

LAZARO VENIEGAS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.

G.R. Nos. 57601-06. July 30, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petitioner in seeking to set aside the decision of the Sandiganbayan convicting him of six (6) counts of malversation and six (6) counts of falsification assails the decision as violative of due process and the prohibition against cruel and unusual punishment. He also contends that P.D. No. 1606, which created the Sandiganbayan, is an ex-post facto legislation.

The petition must fail on all counts.

It is to be noted that it is the decision, not the statute, which petitioner assails as having violated the due process and the cruel and unusual punishment clauses of the Constitution. He claims that he was deprived of due process of law for having been convicted without evidence of his guilt. This is belied by the decision of the Sandiganbayan which states and analyzes the evidence against him. Further on due process, petitioner claims that having been convicted of malversation, he should not have been convicted anymore of falsification. But as the Sandiganbayan states in its decision, the public funds were already in petitioner's possession and he could have misappropriated them without having to resort to falsification but which he did anyway. His other claim that he was made to answer several times for a single offense is baseless for the misappropriations and falsifications were committed by him separately. Lastly, it is claimed that the decision imposed cruel and unusual punishment because for the twelve (12) convictions, he would be made to serve ninety two (92) years of imprisonment which is "shocking to the moral sense x x x an offense to the constitution." This is nonsense. Obviously, petitioner's counsel has forgotten the provisions of Art. 70, par. 4 of the Revised Penal Code which mandates:

"Notwithstanding the provisions of the rule next preceding, the maximum duration of the convict's sentence shall not be more than threefold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the same maximum period."

As to the claim that P.D. No. 1606 is ex-post facto legislation, *Nuñez vs. Sandiganbayan*, G.R. Nos. 50581-50617, says it is not so.

WHEREFORE, the petition is dismissed for lack of merit.

SO ORDERED.

Fernando, C.J., Barredo, Aquino, Concepcion, Jr., Fernandez, Guerrero, De Castro, Melencio-Herrera, Plana, and Escolin, JJ., concur.

Teehankee, J., reiterates his concurrence with the grounds of Justice Makasiar's dissent in G.R. Nos. 50581 & 50617 (*Nuñez vs. Sandiganbayan*).

Makasiar, J., reiterates his concurrence and dissent in *Núñez vs. Sandiganbayan* (Nos. 50581-50617).
Ericta, J., no part.

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