



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **October 17, 2022** which reads as follows:*

“G.R. Nos. 213897-99 (Gwendolyn F. Garcia, Petitioner v. The Honorable Sandiganbayan and the People of the Philippines, Respondents); G.R. Nos. 215684-86 (Gwendolyn F. Garcia, Petitioner v. The Honorable Sandiganbayan and the People of the Philippines); and G.R. Nos. 245534-36 (Gwendolyn F. Garcia, Petitioner v. Sandiganbayan and the People of the Philippines). — The Manifestation dated August 25, 2021 of counsel of petitioner Gwendolyn F. Garcia (*Garcia*), in compliance with the Resolution dated June 21, 2021, stating that the instant cases have become moot and academic in view of the attached Resolution dated November 26, 2020 of the Sandiganbayan, which granted petitioner’s demurrer to evidence, and thus dismissed the case against her, is **NOTED**. The Motion of the Office of the Special Prosecutor for an extension of 30 days from September 3, 2021 within which to file consolidated manifestation, in view of the Resolution dated September 12, 2022, which already noted its Consolidated Manifestation and Compliance dated August 31, 2022, is **NOTED WITHOUT ACTION**.

This Court resolves the three consolidated Petitions for *Certiorari*¹ under Rule 65 of the Rules of Court, all of which stemmed from the allegedly anomalous purchase of 11 parcels of land by the Province of Cebu during the incumbency of Garcia as provincial governor.

In **G.R. Nos. 213897-99**, Garcia assailed the Resolutions dated September 6, 2013² and June 10, 2014³ of the Sandiganbayan. These rulings denied her Motion to Quash,⁴ on the ground that the Informations charging her with violation of Section 3(e) and (g) of Republic Act No. 3019 (*R.A. No. 3019*), otherwise known as the “Anti-Graft and Corrupt Practices Act,” and Article 220 of the Revised Penal Code (*RPC*) have satisfactorily embodied all the elements of the offenses charged in order to apprise her of the charges and to enable her to prepare for an intelligent defense.⁵

¹ Rollo (G.R. Nos. 213897-99), pp. 3–35; rollo (G.R. Nos. 215684-86), pp. 3–50; rollo (G.R. Nos. 245534-36), pp. 3–46.

² Rollo (G.R. Nos. 213897-99), pp. 37–50.

³ *Id.* at 52–59.

⁴ *Id.* at 71–84.

⁵ *Id.* at 47.

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In **G.R. Nos. 215684-86**, Garcia sought to reverse and set aside the Resolutions dated December 4, 2013⁶ and October 10, 2014⁷ of the Sandiganbayan denying her Comment/Opposition with Motion to Expunge Prosecution's Amended Pre-Trial Brief.⁸ She argued that the amendments introduced therein merely simplified and lessened the facts and issues to be tried without changing the main accusation against Garcia.⁹

In **G.R. Nos. 245534-36**, Garcia questioned the Resolutions dated November 19, 2018¹⁰ and January 22, 2019¹¹ of the Sandiganbayan, which denied her Motion to Dismiss (For Violation of Speedy Disposition of Cases)¹² due to lack of merit, as there were no proven vexatious, capricious, and oppressive delays in the investigation and trial of her cases.¹³

The factual antecedents are as follows:

From 2004 to 2013, Garcia was the duly elected Governor of the Province of Cebu, having been elected for three consecutive terms in the 2004, 2007, and 2010 elections.¹⁴

Sometime in June 2008, the Province of Cebu, represented by Garcia, entered into a Deed of Absolute Sale¹⁵ with the estate of Luis V. Balili for the sale of 11 parcels of land also known as the "*Balili properties*" in the amount of PHP 99,698,400.00. The Balili properties were purportedly acquired for "industrial, recreational, commercial, and for other purposes thereby enhancing economic prosperity and promote full employment among the residents in the area."¹⁶

After payment of half of the purchase price, it was later found that some portions of the Balili properties were submerged underwater and could not be utilized for its intended purpose.¹⁷ This prompted the Office of the Ombudsman to file three Informations against Garcia before the Sandiganbayan, docketed as SB-12-CRM-0175, SB-12-CRM-0176, and SB-12-CRM-0177.

⁶ *Rollo* (G.R. Nos. 215684-66), pp. 52–57.

⁷ *Id.* at 59–62.

⁸ *Id.* at 203–219.

⁹ *Id.* at 56.

¹⁰ *Rollo* (G.R. Nos. 245534-36), Vol. I, pp. 47–79.

¹¹ *Id.* at 81–85.

¹² *Rollo* (G.R. Nos. 245534-36), Vol. II, pp. 679–712.

¹³ *Id.* at 55–57.

¹⁴ *Rollo* (G.R. Nos. 213897-99), p. 6.

¹⁵ *Rollo* (G.R. Nos. 245534-36), Vol. I, pp. 127–129.

¹⁶ See Memorandum of Agreement, *id.* at 123.

¹⁷ See Consolidation Report dated July 14, 2021, *rollo* (G.R. Nos. 213897-99), p. 251.

In SB-12-CRM-0175,¹⁸ the Ombudsman charged Garcia, among others, with violation of Section 3(e)¹⁹ of R.A. No. 3019. It alleged that they caused undue injury to the government for the purchase of the properties, a majority of which could not be used for public purposes as they remain underwater.

In SB-12-CRM-0176,²⁰ Garcia, among others, was charged by the Ombudsman with violating Section 3(g)²¹ of R.A. No. 3019. It alleged that the purchase of the Balili properties was manifestly and grossly disadvantageous to the government, especially since a large portion of the same could not be used for its intended purposes.

In SB-12-CRM-0177,²² Garcia, among others, was charged with committing technical malversation, defined and penalized under Article 220²³ of the RPC. It alleged that the funds used for the acquisition of the Balili properties were actually intended for a different purpose, which resulted in the damage and prejudice of the government.

On May 21, 2013, Garcia filed a Motion to Quash²⁴ on the ground that the three Informations were patently defective as the facts therein did not constitute an offense.

In SB-12-CRM-0175, Garcia pointed out that the Information itself admitted that a certification was issued to show that funds were available to purchase the Balili properties. The City Provincial Assessment Committee (CPAC) even issued a Resolution that omitted any mention of the submerged portions of the Balili properties. For having relied on the veracity of these documents that failed to apprise her of the actual condition of the properties, Garcia could not have acted with manifest partiality, evident bad faith, or

¹⁸ *Rollo* (G.R. Nos. 213897-99), pp. 61–63.

¹⁹ Section 3. *Corrupt practices of public officers*.
.....

(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.

²⁰ *Rollo* (G.R. Nos. 213897-99), pp. 65–66.

²¹ Section 3. *Corrupt practices of public officers*.
.....

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

²² *Rollo* (G.R. Nos. 213897-99), pp. 68–69.

²³ Art. 220. *Illegal use of public funds or property*. — Any public officer who shall apply any public fund or property under his administration to any public use other than that for which such fund or property were appropriated by law or ordinance shall suffer the penalty of *prision correccional* in its minimum period or a fine ranging from one-half to the total value of the sum misapplied, if by reason of such misapplication, any damage or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 per cent of the sum misapplied.

²⁴ *Rollo* (G.R. Nos. 213897-99), pp. 71–84.

gross inexcusable negligence in the purchase thereof.²⁵ Parenthetically, in SB-12-CRM-0176, Garcia maintained that the Information likewise admitted that the Balili properties, save one, were all covered by certificates of title and tax declarations, which would negate the allegation that the purchase was manifestly and grossly disadvantageous to the government.²⁶ Finally, in SB-12-CRM-0177, Garcia postulated that nothing on the face of the Information specifically indicated the original purpose of the funds used to acquire the Balili properties, hence, she could not have been found guilty beyond reasonable doubt for violating Article 220 of the RPC.²⁷

On September 6, 2013, the Sandiganbayan issued a Resolution²⁸ denying the Motion to Quash for want of merit. The Sandiganbayan held that the Informations were sufficient in form and substance such that she was properly apprised of the charges against her and would already prepare her for an intelligent defense.

Garcia moved for reconsideration,²⁹ but was it denied in a Resolution³⁰ dated June 10, 2014. Aggrieved, Garcia filed the instant petition before this Court on September 10, 2014, which was docketed as **G.R. Nos. 213897-99**.

On February 4, 2015, the Ombudsman filed a Comment³¹ to the Petition, while Garcia filed a Reply³² to the Comment on July 15, 2015.

Meanwhile, the proceedings in the Sandiganbayan ensued. Garcia, together with her co-accused, was arraigned and, thereafter, directed to submit her respective pre-trial briefs.³³ Due to the belated arraignment of some of the co-accused, the Sandiganbayan, in an Order³⁴ dated June 20, 2013, permitted the prosecution to amend its pre-trial brief for the purpose of reflecting stipulations with respect to such co-accused.³⁵

On July 11, 2013, the prosecution filed its Amended Pre-Trial Brief.³⁶

On the ground that the prosecution went beyond the tenor of the Order dated June 20, 2013, Garcia filed a Comment/Opposition with Motion to

²⁵ *Id.* at 74.

²⁶ *Id.* at 75-76.

²⁷ *Id.* at 76-77.

²⁸ *Rollo* (G.R. Nos. 213897-99), pp. 37-50.

²⁹ *Id.* at 116-138.

³⁰ *Id.* at 52-59.

³¹ *Id.* at 190-210.

³² *Id.* at 225-241.

³³ *Rollo* (G.R. Nos. 215684-86), p. 8.

³⁴ *Id.* at 159-160.

³⁵ *Id.* at 9.

³⁶ *Id.* at 162-201.

Expunge Prosecution's Amended Pre-Trial Brief.³⁷ She argued that the amendment to the prosecution's pre-trial brief should only pertain to the co-accused who were belatedly arraigned. Further, Garcia averred that aside from its failure to emphasize and/or underline the changes made therein as instructed, the prosecution maliciously deleted 101 pieces of documentary evidence to be presented. Such pieces of evidence were material to her motion to quash pending before the Sandiganbayan, and if considered, would exonerate her from liability.³⁸

On December 4, 2013, the Sandiganbayan issued a Resolution³⁹ denying Garcia's Comment/Opposition and admitting the amended pre-trial brief of the prosecution. The Sandiganbayan ruled that contrary to Garcia's suppositions, its Order dated June 20, 2013 did not serve to limit or restrict the amendment of the prosecution's pre-trial brief. Rather, it merely reflected the manifestation of the prosecution to include stipulations as to the accused who were belatedly arraigned. In addition, there was nothing irregular in the deletion of the documentary evidence to be presented, as it merely served to simplify and lessen the issues to be tried, in conformity to the purpose of the pre-trial.⁴⁰ At any rate, the Sandiganbayan opined that such amendments did not change the accusations against Garcia, who must account for her own defense and should not merely depend on the evidence of the prosecution.⁴¹

Garcia filed a Motion for Reconsideration,⁴² which was denied in a Resolution.⁴³ Hence, the instant petition before this Court, docketed as **G.R. Nos. 215684-86**.

On May 20, 2015, the Ombudsman filed a Comment⁴⁴ to the Petition, while Garcia filed a corresponding Reply⁴⁵ on August 25, 2015.

During the pendency of the trial proceedings before the Sandiganbayan, Garcia filed a Motion to Dismiss⁴⁶ on March 27, 2018, bemoaning a violation of her constitutional right to a speedy disposition of her cases, considering that from the time she received the Order from the Office of the Ombudsman regarding the Informations filed against her, the instant cases have been pending for a total seven years. She continued that such inordinate delay in the proceedings was due to the prosecution's capricious trial strategy, thereby causing undue prejudice to her rights and interests.⁴⁷

³⁷ *Id.* at 203–219.

³⁸ *Id.* at 204–210.

³⁹ *Id.* at 52–57.

⁴⁰ *Id.* at 56.

⁴¹ *Id.*

⁴² *Id.* at 245–260.

⁴³ Resolution dated October 10, 2014. *Id.* at 59–62.

⁴⁴ *Rollo* (G.R. Nos. 215684-86), pp. 291–307.

⁴⁵ *Id.* at 310–329.

⁴⁶ *Rollo* (G.R. Nos. 245534-36), Vol. II, pp. 679–712.

⁴⁷ *Id.* at 680.

On November 19, 2018, the Sandiganbayan rendered a Resolution,⁴⁸ denying the motion to dismiss for lack of merit. The Sandiganbayan pointed out that absent from Garcia's account are the intervening motions she had filed before and after her arraignment that inarguably contributed to the delays.⁴⁹ Clearly then, the Sandiganbayan observed that there was no unreasonable lull in the movement of Garcia's cases, and if there was such delay, these could only be attributable to the ordinary processes of justice.⁵⁰

Unperturbed, Garcia filed a Motion for Reconsideration,⁵¹ which was similarly denied in a Resolution⁵² dated January 22, 2019. Garcia now comes to this Court by way of the instant petition, docketed as **G.R. Nos. 245534-36**.

On October 18, 2019, the Ombudsman filed a Comment,⁵³ to which Garcia a Reply⁵⁴ on June 17, 2020.

In a Resolution⁵⁵ dated June 14, 2021, this Court required the parties to file respective manifestations regarding subsequent developments in the cases to aid in its eventual disposition.

On October 13, 2021, this Court issued a Resolution⁵⁶ consolidating G.R. Nos. 215684-86 and G.R. Nos. 245534-36 with G.R. Nos. 213897-99.

On October 29, 2021, Garcia filed a Compliance,⁵⁷ pursuant to her undertaking in her Manifestation dated August 24, 2021, attaching a Resolution⁵⁸ dated November 26, 2020 of the Sandiganbayan dismissing the criminal cases against her and her co-accused, pursuant to her demurrer to evidence. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the Court resolves to **GRANT** the following:

1. *Demurrer To Evidence [For Accused Juan V. Bolo]* filed by accused Juan V. Bolo;
2. *Demurrer To Evidence* filed by accused Gwendolyn F. Garcia;

⁴⁸ *Rollo* (G.R. Nos. 245534-36), Vol. I, pp. 47-79.

⁴⁹ *Id.* at 52.

⁵⁰ *Id.* at 56.

⁵¹ *Rollo* (G.R. Nos. 245534-36), Vol. II, pp. 713-739.

⁵² *Rollo* (G.R. Nos. 245534-36), Vol. I, pp. 81-85.

⁵³ *Rollo* (G.R. Nos. 245534-36), Vol. II, pp. 753-781.

⁵⁴ *Id.* at 784-801.

⁵⁵ *Rollo* (G.R. Nos. 213897-99), p. 253-A-253B; *rollo* (G.R. Nos. 245534-36), p. 807.

⁵⁶ *Rollo* (G.R. Nos. 213897-99), p. 255.

⁵⁷ *Rollo* (G.R. No. 245534-36), Vol. II, pp. 812-813.

⁵⁸ *Id.* at 814-894.

3. *Demurrer To Evidence (Section 23, Rule 119, Revised Rules of Criminal Procedure)* sent through registered mail by accused Romeo J. Balili;
4. *Demurrer To Evidence For Accused Emme Gingoyon y Tuditud* sent through registered mail by accused Emme T. Gingoyon;
5. *Demurrer To Evidence* sent through registered mail by accused Anthony D. Sususco, Roy G. Salubre and Eulogio B. Pelayre; and
6. *Demurrer To Evidence* sent through registered mail by accused Amparo G. Balili.

Accordingly, Criminal Case Nos. SB-12-CRM-0175, SB-12-CRM-0176, and SB-12-CRM-0177 are hereby **DISMISSED**.

Considering that the prosecution has not proven any act or omission on the part of the accused from which civil liability might arise, no such form of damages may be interposed against them.

The Hold Departure Order issued against all accused in connection with the above-captioned cases is hereby Lifted and Set Aside. Also, the cash bonds posted by the accused for their provisional liberty are ordered Cancelled and Released, subject to the usual accounting and auditing procedures.

SO ORDERED.⁵⁹

After trial, the Sandiganbayan held that the prosecution failed to meet the required quantum of evidence to convict the accused. There being no sufficient basis to sustain the indictments, the dismissal of the cases was warranted.

With regard to SB-12-CRM-0175 charging Garcia with violation of Section 3(e) of R.A. No. 3019, the Sandiganbayan was convinced that she did not act with evident bad faith and manifest partiality in the purchase of the Balili properties, in light of the existence of the necessary approvals for the disbursement and release of funds as payment for its purchase.⁶⁰ To further support the regularity of the purchase, the Commission on Audit and the Internal Audit Service did not disallow the said transaction.⁶¹

In the same vein, the allegations that Garcia violated Section 3(g) of R.A. No. 3019 in SB-12-CRM-0176 must perforce fail. By virtue of the certificates of title and the various tax declarations covering the Balili properties, the Sandiganbayan concluded that Garcia had every reason to rely on the same in acquiring the Balili properties on behalf of the Provincial Government of Cebu. While the Sandiganbayan conceded that a portion thereof is submerged in water, it cannot be easily concluded that its purchase

⁵⁹ *Id.* at 893–894.

⁶⁰ *Id.* at 880.

⁶¹ *Id.* at 881.

was grossly and manifestly disadvantageous to the government. It added that no proof was presented that the submerged areas can no longer be utilized for purposes for which they were purchased.⁶²

Lastly, the Sandiganbayan found that Garcia was not guilty of violating Article 220 of the RPC in SB-12-CRM-0177. The disbursement vouchers for the purchase of the Balili properties plainly proved that the funds used were applied for a purpose different from that which it was originally appropriated by law or ordinance.⁶³

On September 14, 2021, the Ombudsman filed its Consolidated Manifestation and Compliance⁶⁴ manifesting that the prosecution moved for reconsideration of the Resolution of the Sandiganbayan dated November 26, 2020, which was subsequently denied in a Resolution dated March 5, 2021. More, it submitted that the present Petitions for *Certiorari* pending before this Court be rendered moot and academic in connection with the assailed Resolution dated November 26, 2020.⁶⁵

The Petitions for *Certiorari* should be dismissed in view of the Resolutions of the Sandiganbayan dated November 26, 2020 and March 5, 2021, which rendered them moot and academic.

In *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*,⁶⁶ this Court declared that a case is considered moot and academic when “it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.”⁶⁷ In these cases, it is an established practice for courts to generally decline jurisdiction and to dismiss the same on the ground of mootness, as the judgment would neither serve any other useful purpose, nor would it possess any practical legal effect as it cannot be enforced.⁶⁸

In the main, the instant petitions before this Court pray for the dismissal of the cases against petitioner in SB-12-CRM-0175, SB-12-CRM-0176, and SB-12-CRM-0177.

With the dismissal of the cases by the Sandiganbayan *via* the Resolutions dated November 26, 2020 and March 5, 2021, this Court’s opinion on petitioner’s motions under question in the consolidated petitions will be of no useful purpose other than as a theoretical exercise. Moreso, the

⁶² *Id.* at 887–888.

⁶³ *Id.* at 892.

⁶⁴ *Id.* at 901–906.

⁶⁵ *Id.* at 904.

⁶⁶ 728 Phil. 535 (2014).

⁶⁷ *Id.* at 540.

⁶⁸ *Philippine Savings Bank, et al. v. Senate Impeachment Court, et al.*, 699 Phil. 34, 36 (2014).

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grant of petitioner's Demurrer to Evidence by the Sandiganbayan effectively exculpates her from liability and results in her acquittal, which may not be appealed in accordance with the rules on double jeopardy.

Apropos is the ruling in *People v. Sandiganbayan (Fourth Division)*,⁶⁹ which reads in part:

The demurrer to evidence in criminal cases, such as the one at bar, is "*filed after the prosecution had rested its case,*" and when the same is granted, it calls "for an appreciation of the evidence adduced by the prosecution and its sufficiency to warrant conviction beyond reasonable doubt, resulting in a *dismissal of the case on the merits, tantamount to an acquittal of the accused.*" Such dismissal of a criminal case by the grant of demurrer to evidence may not be appealed, for to do so would be to place the accused in double jeopardy. The verdict being one of acquittal, the case ends there.⁷⁰

FOR THESE REASONS, the Petitions for *Certiorari* in G.R. Nos. 213897-99, 215684-86, 245534-36 are hereby **DISMISSED** for being moot and academic.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

01 MAR 2023

⁶⁹ 488 Phil. 293 (2004).

⁷⁰ *Id.* at 309-310. (Citations omitted)

October 17, 2022

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GR213897-99,215684-86&245534-36. 10/17/2022(132 & 331)URES 