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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PROCESO L. MALIGALIG,
Petitioner,

G.R. No. 236293

- versus -

Present:

SANDIGANBAYAN (SIXTH
DIVISION), PEOPLE OF THE
PHILIPPINES, represented by the
OFFICE OF THE SPECIAL
PROSECUTOR OF THE OFFICE
OF THE OMBUDSMAN,
PRESIDENTIAL COMMISSION ON
GOOD GOVERNMENT and
BATAAN SHIPYARD AND
ENGINEERING CORPORATION,
INC.,

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J.,
LAZARO-JAVIER, and
LOPEZ, JJ.

Respondents.

Promulgated:

DEC 10 2019

X-----

DECISION

PERALTA, C.J.:

This Petition for *Certiorari* under Rule 65 of the Rules of Court seeks to set aside the Sandiganbayan Sixth Division's (*Sandiganbayan*) Resolutions dated October 10, 2017¹ and November 17, 2017² in SB-CRM-17-0736 and SB-CRM-17-0737, which respectively denied petitioner's Alternative Motion to Quash or To Suspend Proceedings and Motion for Reconsideration.

Petitioner was charged before the Sandiganbayan with violation of Section 3(e) of Republic Act (R.A.) No. 3019 and Article 217, in relation to paragraph 4 of Article 48 of the Revised Penal Code, under two (2) Informations, which read as follows:

¹ Penned by Associate Justice Karl B. Miranda, with Associate Justices Sarah Jane T. Fernandez and Michael Frederick L. Musngi concurring; *rollo*, pp. 35-41.

² *Id.* at 42-44.

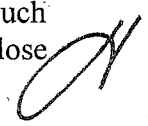
SB-CRM-17-0736

That on March 29, 2010, or sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PROCESO LAWAS MALIGALIG, a public officer, being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or controlled corporation, in the discharge of his administrative and/or official functions and taking advantage of his official position, did then and there, willfully, unlawfully and criminally, with evident bad faith or gross inexcusable negligence, execute a Release, Waiver and Quitclaim in favor of Northstar Transport Facilities, Inc. (Northstar) without authority from the BASECO Board of Directors, and receive from Northstar the amount of Php3,554,000.00 as full settlement of its total arrearages of Php4,819,198.13 to BASECO for the period May 2009 to February 2010 covered by the Contract of Lease dated September 15, 2006 between BASECO, as lessor, and Northstar, as lessee, over BASECO properties including the eastern portion of the land area known as Engineer Island and accretions in Port Area, Manila totaling 17,896.10 square meters more or less, and not remit the amount of Php3,554,000.00 to BASECO, causing undue injury to BASECO and the Government in the total amount of Php4,819,198.13 that was due from Northstar, and giving Northstar unwarranted benefits and advantage.

CONTRARY TO LAW.”

SB-CRM-17-0737

That on March 29, 2010, or sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PROCESO LAWAS MALIGALIG, a public officer, being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or controlled corporation, and as such by reason of his office and duties is responsible and accountable for public funds entrusted to and received by him, committing the complex crime charged herein while in the performance of or in relation to office and taking advantage of his official position, did then and there, willfully, unlawfully and feloniously, appropriate, take or misappropriate the amount of Php3,554,000.00 under his charge and custody and which he received from Northstar Transport Facilities, Inc. (Northstar) as full settlement of its total arrearages of Php4,819,198.13 to BASECO for the period May 2009 to February 2010 under the Contract of Lease dated September 15, 2006 between BASECO, as lessor, and Northstar, as lessee, over BASECO properties including the eastern portion of the land area known as Engineer Island and accretions in Port Area, Manila totaling 17,896.10 square meters more or less, by means of falsifying the Release, Waiver and Quitclaim dated March 29, 2010 that he executed in favor of Northstar by making an untruthful statement therein that he executed a Release, Waiver and Quitclaim to implement the Resolutions approved on March 24, 2010 by the BASECO Board of Directors in its special board meeting when, in truth and in fact, said statement is absolutely false because the BASECO Board of Directors neither approved nor issued such Resolutions, and for which the accused has a legal obligation to disclose



the truth about the absence of such Resolutions, to the damage and prejudice of BASECO, the Government and the public interest in the aforestated amount.

CONTRARY TO LAW.”³

On May 26, 2017, petitioner filed before the Sandiganbayan an Alternative Motion to Quash or To Suspend Proceedings⁴ (motion to quash or to suspend proceedings) on the ground that the Sandiganbayan has no jurisdiction over his person and that the Office of Ombudsman had no authority to file the above-quoted Informations against him. Petitioner, in the alternative, also moved for the suspension of his arraignment on the ground of a prejudicial question. The People, through the Office of the Special Prosecutor (*OSP*), opposed petitioner’s motion to quash or to suspend proceedings, insisting on its authority to file the Informations and on the jurisdiction of the Sandiganbayan to hear the case against the petitioner. The *OSP* argued that there was no prejudicial question involved, since the issue on the ownership of shares of BASECO will not affect any of the elements of the crimes charged in the Informations.

On October 10, 2017, the Sandiganbayan denied petitioner’s Motion to Quash or to Suspend Proceedings. His motion for reconsideration having been denied in the Sandiganbayan’s Resolution dated November 17, 2017, petitioner interposes the present petition raising the following issues:

I

WHETHER OR NOT THE RESPONDENT COURT ACTED WITHOUT JURISDICTION IN ISSUING THE RESOLUTION DATED OCTOBER 10, 2017 INSOFAR AS IT HELD THAT IT HAS JURISDICTION OVER THE CASE AND THE PERSON OF THE ACCUSED.

II

WHETHER OR NOT THE RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DENYING PETITIONER’S ALTERNATIVE MOTION TO QUASH OR TO SUSPEND PROCEEDINGS DATED MAY 12, 2017 AND MOTION FOR RECONSIDERATION DATED OCTOBER 17, 2017 (SIC).⁵

Petitioner contends that the Bataan Shipyard and Engineering Co., Inc. (*BASECO*) is not a government-owned or controlled corporation. Invoking the ruling in *BASECO v. PCGG, et al.*,⁶ he argued that, while *BASECO* was under sequestration by the Presidential Commission on Good Government (*PCGG*), there was no divestment of title over the seized property since the *PCGG* has only powers of administration and that it may

³ *Id.* at 36-38.

⁴ *Id.* at 47-58.

⁵ *Id.* at 12.


⁶ 234 Phil. 180 (1987).

not exercise acts of ownership over the property sequestered, frozen or provisionally taken over. Petitioner alleged that he bought one (1) share of stock of the company in 2001 and, thus, he was entitled to be voted upon as member of the Board of Directors (*BOD*) of BASECO. He theorizes that while the former President intimated her desire to the PCGG that he be made a member of the BOD, the same would not nevertheless have materialized had he not acquired a share of stock in the company. He was elected as member of the BOD and, eventually, as President of BASECO every year until he was unceremoniously replaced in 2011.

Petitioner posits that since BASECO is a private corporation under the tutelage of PCGG as conservator and that he was elected to the BOD by reason of his being a stockholder of the company, he cannot be considered as a public official or employee within the definition of Section 2(b) of R.A. No. 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*. Not being a public official or employee, he asserts that the Sandiganbayan has no jurisdiction over his person and that, consequently, the Office of the Ombudsman also has no jurisdiction to conduct preliminary investigation against him. Petitioner, thus, concludes that the Sandiganbayan gravely abused its discretion in denying his Motion to Quash or To Suspend Proceedings dated May 12, 2017 and Motion for Reconsideration dated October 17, 2017.

Sought for comment to the present petition, the OSP contend that the Sandiganbayan has jurisdiction over the case and person of petitioner. It argued that the jurisdiction of a court in criminal cases is determined by the allegations in the complaint or information. Once it is shown that it has jurisdiction, the court may validly take cognizance of the case and the court's jurisdiction to try a criminal case is determined at the time of the institution of the action, not at the time of the commission of the offense. The OSP insists that the two (2) Informations against the petitioner sufficiently state the elements of the crime charged. It points out petitioner's own admission in his Counter-Affidavit dated June 30, 2014 that he was appointed as member of the BOD of BASECO, and later as its President by former President Gloria Macapagal-Arroyo.

It stressed that Section 4 of P.D. No. 1606, as amended by R.A. No. 10660, enumerates the officials and offenses or felonies cognizable by the Sandiganbayan. The crimes charged against the petitioner, who is a public officer as defined by Section 2 of P.D. No. 1602, are expressly stated in the Section 4(a) and (b), hence, within the original jurisdiction of the Sandiganbayan. Pursuant to R.A. No. 6770, or *The Ombudsman Law*, it is the Office of the Ombudsman that has the authority to file the cases against the petitioner with the Sandiganbayan.



The OSP insists that BASECO is a government-owned or controlled corporation (*GOCC*), as classified by the Governance Commission for GOCCs under the category *GOCC's Supervised by the PCGG*. It argues that the jurisdiction of the Sandiganbayan is not undermined by the fact that BASECO is under sequestration by the PCGG, but instead reinforces the proposition that BASECO is a government entity utilizing public funds. It alleged that the issue of BASECO's ownership has long been settled as pointed out by the Sandiganbayan in its assailed Resolution dated October 10, 2017. Citing Section 7, Rule 111 of the Revised Rules of Criminal Procedure, it asseverates that there was no prejudicial question involved which would justify the suspension of the criminal proceedings against the petitioner. The OSP contends that by filing a motion to quash, petitioner hypothetically admits the facts alleged in the Informations and that the Sandiganbayan did not gravely abused its discretion in denying petitioner's motion to quash. It additionally alleged that the denial of a motion to quash is not correctible by *certiorari*.

In their separate Comments, the PCGG and BASECO alleged essentially the same arguments in asserting that petitioner is a public officer. It was asserted in their respective Comments that BASECO's income, as a sequestered corporation, are remitted to the PCGG and then turned-over to the Bureau of Treasury. The members of the board of directors of BASECO were elected by virtue of "Desire Letters" issued by the President of the Republic of the Philippines and that petitioner sat as President and Director of BASECO by virtue of the appointing power of the President. As such, he handled the affairs of BASECO in representation and protection of the interests of the government. Thus, petitioner is a public officer exercising functions for public benefit, namely, management of sequestered corporation and earning income for the government.

The Petition is not impressed with merit.

In law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution.⁷ Jurisdiction is defined as the power and authority of a court to hear, try and decide a case.⁸ The jurisdiction of the Sandiganbayan is provided in P.D. No. 1606, as amended by R.A. No. 10660, which, insofar as relevant in this case, reads as follows:

"Sec. 4. *Jurisdiction*. The Sandiganbayan shall exercise original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic

⁷

Glynnia Foronda-Crystal v. Aniana Lawas Son, G.R. No. 221815, November 29, 2017

⁸

Id.

Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

x x x x

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.”

In this case, the two (2) Informations filed against the petitioner before the Sandiganbayan showed that he was charged with Violation of Section 3(e) of R.A. No. 3019, and Malversation of Public Funds through Falsification of Public Document. The Information for violation of the anti-graft law asserts that petitioner, “*in the discharge of his administrative and/or official functions and taking advantage of his official position, did then and there, willfully, unlawfully and criminally, with evident bad faith or gross inexcusable negligence*” performed the acts constitutive of the offense charged. On the other hand, the charge for the complex crime of Malversation of Public Funds through Falsification of Public Document was allegedly committed by the petitioner “*while in the performance of or in relation to his office and taking advantage of his official position.*” Both Informations also alleged that petitioner is a public officer “*being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or –controlled corporation.*” Thus, on the basis of the allegations in the accusatory Informations alone, there is sufficient basis for the Sandiganbayan to take cognizance of the two (2) cases against the petitioner. The jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information. And once if it shown, the court may validly take cognizance of the case.⁹

Petitioner’s defense that he was not a public officer at the time of the alleged commission of the offense does not hold water. It is well-settled

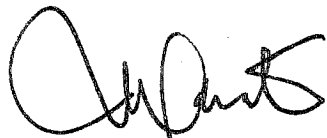
⁹ *Navaja v. Hon. De Castro, et al.*, 761 Phil. 142, 151 (2015), citing *Foz, Jr. et al. v. People*, 618 Phil. 120, 130 (2009).

that, “jurisdiction is not affected by the pleas or the theories set up by defendant or respondent in an answer, a motion to dismiss, or a motion to quash. Otherwise, jurisdiction would become dependent almost entirely upon the whims of defendant or respondent.”¹⁰ Besides, his admission in his Counter-Affidavit filed before the Office of the Ombudsman that he was appointed as member of the Board of Directors, and eventually as President of BASECO by former President Gloria Macapagal-Arroyo, militates against his claim that he was not a public officer. A public officer is defined in the Revised Penal Code as “any person who, by direct provision of the law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government, or in any of its branches, public duties as an employee, agent or subordinate official, of any rank or class.”¹¹ The concept of a public officer was expounded further in the *Serana* case,¹² where it was held that, “An investment in an individual of some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public makes one a public officer.” As President of a sequestered company like BASECO, petitioner is expected to perform functions that would benefit the public in general.

Thus, the Sandiganbayan did not commit grave abuse of discretion in denying petitioner’s Motion to Quash and Motion for Reconsideration. It definitely has jurisdiction over the case and over the person of the petitioner since offenses for violation of R.A. No. 3019 and the complex crime of Malversation of Public Funds through Falsification of Public Document and petitioner’s position, as alleged in the two (2) Informations, are clearly among those offenses and felonies and public officers enumerated in P.D. No. 1606, as amended by R.A. No. 10660.

WHEREFORE, premises considered, the Petition for *Certiorari* is **DENIED** for utter lack of merit. Costs against the petitioner.

SO ORDERED.


DIOSDADO M. PERALTA
Chief Justice

¹⁰ *Serana v. Sandiganbayan, et al.*, 566 Phil. 224, 251 (2008).

¹¹ *Zoleta v. The Honorable Sandiganbayan (Fourth Division), et al.*, 765 Phil. 39, 53 (2015).

¹² *Supra* note 6, at 249-250.

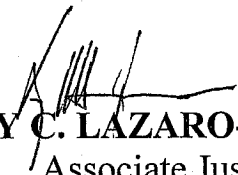
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice