



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SPECIAL SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **January 16, 2023** which reads as follows:*

“G.R. No. 249243 (Merle Bautista Palacpac vs. Sandiganbayan [Fifth Division] and the Office of the Special Prosecutor [The Ombudsman]). – Before the Court is a Motion for Reconsideration¹ filed by Merle Bautista Palacpac (petitioner) assailing the Court’s Resolution² dated November 10, 2021 that dismissed the Petition for *Certiorari*³ and affirmed the Resolutions⁴ dated July 24, 2019 and September 4, 2019 of the Sandiganbayan-Fifth Division in Criminal Case No. SB-19-CRM-0028 wherein it denied petitioner’s motion to quash the Information against her.⁵

The Facts

Petitioner is the former Chief of the National Plant Quarantine Services Division of the Bureau of Plant and Industry (BPI). On January 29, 2018, Graft Investigation and Prosecution Officer III Bonifacio G. Mandrilla (GIPO III Mandrilla) of the Ombudsman found probable cause against several accused, including herein petitioner, of violation of Section 3(e) of Republic Act No. (RA) 3019, as amended.⁶ It found that petitioner and several accused acted with manifest partiality, bad faith or gross inexcusable negligence, by giving unwarranted benefit

¹ *Rollo*, pp. 383-412.

² *Id.* at 370-382. Penned by Associate Justice Henri Jean Paul B. Inting and concurred in by Senior Associate Justice Estela M. Perlas-Bernabe (a retired Member of the Court), Associate Justices Ramon Paul L. Hernando, Samuel H. Gaerlan and Japar B. Dimaampao.

³ *Id.* at 3-37.

⁴ *Id.* at 44-62. Penned by Associate Justice Maria Theresa V. Mendoza-Arcega and concurred in by Associate Justices Maryann E. Corpus-Mañalac and Georgina D. Hidalgo.

⁵ *Id.* at 47 and 61.

⁶ *Id.* at 371.

1-2013

and advantage and preference to PHILVIEVA, VIEVA, Tumana Trading, R.M. Galvez Agri Trading, Purple Moon Trading, Bee Jee Trading, Touch Down Trading, A.G.R. Trading, La Reina Food Trading, Yom Trading Corporation, KASAMNE, KBS, MAGRO-MPC, and Shelmarie Enterprises, its shareholder, officers, owners, and representatives.⁷

Former Department of Agriculture (DA) Secretary Proceso Alcala created the National Garlic Action Team (NGAT). NGAT serves as a forum for consultations/dialogues on issues and concerns affecting the garlic industry; it provides policy and/or program recommendations, including the validation of the report from the Task Force Allium (TFA), relative to the supply and production of garlic in the country and for submission to the DA as to whether the importation of the commodity is necessary. With the appointment of Director Clarito Barron (Barron) and Chairman Lilia Cruz (Cruz) as its members, Cruz was granted access to vital information which resulted in her group securing most of the import permits. With Barron as the approving authority and with Luben Marasigan and Palacpac as the recommending officers, Cruz monopolized the supply of garlic in the country and allowed her to dictate the prices of garlic in the market. By January to July 2014, the price of imported garlic soared from ₱260.00 to ₱400.00; on the other hand, the prices of native garlic varied from ₱250.00 to ₱450.00 in the months of April to June 2014.⁸

In the Omnibus Motion⁹ dated May 21, 2019, petitioner sought the quashal of the Information against her for failure to state the approximate date of the commission of the offense charged. Petitioner also alleged that her right to speedy disposition of the case was violated.¹⁰

The Ruling of the Sandiganbayan

On July 24, 2019, the Sandiganbayan issued a Resolution¹¹ denying the Omnibus Motion and ruled that the motion could not be considered as a meritorious motion based on the Revised Guidelines for Continuous Trial of Criminal Cases (Revised Guidelines)¹² and petitioner offered no plausible justification to establish that the delay was malicious, politically motivated, or unreasonable.¹³

⁷ Id. at 404.

⁸ Id. at 373.

⁹ Id. at 252-263.

¹⁰ Id. at 373-374.

¹¹ Id. at 49-62.

¹² Id. at 57-58.

¹³ Id. at 60.

1/2/12

Petitioner moved for a reconsideration,¹⁴ but the Sandiganbayan denied it in its Resolution¹⁵ dated September 4, 2019.

Aggrieved, petitioner filed a Petition for *Certiorari*¹⁶ with the Court.

On November 10, 2021, the Court dismissed the petition.

Hence, the present motion.

Petitioner's Arguments

Petitioner submits that Section 2(c) of the Revised Guidelines does not exclude the ground that the Information does not substantially conform with Section 3(e) of Rule 117 of the Rules of Court; and that the failure of the Information to state the approximate date of the commission of the offense charged violates petitioner's constitutional rights; therefore, the Information must be quashed.¹⁷

Likewise, petitioner maintains that the Court committed a reversible error when it failed to rule that the Sandiganbayan erred in: (1) denying her motion for reconsideration (with additional ground to quash the information) based on mere technicalities; (2) ruling that the Ombudsman still has the authority to file the Information despite the violation of her right to a speedy disposition of the case; and (3) ruling that the Information is not duplicitous.¹⁸

The Court's Ruling

There is no sufficient basis to reconsider the Court's earlier ruling.

First, under Section 3(2)(c) of the Revised Guidelines,¹⁹ the meritorious motions that can be filed before the courts are as follows:

c. Meritorious Motions. – Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, such as:

x x x x

¹⁴ Id. at 272-296.

¹⁵ Id. at 44-48.

¹⁶ Id. at 3-37.

¹⁷ Id. at 385-388.

¹⁸ Id. at 392, 399, and 403.

¹⁹ Id. at 57-58.

v. Motion to quash information on the grounds that the facts charged do not constitute an offense, lack of jurisdiction, extinction of criminal action or liability, or double jeopardy under Sec. 3, par. (a), (b), (g), and (i), Rule 117[.]

Here, petitioner's ground in seeking the quashal of the Information is the alleged failure of the Ombudsman to substantially conform with Section 3(e) of Rule 117 of the Rules of Court.²⁰ Although Section 3(e) is one of the grounds to quash the Information under Rule 117 of the Rules of Court, it fails, however, to qualify as a meritorious motion following the Revised Guidelines.

While the Court adheres to petitioner that the use of "such as" in Section 2(c) of the Revised Guidelines, in defining meritorious motions, only indicates or enumerates examples of it without exclusion of all others, a reading of subparagraph (v) of the same section expressly enumerates the grounds for a motion to quash information to be qualified as a meritorious motion: the facts charged do not constitute an offense, lack of jurisdiction, extinction of criminal action or liability, or double jeopardy under Section 3, paragraphs (a), (b), (g), and (i), Rule 117. Following the rules of statutory construction, the express mention of one person, thing, or consequence implies the exclusion of all others—*expressio unius est exclusio alterius*.²¹

In other words, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters because the legislature would not make a specific enumeration in a statute if its intention is not to restrict the meaning and confine the terms to those expressly mentioned.²²

Second, the Court finds that the Sandiganbayan did not err in ruling that there is no inordinate delay in the disposition of the case. The Court observes that the Field Investigation Office filed the Complaint before the Ombudsman on June 22, 2016. On January 29, 2018, the Ombudsman issued a Resolution finding probable cause against several accused, including petitioner, and charged them with violation of Section 3(e) of RA 3019. Petitioner then filed a Motion for Reconsideration dated May 9, 2018. On August 30, 2018, the Ombudsman issued an Order denying the Motion for Reconsideration of its earlier Resolution. Hence, on March 15, 2019, an Information was filed with the Sandiganbayan.²³

²⁰ Id. at 17-24.

²¹ *Waterfront Philippines, Inc. v. Social Security System*, G.R. No. 249337, July 6, 2021.

²² Id.

²³ *Rollo*, p. 60.

1/13

In the case, petitioner failed to consider the complexity of the present case and the issues involved including the fact that there are 47 respondents implicated and charged under Section 3(e) of RA 3019. Also, there are voluminous documentary evidence and numerous counter-affidavits that the Ombudsman needed to study and evaluate.²⁴

Still, petitioner failed to provide a plausible justification to establish that the alleged delay was malicious, politically motivated, or unreasonable.²⁵

Third, the Sandiganbayan did not err when it ruled that the motion should have been filed on or before August 5, 2019; that when the motion was filed only on August 15, 2019, it was already way beyond the five-day reglementary period provided under the Revised Guidelines.²⁶

Notably, the Motion for Reconsideration was filed to seek reconsideration of the Sandiganbayan's first assailed Resolution dated July 24, 2019. The first assailed Resolution is neither a decision nor a final order as required in the 2018 Revised Internal Rules of the Sandiganbayan (2018 Revised Rules).²⁷ Thus, the 2018 Revised Rules which provides for a 15-day reglementary period within which to file a motion for reconsideration of a decision or final order finds no application in the case.

Fourth, petitioner likewise invokes, as an additional ground to quash the Information, that the Information is defective because it charges more than one offense.²⁸ However, the additional ground raised by petitioner in the Motion for Reconsideration is patently a violation of the Omnibus Motion Rule, which states that a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available and all objections not so included shall be deemed waived.

WHEREFORE, the Motion for Reconsideration is **DENIED WITH FINALITY**.

No further pleadings or motions shall be entertained in this case.

²⁴ Id.

²⁵ Id.

²⁶ Id. at 46.

²⁷ Id.

²⁸ Id. at 28-32.

Let entry of judgment be issued immediately.

SO ORDERED." (Singh, *J.*, designated additional Member vice Perlas-Bernabe, *S.A.J.* [ret.] pursuant to Section 8, Rule 2 of the Internal Rules of the Supreme Court, as amended.)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mm}
13 MAR 2023 3/13

GORDON REYES BUTED VIADO & BLANCO
LAW OFFICES (reg)
Counsel for Petitioner
6th Floor, W Global Center
30th St. cor. 9th Ave., Bonifacio Global City
1634 Taguig City

OFFICE OF THE SPECIAL PROSECUTOR (reg)
Office of the Ombudsman
4th Floor, Ombudsman Building
Agham Road, Diliman
Quezon City

OFFICE OF THE OMBUDSMAN (reg)
4th Floor, Ombudsman Building
Agham Road, Diliman, Quezon City

SANDIGANBAYAN (FIFTH DIVISION) (reg)
5/F Sandiganbayan Centennial Building
COA Compound, Commonwealth Avenue
cor. Batasan Road, 1126 Quezon City
(Crim. Case No. SB-19-CRM-0028)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

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