

AURORA MEJIA, PETITIONER, VS. HON. MANUEL PAMARAN, HON. ROMEO ESCAREAL, HON. CONRADO MOLINA, PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE FIRST DIVISION SANDIGANBAYAN, AND PE...

G.R. Nos. 56741-42. April 15, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a petition for review of the decision of the SANDIGANBAYAN of April 23, 1981, the dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered as follows:

- In Criminal Case No. 1988, accused Aurora Mejia y Rodriguez is hereby found guilty beyond reasonable doubt of violation of paragraph (b), Section 3 of Republic Act No. 3019 and is hereby sentenced to an indeterminate imprisonment ranging from FOUR (4) YEARS and ONE (1) DAY as minimum to SEVEN (7) YEARS as maximum, to suffer perpetual disqualification from public office and to indemnify the victim Josefina Meimban the sum of P1,000.00 representing the money given to her; and
- In Criminal Case No. 1989, accused Aurora Mejia y Rodriguez is hereby found guilty beyond reasonable doubt of violation of paragraph (b), Section 3 of Republic Act No. 3019 and is hereby sentenced to an indeterminate imprisonment ranging from FOUR (4) YEARS and ONE (1) DAY as minimum to SEVEN (7) YEARS as maximum, to suffer perpetual disqualification from public office and to indemnify the victim Pilar Bautista the amount of P500 representing the money given to her.

Accused is further ordered to pay the costs of these proceedings".

In this petition, petitioner raises the following issues:

- WHETHER OR NOT RESPONDENT SANDIGANBAYAN IN TAKING COGNIZANCE OF THE CASES AGAINST PETITIONER AND IN EVENTUALLY CONVICTING HER, ACTED WITHOUT JURISDICTION AND IN VIOLATION OF THE GUARANTY OF DUE PROCESS OF LAW CONSIDERING THAT IT HAS NEITHER BEEN CREATED AS MANDATED BY THE CONSTITUTION NOR CONSTITUTED AS CONCEIVED BY THE DECREE FOR ITS CREATION;
- WHETHER OR NOT THE PROCEEDINGS TAKEN BY RESPONDENT SANNDIGANBAYAN IN THE CASE AT BAR ARE VOID AB INITIO CONSIDERING THAT THE DECREE CREATING IT PROVIDE FOR THE PROCEDURES THAT PARTAKES THE NATURE OF AN EX-POST FACTO LAW AND SUCH PROCEDURES VIOLATE THE GUARANTY TO EQUAL PROTECTION OF THE LAW CONSIDERING THAT DIFFERENT AND PREJUDICIAL METHOD OF APPEAL IS PRESCRIBED;
- WHETHER OR NOT PETITIONER MAY BE CONVICTED OF AN OFFENSE NOT ALLEGED IN THE INFORMATION AS WHEN THE PRETENDED REQUEST AND RECEIPT OF MONEY FROM THE COMPLAINING WITNESS WAS ALLEDGEDLY IN CONSIDERATION OF "THE EARLY SETTING OF

A MOTION TO WITHDRAW COMPROMISE AGREEMENT AND A FAVORABLE RESOLUTION THEREON" WHEN SAID COMPLAINANT WAS NEVER A PARTY TO ANY COMPROMISE AGREEMENT (Crim. case No. 1988);

- WHETHER OR NOT THE PETITIONER MAY BE CONVICTED ON FATALLY DEFECTIVE INFORMATION AS WHEN SAID INFORMATION CHARGES THAT PETITIONER ALLEGEDLY DEMANDED AND RECEIVED P500 AND THE SANDIGANBAYAN MADE A FINDING THAT THE AMOUNT WAS P1,000 (Crim Case 1988) AND WHEN THE INFORMATION CHARGES THAT PETITIONER ALLEGEDLY REQUESTED AND RECEIVED P1,000 AND THE SANDIGANBAYAN MADE A FINDING THAT THE AMOUNT WAS P500 (Crim Case No. 1989) (Annexess "B" and "C").

- WHETHER OR NOT THERE IS SUBSTANTIAL EVIDENCE ON RECORD TO JUSTIFY THE VERDICT OF CONVICTION OF PETITIONER CONSIDERING THAT THE PROSECUTION'S EVIDENCE WAS MAINLY HEARSAY AND THE MOTIVES OF COMPLAINANTS CLEARLY ESTABLISHED;

- WHETHER OR NOT THE PETITIONER IN HER CAPACITY AS BRANCH CLERK OF COURT INTERVENES IN SETTING CASES FOR HEARING AND FORMULATES RESOLUTIONS THEREON;

- WHETHER OR NOT THE RESPONDENT SANDIGANBAYAN COULD DISREGARD ESTABLISHED RULES OF PROCEDURE, AS WHEN IT ALLOWED THE RECALL OF PETITIONER, AFTER EXHAUSTING CROSS-EXAMINATION, AND SUBJECTED HER TO ADDITIONAL CROSS-EXAMINATION ON ALLEGED ATTEMPT ON PETITIONER'S PART TO BRIBE PROSECUTOR CRISTINA PATERNO, WHICH SHOULD HAVE BEEN PART OF THE PROSECUTION'S EVIDENCE IN CHIEF".

The findings of facts of the respondent court are as follows:

"The instant prosecutions had their roots on six (6) ejectment cases filed separately in the City Court of Manila by Eusebio Lu against Feliciano F. Endangan, Josefina Meimban, Teodorico Bontia, Rolando Antillon, Jose Mabalot and Vicente Villamor. All cases were decided by the City Court of Manila against the defendants, all of whom appealed in due time to the Court of First Instance of Manila where the cases were raffled to Branch XXVI, presided over by the Honorable Jose P. Alejandro, docketed therein as follows: Civil Case No. 122794 (Feliciano F. Endangan), Civil Case No. 122795 (Josefina Meimban).

Civil Case No. 122796 (Teodorico Bontia), Civil Case No. 122797 (Rolando Antillon), Civil Case No. 122798 (Jose Mabalot), Civil Case No. 122799 (Vicente Villamor), On August 12, 1979, five (5) of the defendants-appellants, namely, Endangan (Case No. 122794), Bontia (Case NO. 122796), Antillon (Case No. 122797), Mabalot (Case No. 122798) and Villamor (Case No. 122799) entered into a compromise agreement with the plaintiff, Eusebio Lu whereby the appellants individually received from the appellee the sum of P5,000 in consideration of which the appellants agreed to vacate the premises in question and remove their houses therefrom within sixty (60) days from the date of the execution of the agreement, failing which the appellee shall have the authority to demolish the appellant's houses with costs thereof chargeable against them. The compromise agreement was submitted to the court. Josefin Meimban, the defendant-appellant in Case No. 122795, did not join her co-defendants-appellants in entering into the compromise agreement (Exh. "A"). Up to that stage of the cases, the counsel of record of the defendants-appellants was Atty. S. G. Doron. On August 22, 1979, Atty. Modesto R. Espano of the Citizens Legal Assistance Office (CLAO), wrote Atty. Doron to inform him that Mrs. Meimban has sought the assistance of the CLAO regarding her case, and asked that the records of the case be sent to him. (Exh. "F-1"). As a consequence, Atty. Doron filed on August 30, 1979 his MOTION TO WITHDRAW APPEARANCE as counsel for defendant-appellant Josefina Meimban in Civil Case No. 122795. (Exh. "F"). In short, while the five (5) other defendants-appellants, Endangan, Bontia, Antillon, Mabalot and Villamor, have decided to settle

with the plaintiff through compromise agreement that they signed, Josefina Meimban resolved to prosecute her appeal in her own case, Civil Case No. 122795. These backdrops are not disputed.

What transpired while the cases were pending in the Court of first Instance of Manila insofar as material to the prosecutions at bar, are matters contested by conflicting evidence of the prosecution and the defense.

Josefina Meimban testified that she followed up her case in Branch XXVI of the Court of First Instance of Manila and had occasion to talk to Danilo Buenaventura of that Branch who told her that her case was already submitted for decision. She sought assistance from the CLAO where she was instructed by Atty. Espano to find out the real status of the case. She returned to the court sometime in July 1979 and that was when she first came to know Atty. Aurora Mejia who told her that the case has not yet been decided because there was still one party who has not signed the compromise agreement prepared by Atty. Doron. Atty. Mejia also remarked that she was surprised why rich people were helping in that case, like a certain Atty. Lu, a brother of the plaintiff, who has been approaching the presiding judge; and then told her she would help them provided they give P1,000 each for a gift to the Judge, to which she replied she would broach the matter to her companions. From the court, she went to Atty. Modesto Espano and told the lawyer the case was not yet submitted. Atty. Espano instructed her to get her papers from Atty. Doron, which she did. Thereafter, she told Pilar Bautista, daughter of defendant Jose Mabalot in Civil Case No. 122798, and Gloria Antonio, daughter of defendant Vicente Villamor in Civil Case No. 122799, about the help offered by Atty. Mejia. The two said they would think it over as they had already signed something. When she went to the court to deposit her rentals Atty. Mejia asked her if her companions were agreeable to the suggestion and she replied she had already told them and that they would consider the matter.

On August 22, 1979, Meimban and Atty. Espano went to the City Hall, and Atty. Espano filed his formal appearance as counsel for Meimban in Civil Case No. 122795, Branch XXVI. On that occasion, Atty. Mejia again mentioned to Meimban the gift she was asking from the latter to be given to the Judge, and added that if Meimban wanted to win the case and she wanted her help, they have to give to the Judge because she was the one making the decision. She was not able to give any reply. She went home without telling Atty. Espano what Atty. Mejia had told her. When she returned on August 30, 1979 to deposit her rentals, Atty. Mejia asked her why her companions were not yet moving when they had a chance of winning the case provided they returned the money they received from the plaintiff under the compromise agreement. She replied she would tell them again. When she told Pilar Bautista and Gloria Antonio about it, the two replied that if they could still win their cases by returning the money, she accompany them to Atty. Espano.

They saw Atty. Espano on October 26, 1979. After knowing the purpose of their visit, Atty. Espano agreed to help Bautista and Antonio and prepared a MOTION TO WITHDRAW THE COMPROMISE AND TO FILE MEMORANDA (Exh. "B"). Bautista and Antonio signed the motion for their fathers. The three women -- Meimban, Bautista and Antonio -- and Atty. Espano proceeded to the City Hall and filed the motion. From the court they went down to the canteen at the mezzanine floor of the City Hall where Atty. Espano left them to have some documents xeroxed. Atty. Mejia followed them to the canteen. This time Atty. Mejia told Bautista she could help them provided they gave her P500 for expenses. Bautista and Antonio just kept silent. Atty. Espano returned to the canteen and rejoined them. Atty. Mejia told Atty. Espano there was a chance of winning the Meimban case. Before leaving them, Atty. Mejia told her (Meimban) to take care of her companions.

When she deposited her rentals on October 30, 1979, Atty. Mejia told her the Judge needed the money right away. She promised to give P1,000 on November 20, 1979. From there she went to Atty. Espano and told him about it. At Atty. Espano's suggestion they agreed to meet in Branch XXVI at 10:00 a.m. on November 20 when they would entrap Atty. Mejia in the delivery of the money with the assistance of her policeman friend assigned in the office of the Mayor. She arrived in court with Sylvia Dizon from whom she borrowed P500 to complete the

P1,000 at about 11:00 a.m. but did not meet Atty. Espano. At Atty. Mejia's instruction they waited for about an hour outside Atty. Mejia's office. About lunchtime, Atty. Mejia called for her inside the office. She left Sylvia Dizon seated outside in the corridor fronting the door of Atty. Mejia's office. Atty. Mejia asked her if she had brought the money, she replied she had and gave the P1,000 to Atty. Mejia. She and Sylvia Dizon then left and looked for Atty. Espano in the different salas of the court. Not finding him, they went to his office. Atty. Espano got mad upon knowing that she had given the money to Atty. Mejia and told her not to give anymore.

December 7, 1979 was the date set for the hearing of the MOTION TO WITHDRAW THE COMPROMISE AND TO FILE MEMORANDA (Motion in short) filed by Pilar Bautista and Gloria Antonio in behalf of their fathers (Exh. "C"). Meimban and Pilar Bautista went to Branch XXVI for that hearing. Atty. Mejia told them to wait and that if an oppositor to the Motion would appear, she would accompany them to the sala of Judge Cui of Branch XXV (the pair branch of Branch XXVI[1]), where the Motion would be heard since Judge Alejandro of Branch XXVI was on leave. While they were waiting, Atty. Mejia approached her (Meimban) and said no oppositor might arrive, and asked her if Bautista had brought one-half (1/2) of the P1,000.00. She asked Bautista and the latter replied she did not have anything as she thought it was Meimban who had the money. In the meantime, Atty. Mejia left and told her that if Bautista would have the money, just put it in an envelope. Bautista borrowed P500 from her, which was supposedly intended for the branch Clerk of Court of Judge Cui. Bautista placed the money in an envelope and the two of them, Bautista and Meimban, went to Atty. Mejia's office. Bautista handed the envelope containing the money to Atty. Mejia who received it.

Pilar Bautista y Mabalot confirmed that her father, Jose Mabalot, had received P5,000.00 from the plaintiff in Civil Case No. 122798 pursuant to the compromise agreement that her father had signed; that while they were waiting for their house to be demolished, Josefina Meimban told her they still had hope of winning the case because she has been frequenting Branch XXVI and talking with Atty. Mejia who had promised to assist them; that Gloria Antonio, the daughter of one of the other defendants, Vicente Villamor, convinced her that they try it; and that they asked Meimban to accompany them to Atty. Espano of the CLAO on October 26, 1979. She testified further that Atty. Espano prepared the Motion at hers and Antonio's request which they signed for their fathers (Exh. "B"). With Atty. Espano, Meimban and Antonio, they went to the court and filed the motion with Atty. Mejia. They proceeded to the canteen, and while there Atty. Espano left to have some documents xeroxed. Atty. Mejia arrived shortly after Atty. Espano had left. Atty. Mejia told them if they wanted the resolution of the Motion expedited they each give P1,000.00 for expenses. They did not say anything. When Atty. Espano rejoined them, Atty. Mejia commended him for his memorandum and said it was well prepared and there was hope in the case. Atty. Mejia then left and they went home after Meimban paid their bill which they shared among themselves. On December 6, 1979, in the afternoon, she and Meimban went to Branch XXVI to file a motion for postponement of the hearing of the Motion scheduled the next day, December 7, 1979. Atty. Mejia told them to come just the same on the following day despite their motion for postponement. So they did return on December 7, reaching the court at about 8:30 a.m. Atty. Mejia told them to wait because oppositors to the Motion might appear. When no oppositor appeared, Atty. Mejia asked them to give even one-half of the amount intended for expenses because the case was with the sala of Judge Cui as Judge Alejandro was absent, and the money was intended for the clerk of court of Judge Cui. She asked Meimban if she had money with her and it was from Meimban that she borrowed P500. At Meimban's suggestion that they put the money in an envelope, they secured one near the GSIS building, put the P500 in it and returned to the office of Atty. Mejia to whom she handed the envelope containing the money. Atty. Mejia received the envelope and placed it inside her desk drawer. A few days later, she received a copy of an order dated December 10, 1979 signed by Judge Cui denying their Motion (Exh. "D"). She forthwith went to Atty. Mejia and asked her what happened. Atty. Mejia answered that she go to Meimban and get the P500 because Meimban still lacked P1,000, and that she also tell Mrs. Meimban to see her

(Atty. Mejia). She went to Meimban and told her what Atty. Mejia said. They went to Atty. Espano who told her not to give anything.

Sylvia Dizon y Resurreccion confirmed that she loaned P500 to Josefina Meimban and went with her to the court on November 20, 1979 to verify if Meimban really needed the money to give to Atty. Mejia. She was seated at the corridor near the door of Atty. Mejia's office which was partially open, and she saw Meimban hand an envelope to Atty. Mejia who put it inside her desk drawer.

Atty. Modesto Espano y Rodriguez was the lawyer assigned by the CLAO to assist Josefina Meimban in her case. He was with Meimban on August 22, 1979 when he filed his formal appearance in the case pending before Branch XXVI of the Court of First Instance. On the occasion, he saw Atty. Mejia talk to Meimban. Later, on October 26, 1979, Meimban told him that Atty. Mejia was demanding money and gift to be given to the presiding judge of Branch XXVI, that Atty. Mejia has been telling Meimban that she was the one preparing the decisions of the Judge and that Atty. Mejia would reverse the decision of the City Court in the appealed case. It was also on that day, October 26, 1979, in his office at the CLAO that he met Pilar Bautista and Gloria Antonio for the first time accompanied by Meimban. Bautista and Antonio were also seeking assistance from the CLAO in their desire to withdraw a compromise agreement that their fathers had signed and submitted to the court for approval. From his interview of Bautista and Antonio, he gathered that Bautista's father, Jose Mabalot, and Antonio's father Vicente Villamor, were defendants in the ejectment cases filed by Eusebio Lu, and that their fathers were misled by one Endangan and Atty. Doron into signing the agreement. When he asked the whereabouts of their fathers he was told that Vicente Villamor was in Cotabato and Jose Mabalot was an octogenarian. He also gathered from Bautista and Antonio that they had decided to withdraw the compromise agreement because Atty. Mejia had told them that they had a chance of winning the case by having the decision of the lower court reversed if they returned the P5,000 given by the plaintiff, as she was the one preparing the decisions for Branch XXVI. He prepared the Motion (Exh. "B") and had it signed by Bautista for Jose Mabalot, and Antonio for Vicente Villamor, that same afternoon of October 26, 1979, he filed the Motion in court with Meimban, Bautista and Antonio. Meimban told him that Atty. Mejia wanted to talk to her at the canteen. He and his female companions went ahead to the canteen, but he left them there to have some papers xeroxed at the ground floor of the City Hall. When he returned to the canteen, he saw Atty. Mejia talking to his women companions. He joined them. Atty. Mejia told him they could win in the Meimban case because the decision of the lower court was against Batas Pambansa Blg. 25, and advised him to file a good memorandum. Atty. Meimban also mentioned that there was a good chance of winning the Mabalot and Villamor cases provided the P5,000 each received by the defendants was returned. He did not say anything since he had advised his clients already not to give Atty. Mejia anything. After leaving the canteen and while they were still at the ground floor his clients told him that Atty. Mejia was demanding money from them for expenses for the Judge. He reiterated his advice to them not to give any.

Testimony was also given regarding an alleged attempt of Atty. Mejia to bribe the Tanodbayan Investigator who investigated the complaints that led to the filing of the instant cases. Christina Corall-Paterno declared that she signed and submitted her recommendation to prosecute the accused for violation of the Anti-Graft and Corrupt Practices Act on the complaints of Josefina Meimban and Pilar Bautista, and to drop the other complaints, on August 27, 1980. On September 3, 1980, Atty. Mejia came to her to inquire (nangungumusta). She replied she had already collated the evidence and submitted her recommendation to Director Herrera. Atty. Mejia then placed something on her table wrapped in pink tissue paper and immediately stood up and left without saying anything. She opened the wrapper and found an intricate gold chain with a pendant bearing an inscription of letter "C". Her initial reaction was to return it but on second thought that she needed somebody to witness the returning of the jewelry, and it being almost 4:00 p.m. and Atty. Mejia might not return to her office anymore, she waited till next morning and asked one of their employees, Dante Ramos, to return the gold chain the first hour of September 4.

Dante Ramos was able to return it."

Under the first assigned error, petitioner contends that respondent court acted without jurisdiction and in violation of the guaranty of due process of law as it has neither been created as mandated by the Constitution nor constituted as conceived by the decree for its creation. Petitioners stress that the creation of the Sandiganbayan by Presidential Decree No. 1606 is an arrogation by the President of the power vested by the Constitution in the National Assembly.

In the case of *Nunez vs. Sandiganbayan*[2] this Court categorically ruled on the issue when it held:

"It is to be made clear that the power of the then President and Prime Minister Ferdinand E. Marcos to create the Sandiganbayan in 1978 is not challenged in this proceeding. While such competence under the 1973 Constitution contemplated that such an act should come from the National Assembly, the 1976 Amendments made clear that he as incumbent President 'shall continue to exercise legislative powers until martial law shall have been lifted.'[3] Thus, there is an affirmation of the ruling of this Court in *Aquino Jr. v. Commission on Elections*[4] decided in 1975. In the language of the ponente, Justice Makasiar, it dissipated 'all doubts as to the legality of such law-making authority by the President during the period of Martial Law, * * *'[5] As the opinion went on to state: 'It is not a grant of authority to legislate, but a recognition of such power as already existing in favor of the incumbent President during the period of Martial Law.'[6]

Under the second assigned error it is alleged that the procedure provided for by the Sandiganbayan are ex post facto and hence all proceedings taken against petitioner are void ab initio being in violation of the Constitution.

It is further argued that only one stage of appeal is available to the petitioner under PD No. 1606 which effectively deprives her of the intermediate recourse to the Court of Appeals and that in said appeal to this Court only issues of law maybe raised and worse still the appeal has become a matter of discretion rather than a matter of right. Petitioner contends this is a denial of the equal protection of the law.

Again, in *Nunez*[7] this Court effectively disposed of this issue when it held:

2. Petitioner in his memorandum invokes the guarantee of equal protection in seeking to nullify Presidential Decree No. 1486. What does it signify? To quote from *J.M. Tuason & Co. v. Land Tenure Administration*.[8] 'The ideal situation is for the law's benefits to be available to all, that none be placed outside the sphere of its coverage. Only thus could chance and favor be excluded and the affairs of men governed by that serene and impartial uniformity, which is of the very essence of the idea of law.'[9] There is recognition, however, in the opinion that what in fact exists 'cannot approximate the ideal. Nor is the law susceptible to the reproach that it does not take into account the realities of the situation. The constitutional guarantee then is not to be given a meaning that disregards what is, what does in fact exist. To assure that the general welfare be promoted, which is the end of law, a regulatory measure may cut into the rights to liberty and property. Those adversely affected may under such circumstances invoke the equal protection clause only if they can show that the governmental act assailed, far from being inspired by the attainment of the common weal was prompted by the spirit of hostility, or at the very least, discrimination that finds no support in reason.'[10] Classification is thus not ruled out, it being sufficient to quote from the *Tuason* decision anew 'that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed. Favoritism and undue preference cannot be allowed. For the principle is that equal protection and security shall be given to every person under circumstances which, if not identical, are analogous. If law be looked upon in terms of burden or charges, those that fall within a class should be treated in the same fashion, whatever restrictions cast on some in the group equally binding on the rest.'[11]

3. The premise underlying petitioner's contention on this point is set forth in his memorandum that: '1. The Sandiganbayan proceedings violates petitioner's right to equal protection, because -- appeal as a matter of right became minimized into a mere matter of discretion; -- appeal likewise was shrunk and limited only to questions of law, excluding a review of the facts and trial evidence; and -- there is only one chance to appeal conviction, by certiorari to the Supreme Court, instead of the traditional two chances; while all other estafa indictees are entitled to appeal as a matter of right covering both law and facts and to two appellate courts, i.e., first to the Court of Appeals and thereafter to the Supreme Court.'[12] That is hardly convincing, considering that the classification satisfies the test announced by this Court through Justice Laurel in *People v. Vera*[13] requiring that it 'must be based on substantial distinctions which make real differences; it must be germane to the purposes of the law; it must not be limited to existing conditions only, and must apply equally to each member of the class.'[14] To repeat, the Constitution specifically makes mention of the creation of a special court, the Sandiganbayan, precisely in response to a problem, the urgency of which cannot be denied, namely, dishonesty in the public service. It follows that those who may thereafter be tried by such court ought to have been aware as far back as January 17, 1973, when the present Constitution came into force, that a different procedure for the accused herein, whether a private citizen as petitioner is or a public official, is not necessarily offensive to the equal protection clause of the Constitution. Petitioner moreover, cannot be unaware of the ruling of this Court in *Co Chiong v. Cuaderno*,[15] a 1949 decision, that the general guarantees of the Bill of Rights, included among which are the due process of law and equal protection clauses must 'give way to [a] specific provision,' in that decision, one reserving to 'Filipino citizens of the operation of public services or utilities.'[16] The scope of such a principle is not to be constricted. It is certainly broad enough to cover the instant situation.

4. The contention that the challenged Presidential Decree is contrary to the ex post facto provision of the Constitution is similarly premised on the allegation that 'petitioner's right of appeal is being diluted or eroded efficacy wise * * *.'[17] A more searching scrutiny of its rationale would demonstrate the lack of persuasiveness of such an argument. The *Kay Villegas Kami*[18] decision, promulgated in 1970, cited by petitioner, supplies the most recent and binding pronouncement on the matter. To quote from the ponencia of Justice Makasiar: 'An ex post facto law is one which: (1) makes criminal an act done before the passage of the law and which was innocent when done, and punishes such an act; (2) aggravates a crime, or makes it greater than it was, when committed; (3) changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed; (4) alters the legal rules of evidences, and authorizes conviction upon less or different testimony than the law required at the time of the commission of the offense; (5) assuming to regulate civil rights and remedies only, in effect imposes penalty or deprivation of a right for something which when done was lawful, and (6) deprives a person accused of a crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty.'[19] Even the most careful scrutiny of the above definition fails to sustain the claim of petitioner. The 'lawful protection' to which an accused 'has become entitled' it qualified, not given a broad scope. It hardly can be argued that the mode of procedure provided for in the statutory right to appeal is therein embraced. This is hardly a controversial matter. This Court has spoken in no uncertain terms. In *People v. Vilo*,[20] a 1949 decision, speaking through the then Justice, later Chief Justice Paras, it made clear that seven of the nine Justices then composing this Court, excepting only the ponente himself and the late Justice Perfecto, were of the opinion that Section 9 of the Judiciary Act of 1948, doing away with the requirement of unanimity under Article 47 of the Revised Penal Code with eight votes sufficing for the imposition of the death sentence, does not suffer from any constitutional infirmity. For them its applicability to crimes committed before its enactment would not make the law ex post facto.

5. x x x x

9. The argument based on denial of due process has much less to recommend it. In the exhaustive forty-two page

memorandum of petitioner, only four and a half pages were devoted to its discussion. There is the allegation of lack of fairness. Much is made of what is characterized as 'the tenor and thrust' of the leading American Supreme Court decision, *Snyder v. Massachusetts*.^[21] Again this citation cuts both ways. With his usual felicitous choice of words, Justice Cardozo, who penned the opinion, emphasized: 'The law, as we have seen, is sedulous in maintaining for a defendant charged with crime whatever forms of procedure are of the essence of an opportunity to defend. Privileges so fundamental as to be inherent in very concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof. But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.'^[22] What is required for compliance with the due process mandate in criminal proceedings? In *Arnault v. Pecson*,^[23] this Court with Justice Tuason as ponente, succinctly identified it with a 'a fair and impartial trial and reasonable opportunity for the preparation of defense.'^[24] In criminal proceedings then, due process is satisfied if the accused is 'informed as to why he is proceeded against and what charge he has to meet, with his conviction being made to rest on evidence that is not tainted with falsity after full opportunity for him to rebut it and the sentence being imposed in accordance with a valid law. It is assumed, of course, that the court that rendered the decision is one of competent jurisdiction.'^[25] The above formulation is a reiteration of what was decided by the American Supreme Court in a case of Philippine origin, *Ong Chang Wing v. United States*^[26] decided during the period of American rule, 1910 to be precise. Thus: 'This court has had frequent occasion to consider the requirements of due process of law as applied to criminal procedure, and, generally speaking, it may be said that if an accused has been heard in a court of competent jurisdiction, and proceeded against under the orderly processes of law, and only punished after inquiry and investigation, upon notice to him, with an opportunity to be heard, and a judgment awarded within the authority of a constitutional law, then he has had due process of law.'^[27]

Under the third assigned error it is alleged that the information in Criminal Case No. 1988 states that the pretended request and receipt of money by petitioner from complainant witness Josefina Meimban was in consideration of the early setting of the hearing of the motion to withdraw the compromise agreement and to secure a favorable resolution thereof when in fact said complainant was never a party to any compromise agreement so that she could not be convicted of an offense not alleged in the information.

Under the fourth assigned error the petitioner alleges that she cannot be convicted on the two defective informations, the first of which (Crim. Case 1988) she allegedly demanded and received P500.00 which the respondent court found to be P1,000.00; and that in Criminal Case No. 1989 the information charged that the petitioner requested and received P1,000.00 while the respondent court found that the amount received was P500.00 so petitioner pleads she cannot be convicted on such defective informations. Under both informations petitioner is charged for violation of Section 3(b) of Rep. Act 3019, otherwise known as the Anti-Graft and Corrupt Practices Law, which enumerates the corrupt practices of any public officer which are declared unlawful as among others –

"Sec. 3(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law."

The elements of the offense are that –

1. It must be committed by –

1) a public officer;

2) who requested and who received a gift, present, etc.;

3)

the gift, present, etc. was for the benefit of said public officer;

4) said public officer requested and/or received the gift, present, etc. in connection with a contract or transaction with the government; and

5) said officer has the right to intervene in such contract or transaction in his/her official capacity under the law.

The finding of the respondent court are that the petitioner demanded and received money from the persons involved in certain cases in Branch 26 of the Court of First Instance (CFI) of Manila where the petitioner was the branch clerk of court in consideration of a promise that she will help in getting them a favorable judgment. In the case of the complainant Josefina Meimban although it is true that she did not enter into an amicable agreement regarding her case as erroneously alleged in the information, nevertheless it has been shown, and as it is also alleged in the information, that she yielded to the request of petitioner for some money in consideration of a promise that petitioner will get a favorable judgment. In a prosecution under the foregoing provision of the Anti-Graft Law the value of the gift, money or present, etc. is immaterial nor is it determinative of the guilt or innocence of the accused or the penalty to be imposed. What is penalized is the receipt of any gift, present, share, percentage, or benefit by a public officer in connection with a contract or transaction with the Government, wherein the public officer has to intervene in his official capacity.

Under the fifth assigned error petitioner argues that there was an ulterior motive on the part of the complainants in testifying against her and that the prosecution evidence is hearsay.

Petitioner therefore raises the question of credibility of the witnesses. The rule is that the findings of facts of the respondent court are conclusive unless there are some facts or circumstances that may have been overlooked that may otherwise affect the result of the case. Petitioner has not successfully demonstrated any cogent reason why this Court should depart from this rule.

Petitioner imputes that Meimban and Bautista testified against her as she refused to intercede in their behalf with the judge to secure a favorable action. The court is not persuaded. Contrary to her pretension that prosecution witnesses were ill-motivated testifying against her, the Court finds that said complaining witnesses would not impute the serious charges against petitioner were it not the truth. Moreover, the testimony of said complaining witnesses are corroborated by Atty. Modesto Espano and Sylvia Dizon who are certainly disinterested witnesses. The bare denial of petitioner cannot prevail over such positive evidence of the prosecution.

Under the sixth assigned error petitioner alleges that she does not intervene in the setting of the hearing of cases and she does not formulate resolutions thereof. The branch clerk of court is the administrative assistant of the presiding judge whose duty is to assist in the management of the calendar of the court and in all other matters not involving the exercise of discretion or judgment of the judge. It is this special relation of the petitioner with the judge who presumably has reposed confidence in her which appears to have been taken advantage of by the petitioner in persuading the complainants to give her money in consideration of a promise to get a favorable resolution of their cases.

Under the seventh assigned error the recall of petitioner for further cross-examination on her attempt to bribe the Tanodbayan prosecutor is a matter within the sound discretion of respondent court. Indeed the testimony of said prosecutor that petitioner tried to persuade her not to prosecute petitioner by giving her a gold chain with pendant wrapped in tissue paper which said prosecutor returned is material evidence to establish the guilt of petitioner.

After a careful review of the records of the case, the Court finds and so holds that the guilt of the petitioner of the offenses charged against her has been established beyond reasonable doubt. She took advantage of her position as branch clerk of court by persuading the offended parties Josefina Meimban and Pilar Bautista to deliver to her the sums of P1,000.00 and P500.00, respectively, in consideration of a promise that petitioner will get a favorable resolution of their cases in court.

The evils of corruption are slowly corroding the pillars of our society. Our courts are not spared by this plague. More often than not those in government who are persuaded or tempted if not actively involved in graft and corruption are the court personnel who lead litigants to believe that they could get a favorable judgment or action in their favor or are otherwise approached or persuaded to so help for a consideration. Worse still there are instances when the corruption reaches the level of the judge which spells the doom of our quest for an honest and impartial administration of justice. Anyone involved in such corrupt exercise should be denounced. This Court does not hesitate to apply the scalpel to cut off the roots of this cancer in the judicial system that can destroy the very purpose of its existence.

Those who are involved in the administration of justice from the highest to the lowest level must live up to the strictest standard of honesty and integrity in the public service. The general public should respect and support such imperative. No attempt to influence them one way or the other much less to bribe them should be made. One cannot buy a bad case nor sell a good one. No amount of money can make out a good case out of a bad one. And even if one succeeds in so doing it would certainly be uncovered and reversed on appeal. Justice will prevail.

This case should be an object lesson for those in the public service. All that we need to be is to go back to the too well known rule of conduct that honesty is the best policy. Those who cannot live up to this criterion should get out of the government service. It is simple as that.

WHEREFORE, the petition for review is DENIED for lack of merit, with costs against petitioner.

SO ORDERED.

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

[1] In accordance with the internal rule of the Court of First Instance of Manila, the different branches are paired and the presiding judge of the paired branches present shall attend to the motions or other incidents of the paired branch whose presiding judge is on leave.

[2] 111 SCRA 443-444.

[3] 1976 Amendments, par. 5.

[4] L-40004, January 31, 1975, 62 SCRA 275.

[5] Ibid, 298.

[6] Ibid, 298-299."

[7] Supra.

[8] 21064, February 18, 1970, 31 SCRA 413.

[9] Ibid, 434-435.

[10] Ibid, 435.

[11] Ibid.

[12] Memorandum of Petitioner, 7?8.

[13] 65 Phil. 56 (1937).

[14] Ibid, 126.

[15] 83 Phil. 242.

[16] Ibid, 251.

[17] Memorandum of Petitioner, 7-9, 36.

[18] In re: Kay Villegas Kami, Inc., L-32485, October 22, 1970, 35 SCRA 429.

[19] Ibid, 431.

[20] 82 Phil. 524. It is worthy of mention that the then Justice Paras was the sole member of the Court relying on the 1908 decision, *United States v. Gomez*, 12 Phil. 279, cited by petitioner.

[21] 291 US 97 (1934).

[22] Ibid, 122.

[23] 87 Phil. 418 (1950).

[24] Ibid, 422.

[25] Cf. *Vera v. People*, L-31218, Feb. 18, 1970, 31 SCRA 711, 7171.

[26] 218 US 272.

[27] Ibid, 279-280."

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