personally assisted the claimants in signing the vouchers and encashing the checks by certifying as to their identities and guaranteeing payment.

Right after the claimants had received the proceeds of their checks, accused accompanied them to his car which was parked nearby where they were divested of the amounts paid to them leaving only the sum of P1,000.00 to each except Isaac Carlos to whom P5,000.00 was left, explaining to them that there were many who would share in said amounts. All the claimants were helpless to complain because they were afraid of the accused and his armed companion.

The claimants, through the assistance of counsel, filed their complaints with the Provincial Fiscal's Office of Pasig, Metro Manila, narrating in their supporting sworn statements what they later testified to in court.

Five issues are raised in this petition to review the decision of the Sandiganbayan:

- I. Whether or not the essential elements constituting the offense penalized by section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act have been clearly and convincingly proven by the prosecution;
- II. Whether or not the Sandiganbayan is a court of competent jurisdiction duly constituted in accordance with Pres. Dec. No. 1606;
- III. Whether or not the penalty imposed upon the petitioner is excessive and contrary to the three-fold rule as provided for by Article 70 of the Revised Penal Code;
- IV. Whether or not there is a variance between the offense charged in the information and the offense proved;
- V. Whether or not the conclusion drawn from the record of the Sandiganbayan in arriving at a verdict of

conviction of petitioner is correct as a question of law which this Honorable Court is authorized to pass upon.

I. Petitioner contends that the eight informations filed against him before the Sandiganbayan are fatally defective in that it failed to alleged the essential ingredients or elements constituting the offense penalized by Section 3(e) of Rep. Act No. 3019.

The section under which, the accused-petitioner was charged provides:

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:

* * *

(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.

Petitioner enumerated three elements which in his opinion constitute a violation of Section 3 (e).

First, that the accused must be a public officer charged with the duty or granting licenses or permits or other concessions. Petitioner contends that inasmuch as he is not charged with the duty of granting licenses, permits or other concessions, then he is not the officer contemplated by Section 3 (e).

Section 3 cited above enumerates in eleven subsections the corrupt practices of any public officer declared unlawful. Its reference to "any public officer" is without distinction or qualification and it specifies the acts declared unlawful. We agree with the view adopted by the Solicitor General that the last sentence of paragraph (e) is intended to make clear the inclusion of officers and employees of offices or government corporations which under the ordinary concept of "public officers" may not come within the term. It is a strained construction of the provision to read it as applying exclusively to public officers charged with the duty of granting licenses or permits or other concessions.

The first element, therefore, of Section 3 (e) is that the accused must be a public officer. This, the informations did not fail to allege.

Second, that such public officer caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions.

Petitioner denies that there was injury or damage caused the Government because the payments were allegedly made on the basis of a document solely made by the Highway District Engineer to which petitioner had no hand in preparing. The fact, however, is that the government suffered undue injury as a result of the petitioner's having inflated the true claims of complainants which became the basis of the report submitted by the Highway District Engineer to the Regional Director of the Department of Highways and which eventually became the basis of payment. His contention that he had no participation is belied by the fact that as a right-of-way-agent, his duty was precisely to negotiate with property owners who are affected by highway constructions for the purpose of compensating them.

On the part of the complainants, the injury caused to them consists in their being divested of a large proportion of their claims and receiving payment in an amount even lower than the actual damage they incurred. They were

deprived of the just compensation to which they are entitled.

Third, the injury to any party or giving any private party any unwarranted benefits, advantage or preference was done through manifest, partiality, evident bad faith or gross inexcusable negligence.

Petitioner argues that for the third element to be present, the alleged injury or damage to the complainants and the government must have been caused by the public officer in the discharge of his official administrative or judicial functions and inasmuch as when the damage was caused to the complainants, he was no longer discharging his official administrative functions, therefore, he is not liable for the offense charged.

The argument is devoid of merit. The Sandiganbayan established the fact that the petitioner took advantage of his position as a right-of-way-agent by making the claimants sign the aforementioned agreements to demolish and sworn statements which contained falsified declarations of the value of the improvements and lots. There was evident bad faith on the part of the petitioner when he inflated the values of the true claims and when he divested the claimants of a large share of the amounts due them.

In view of the above holding, We also dispose of the fourth issue which relates to the allegation that petitioner cannot be convicted for a violation of the Anti-Graft Law because the evidence adduced by the prosecution is not the violation of Section 3 (e) but the crime of robbery. Contrary to the petitioner's averment, We find no variance between the offense charged in the informations and the offense proved. The prosecution was able to establish through the corroborating testimonies of the witnesses presented how, through evident bad faith, petitioner caused damage to the claimants and the Government. The manner by which the petitioner divested the private parties of the compensation they received was part of the scheme which commenced when the petitioner approached the claimants and informed them that he could work out their claims for payment of the values of their lots and/or improvements affected by the widening of the Pasig-Sta. Cruz - Calamba Road. The evidence presented by the prosecution clearly establish a violation of Section 3 (e).

II. The petitioner also assails the competency of the Sandiganbayan to hear and decide this case. He argues that before the Sandiganbayan could legally function as a judicial body, at least two (2) divisions, or majority of the justices shall have been duly constituted and appointed.

We previously ruled on this matter in the case of *De Guzman v. People* (G.R. No. 54288, December 15, 1982, 119 SCRA 337). In that case, the petitioner *De Guzman* questioned the authority of the Sandiganbayan to hear and decide his case on the same ground that herein petitioner assails its jurisdiction. The Court upheld the authority of the Sandiganbayan saying that:

Although the Sandiganbayan is composed of a Presiding Justice and eight Associate Justices, it does not mean that it cannot validly function without all of the Divisions constituted. Section 3 of P.D.1606 provides that the "Sandiganbayan shall sit in three divisions of three justices each" while Section 5 thereof Provides that the unanimous vote of three justices in a division shall be necessary for the pronouncement of a judgment.

Thus the Sandiganbayan functions in Divisions of three Justices each and each Division functions independently of the other. As long as a division has been duly constituted it is a judicial body whose pronouncements are binding as judgments of the Sandiganbayan.

The judgment convicting petitioner was a unanimous Decision of the First Division duly constituted. It thus met the requirement for the pronouncement of judgment as required by Section 5 of P.D. 1606 supra.

III. The third issue raised by the petitioner concerns the penalty imposed by the Sandiganbayan which totals fifty-six (56) years and eight (8) days of imprisonment. Petitioner impugns this as contrary to the three-fold rule and insists that the duration of the aggregate penalties should not exceed forty (40) years.

Petitioner is mistaken in his application of the three-fold rule as set forth in Article 70 of the Revised Penal Code. This article is to be taken into account not in the imposition of the penalty but in connection with the service of the sentence imposed [People v. Escares, 102 Phil 677 (1957)]. Article 70 speaks of "service" of sentence, "duration" of penalty and penalty "to be inflicted". Nowhere in the article is anything mentioned about the "imposition of penalty". It merely provides that the prisoner cannot be made to serve more than three times the most severe of these penalties the maximum of which is forty years.

The Sandiganbayan, therefore, did not commit any error in imposing eight penalties for the eight informations filed against the accused-petitioner. As We pointed out in the case of People v. Peralta (No. L-19069, October 29, 1968, 25 SCRA 759, 783-784):

. . . Even without the authority provided by Article 70, courts can still impose as many penalties as there are separate and distinct offenses committed, since for every individual crime committed, a corresponding penalty is prescribed by law. Each single crime is an outrage against the State for which the latter, thru the courts of justice, has the power to impose the appropriate penal sanctions.

In the light of the above reasons, petitioner cannot assail the penalty imposed upon him as harsh, cruel and unusual (See Veniegas v. People, G.R. No. 57601-06, July 20, 1982, 115 SCRA 790, 792).

We deem it unnecessary to pass upon the fifth issue raised in view of the foregoing discussion.

WHEREFORE, the petition is denied for lack of merit.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, and Sarmiento, JJ., concur.

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