

**MADID MACAGA-AN, BATO-ALI UMPAT, HADJI DISAMBURUN
MACAPODI, HADJI KIRAM BURUAN, HADJI DIMASINDIL
PANDAPATAN, AMER MANALUDNONG, HADJI AMER AMAI KUROT,
HADJI MANGOTIM MOLAN, HADJI...**

G.R. Nos. 77317-50. July 29, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

The 22 petitioners include municipal treasurers of various municipalities of Lanao del Norte and Lanao del Sur, and the Officer-in-Charge of the Provincial Treasurer's Office of Lanao del Sur, as well as the Provincial Auditor and the Assistant Provincial Auditor of Lanao del Sur. Petitioners were charged and convicted in 33 cases for estafa through falsification of public and commercial documents (Article 315, in relation to Article 171, Revised Penal Code) in a decision of the Sandiganbayan promulgated on 15 July 1981. The total amount of Government funds (treasury warrants) involved was somewhat over P2.7 million.

On 14 March 1986, petitioners moved "to close their cases and release [their] bond[s]" on the ground that they had been given amnesty by former President F. E. Marcos on 28 January 1986. The Sandiganbayan required them to submit originals or authenticated copies of their amnesty papers, which petitioners were unable to produce. Thereupon, the Sandiganbayan denied petitioners' motion. In a motion for reconsideration, the accused sought to prove by secondary evidence their claim that they had been granted amnesty by former President Marcos. The Tanodbayan objected to allowing the accused to adduce secondary evidence of grant(s) of amnesty to the accused. In an extended resolution dated 27 January 1987, the respondent Sandiganbayan denied the motion for reconsideration.

The petitioners now seek certiorari to review and set aside the extended resolution of the Sandiganbayan, claiming that the respondent court committed reversible error, firstly, in holding that Presidential Decree No. 1082, the applicable amnesty statute according to petitioners, did not apply to them; and secondly, in not allowing them to present secondary evidence of the amnesty allegedly granted by the former President to the petitioners.

The petitioners state that they applied for amnesty through the 3rd and 11th Amnesty Commission (sic) of Lanao del Sur and Marawi City and that on 2 February 1985, they were granted conditional amnesty by the said Commission, subject to the approval or final action of the President of the Philippines pursuant to P.D. No. 1082, dated 2 February 1977. The Amnesty Commission, the petitioners continue, endorsed the amnesty applications of the petitioners to the President, recommending approval thereof or grant of executive clemency to the petitioners. The petitioners' amnesty applications are said to have been submitted to the Office of the President by the then Presidential Assistant Victor Nituda. Former Governor Mohammed Ali Dimaporo, the petitioners further state, made written representations dated 27 January 1986 with former President Marcos concerning the petitioners' applications during a political rally of the Kilusang Bagong Lipunan on 22 January 1986. Mr. Marcos apparently wrote on the upper righthand corner of former Governor Dimaporo's letter the following: "Approved" and signed

the same with a partly illegible date. The petitioners state, finally, that the original copies of the amnesty papers were in the possession of then Presidential Adviser Joaquin Venus and were lost or destroyed at Malacañang "during the February 1986 bloodless military revolution" and could not now be located.

The respondent Sandiganbayan declined to allow the petitioners to submit secondary evidence of the claimed applications for and grant of amnesty, upon the ground that even if the petitioners were to succeed in proving or authenticating the alleged amnesty papers through secondary evidence, petitioners would nonetheless not be entitled to discharge from the convictions rendered by that court. The respondent court held that the benefits of amnesty were never available to the petitioners under P.D. No. 1182.

We agree with the Sandiganbayan, P.D. No. 1182 as amended by P.D. No. 1429, dated 10 June 1978, provides, in relevant portion, as follows:

"SECTION 1. Proclamation of Amnesty. - Amnesty is hereby decreed in favor of all persons who have been arrested and/or charged, or although not arrested and/or charged may have committed acts which make them liable for, violation of the provisions of Republic Act No. 1700, as amended by Presidential Decree no. 885, and those who have been arrested for, and/or charged or chargeable with crimes against public order as defined and penalized under Revised Penal Code, including those crimes and offenses which may have been committed by said persons in furtherance thereof.

SEC. 2. Persons Disqualified. - The following persons are disqualified from amnesty under this Decree:

(a) Those who have promoted, maintained or headed a rebellion or insurrection or who, while holding public office or employment, took part therein, engaged in war against the forces of the Government, destroyed property or committed serious violence, exacted contributions or diverted public funds from the lawful purpose for which they had been appropriated; provided, that persons who have been arrested and/or charged with having merely participated or executed the commands of others in a rebellion may be granted amnesty.

(b) Those who have been arrested and/or charged with murder, homicide, serious physical injuries, crimes against chastity, robbery, piracy, arson, hijacking, violations of the Firearms and Explosives Law, and assault upon and resistance and disobedience to persons in authority and their agents, except if such crime or offense was committed in furtherance of subversion or crimes against public order as a mere participant/affiliate/member.

x x x

SEC. 4. Conditions for the grant of amnesty. - Any person applying for amnesty pursuant to this Decree must satisfy the following requirements:

a. If under arrest or charged as of the date of this decree, he must submit his application not later than September 30, 1978 in the prescribed form hereto attached as Annex A;

If not under arrest, he must submit such application within six months after his arrest or surrender;

b. He must renew his oath of allegiance to the Republic of the Philippines and swear or affirm to support and defend the Constitution of the Philippines; and

c. He must surrender whatever unlicensed firearms and/or explosives and ammunition he may have in his possession." (Underscoring supplied)

As pointed out by the Sandiganbayan, under the very legislation authorizing the amnesty,

"(a) The crimes to be amnestied must have been for violations of subversion laws or those defined and proscribed under crimes against public order under the Revised Penal Code; and

(b) The applications for amnesty must have been filed not later than September 30, 1978 or six months after the arrest or surrender of the applicant for amnesty" (Underscoring supplied).

In the instant case, the petitioners were charged with and convicted of defrauding the Republic by diverting public funds from their intended public uses to private and personal use and gain, under Article 315 in relation to Article 171 of the Revised Penal Code. Article 315 is found in Title 10, Chapter 6, of that Code which defines Crimes against Property. The estafa was committed through the falsification of documents described in Article 171, entitled "Falsification by Public Officer, Employee or Notary or Ecclesiastical Minister" found in Title 4, entitled Crimes Against Public Interest, of the Revised Penal Code. Clearly, petitioners fall under Section 2 (a) as persons expressly disqualified from amnesty under P.D. 1182, as amended. Petitioners' applications for amnesty were also filed way beyond the time limit established under P.D. 1182, as amended, since petitioners were convicted by the Sandiganbayan on 15 July 1981; their applications for amnesty were filed only in 1984.

Petitioners apparently claim that their applications for amnesty were filed under Presidential Decree No. 1082 dated 2 February 1977 and not under Presidential Decree No. 1182. The photocopied documents annexed to the Petition (Annexes "C", "D", "E", "F" and "G") captioned: "Subject: Conditional Amnesty" and addressed to some of the petitioners, appear to have been issued under or pursuant to P.D. No. 1082 "and the instructions of the Secretary of National Defense". P.D. No. 1082 provides in relevant part:

"SECTION 1. Proclamation of Amnesty. - Subject to the provisions of Sections 2 and 3 hereof, an amnesty is hereby decreed and proclaimed in the province of Tawi-Tawi, Sulu, Basilan, Zamboanga del Sur, Zamboanga del Norte, Davao del Sur, South Cotabato, North Cotabato, Sultan Kudarat, Maguindanao, Lanao del Sur, Lanao del Norte and Palawan; and in the cities of Basilan, Zamboanga, Dapitan Diplog, Pagadian, Davao, General Santos, Cotabato, Iligan, Marawi and Puerto Princesa, in favor of all the leaders, members, supporters, and symphatizers of the Moro National Liberation Front and the Bangsa Moro Army and other anti-government groups with similar motivations and aims, who, prior to the effectivity of this Decree, have committed any act penalized by existing laws in the furtherance of their resistance to the duly constituted authorities of the Republic of the Philippines including, but not limited to:

- a. Illegal possession of firearms and ammunition punishable under Section 878 of the Revised Administrative Code, as amended, or Presidential Decree No. 9, dated October 2, 1972;
- b. Illegal possession of bladed weapons or explosives punishable under Presidential Decree No. 9 dated October 2, 1972;
- c. Violation of the Revised Penal Code, as amended, as follows:
 - (1) Interruption of religious worship (Article 132);
 - (2) Offending the religious feelings (Article 133);
 - (3) Rebellion or insurrection (Article 134, in relation to Article 135, as amended);
 - (4) Conspiracy and proposal to commit rebellion (Article 136, as amended);
 - (5) Inciting to rebellion or insurrection (Article 138, as amended);
 - (6) Sedition (Article 139 in relation to Article 140, as amended);
 - (7) Conspiracy to commit sedition (Article 141);
 - (8) Illegal assemblies (Article 146, as amended);
 - (9) Illegal associations (Article 147, as amended);

- (10) Direct assaults (Article 148);
- (11) Indirect assaults (Article 149);
- (12) Resistance and disobedience to a person in authority or agents of such persons (Article 151);
- (13) Tumults and other disturbance of public order (Article 153); and
- (14) Alarm and scandals (Article 155);

except those who have committed crimes against chastity, murder, and kidnapping as defined in the Revised Penal Code as amended; those who have committed violations of Republic Act 6035 (Aircraft Anti-Hijacking Law) and those who have committed violation of PD 532 dated August 8, 1974 (Anti-Piracy and Anti-Highway Robbery); provided that any person so excepted above may be granted amnesty if recommended and the merits of his case so warrant.

Provided, further, that the persons herein mentioned above who may have committed any of the above-stated crimes or offenses in furtherance of their resistance to the duly constituted authorities of the Republic of the Philippines outside of the provinces and cities herein mentioned may also be granted amnesty by the President in accordance herewith.

SEC. 2. Conditions for the grant of amnesty. - Any person applying for amnesty pursuant to this Decree must satisfy the following requirements and must submit his application within ninety days from the effectivity of this Decree, to be entitled to the amnesty herein proclaimed:

- a. He must take an oath of allegiance to the Republic of the Philippines and swear or affirm to support and defend the Constitution of the Philippines;
- b. He must surrender whatever firearm and/or explosives and ammunition he may have in his possession." (Underscoring supplied).

We note, at the outset, that P.D. No. 1182 may well have repealed P.D. No. 1082. P.D. No. 1182, the later statute, covers the same subject matter that P.D. No. 1082 covered. P.D. 1182 makes no mention of the MNLF nor of the Bangsa Moro Army but rather relates to all groups fighting the government of the Republic. P.D. No. 1182, unlike P.D. 1082, covers the entire territory of the Republic of the Philippines; in contrast, P.D. 1082 covers only some of the provinces in Mindanao and Sulu and Tawi-Tawi and some of the cities there located. In addition, P.D. 1182 as amended by P.D. No. 1429 included a repealing clause (Section 10, Rescission [sic] Clause) which "rescinded (sic) and/or modified" all laws, decrees, instructions, rules and regulations inconsistent with that decree. It is, happily, not necessary to make an explicit determination on this point. We can assume, merely for purposes of analysis, that P.D. No. 1082 continued to subsist notwithstanding the promulgation of P.D. No. 1182, as amended. P.D. No. 1082 is scarcely a model of legislative draftsmanship. The proviso in the exception clause immediately following subparagraph no. 14, is particularly opaque. It, however, appears sufficiently clear that the offenses for which amnesty may be granted under the provisions of P.D. 1082 are acts penalized under existing law which were done in furtherance or in the course of resistance to the duly constituted authorities of the Republic by members and supporters of the Moro National Liberation Front (MNLF) and the Bangsa Moro Army and other "anti-government groups with similar motivations and aims". The "resistance to the duly constituted authorities of the Republic" referred to herein is typified by the offenses of rebellion or insurrection or sedition or conspiracy to commit rebellion or sedition, all offenses with a political character and all of which are embraced in Title 3 of the Revised Penal Code entitled "Crimes Against Public Order". In the present case, the Sandiganbayan said:

"Nowhere has it been indicated in the records nor has it been demonstrated now that the insurgents herein have

been convicted of acts constituting crimes against public order or acts committed in connection with violation of the provisions of R.A. No. 1700 as amended by P.D. No. 885."

We have examined the decision, dated 21 December 1981, by the First Division of the Sandiganbayan in Criminal Cases Nos. 715, 716, 717, 908, 909 and 910, contained in the record before this Court in G.R. Nos. 60228-31 entitled "Dimalna Limgas and Macalanto Marcaban vs. Sandiganbayan, et al." [1] We have also examined the decision dated 2 July 1981 also of the First Division of the Sandiganbayan, in Criminal Cases Nos. 502 through 531 contained in the record before this Court in G.R. Nos. 58928-57 entitled "Andrada Ditucalan, et al. vs. Sandiganbayan, et al." [2] There is nothing in these two decisions to indicate that the acts with which they were charged and for which the accused were convicted were committed "in the furtherance of - - - resistance to the duly constituted authorities of the Republic of the Philippines". On the contrary, the acts of which the accused were convicted were ordinary crimes (albeit carefully plotted and systematically carried out by numerous accused) without any political complexion and consisting simply of diversion of public funds to private profit.

The instant case therefore presents the issue of what effect, if any, may be given to supposed acts of the former President which were in conflict with or in violation of decrees issued by that same former President. So viewed, this Court has no alternative save to declare that the supposed acts of the former President done in 1985 in clear conflict with the restrictions embodied in the very decrees promulgated by that same former President, cannot be given any legal effect. It may be supposed that the former President could have validly amended Presidential Decrees Nos. 1082 and 1182 so as to wipe away the restrictions and limitations in fact found in those decrees. But the former President did not so amend his own decrees and he must be held to the terms and conditions that he himself had promulgated in the exercise of legislative power.

It may be -- we do not completely discount the possibility -- that the former President did in fact act in contravention of the decrees here involved by granting the amnesty claimed by petitioners, and that by such acts, he may indeed have aroused expectations (however unjustified under the terms of existing law) in the minds of the petitioners. If such be the case, then the appropriate recourse of the petitioners is not to this Court, nor to any other court, but rather to the Executive Department of the government.

WHEREFORE, the Petition is DENIED. The Resolution dated 27 January 1987 of the respondent Sandiganbayan is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

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

[1] The accused were: Macalanto Marcaban, Apon Bilinugun, Dimalna Limgas and Mario Lebron (who was still at large).

[2] The accused were: Apon Dilinogon, Talib Marandacan, Dima Borongawan, Abdul Dimacuta, Hadji Macabebe Pangcoga, Tumendug Colayo, Hadji Kiram Buruan, Hadji Papel Angad, Hadji Dimasendil Pandapatan, Ismael Romato, Amer Manalundong, Quirino Manangkiran, Dimnatang Mamari, Hadji Paito Umpara, Usman Dalidig, Mangorangca Dimacaling, Sultan Bagul Galman, Hadji Amir Amai Kurut, Diampuan Gubat, Odal Guindolongan, Hadji Mangotin Molan, Hadji Disamburun Macapodi, Andrada Ditucalan, Madid Macagaan, and Batu Ali Umpat.

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