



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 10, 2023, which reads as follows:

“G.R. No. 249826 (Joselito A. Ojeda, Delio H. De Leon, Marissa P. Cortez, Noel M. Eroa and Marina L. Palillo, *Petitioners* v. Sandiganbayan-Fourth Division, People of the Philippines, and Field Investigation Bureau-Office of the Deputy Ombudsman for Luzon, represented by Atty. Karym B. Laidan, et al., *Respondents*). — Impugned in the instant Petition for *Certiorari*<sup>1</sup> are the Resolutions dated June 19, 2019<sup>2</sup> and August 14, 2019<sup>3</sup> of the Sandiganbayan, 4<sup>th</sup> Division, in Criminal Case No. SB-19-CRM-0047, which denied petitioners’ *Ad Cautelam* Motion (to Quash Information, Hold in Abeyance the Issuance of Warrants of Arrest and Defer Proceedings)<sup>4</sup> and the motion for reconsideration thereof, respectively.

The precursor facts of the case are uncomplicated.

The Field Investigation Bureau-Office of the Deputy Ombudsman for Luzon (FIB-OMB) filed a Complaint-Affidavit<sup>5</sup> with the Office of the Ombudsman (OMB) on November 4, 2016, charging Joselito A. Ojeda, Delio H. De Leon, Marissa P. Cortez, Noel M. Eroa and Marina L. Palillo (petitioners) with violation of Section 3(e)<sup>6</sup> of Republic Act (RA) No. 3019,<sup>7</sup> otherwise known as the *Anti-Graft and Corrupt Practices Act*, as well as grave misconduct, and conduct prejudicial to the best interest of the service. The complaint was docketed as OMB-L-C-16-0537 for the criminal aspect and

<sup>1</sup> *Rollo*, pp. 3-16.

<sup>2</sup> *Id.* at 17-21. Penned by Sandiganbayan Associate Justice Reynaldo P. Cruz, with the concurrence of Associate Justices Alex L. Quiroz and Bayani H. Jacinto.

<sup>3</sup> *Id.* at 22-25.

<sup>4</sup> *Id.* at 180-184.

<sup>5</sup> *Id.* at 28-44.

<sup>6</sup> Section 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party 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.

x x x x

<sup>7</sup> Approved on August 17, 1960.

OMB-L-A-16-0621 for the administrative aspect.

The Complaint-Affidavit averred that—

1. On 05 February 2013, [petitioner] Ojeda, as Municipal Mayor of Mulanay, Quezon, approved a Purchase Request and an Obligation Request for the supply and delivery of one (1) unit Ultra Sound Proof/Weather Proof, diesel powered AC Generating Set (Genset) with complete accessories for the development and institutionalization of early warning system, information sharing between LGUs, communities, national agencies and other private sectors.
2. As shown in the Obligation Request, the Municipal Government already identified its supplier - Alta Maxpower Corporation, Inc. (Alta Maxpower) prior to the posting of the Invitation to Bid on 11 February 2013.
3. Moreover, [petitioner] Eroa instructed Maria Pamela M. Libutan (Libutan), Administrative Officer V and BAC Member, to post the Invitation to Bid and that Alta Maxpower, the preferred supplier of respondent Mayor Ojeda, had already purchased the bidding documents for the Genset.
4. On 20 February 2013, the Bids and Awards Committee (BAC), composed of [petitioners] De Leon, Cortez, Eroa and Palillo, opened the bids and declared Alta Maxpower as the only interested bidder that passed all the eligibility documents. However, said bidder lacks several technical documents such as Manpower Requirements, Delivery Schedule and After-Sales Warranty of the unit. Still, the BAC declared the bidder to have "passed" the eligibility criteria and allowed it to complete its lacking technical requirements at a later date.
5. On 01 March 2013, the BAC in its Resolution reiterated its findings that Alta Maxpower was an eligible bidder despite its lacking technical requirements and recommended to [petitioner] Mayor Ojeda the approval thereof. It was signed by [petitioners] De Leon as BAC Chairman and Cortez, Eroa and Palillo as BAC Members. Note that, BAC Member Maria Pamela M. Libutan did not sign the said Resolution.
6. On 05 March 2013, [petitioner] Mayor Ojeda signed the said Resolution.
7. On 07 March 2013, [petitioner] Mayor Ojeda approved the Purchase Order and issued the Notice of Award with the conformity of Alta Maxpower on 07 March 2013 and 15 March 2013, respectively.
8. On 15 March 2013, [petitioner] Mayor Ojeda signed both the Notice to Proceed and the Contract Agreement, and (had it) received by Alta Maxpower.
9. On 19 March 2013, the Municipality of Mulanay issued a Check amounting to P472,678.57 to Alta Maxpower, which (then) issued the corresponding Sales Invoice and Official Receipt, both dated 23 March 2013.

10. On 21 March 2013, [petitioner] Mayor Ojeda instructed Municipal Treasurer Anita B. Romasanta to give the Check to Alta Maxpower as a pre-condition to the delivery of the Genset.
11. On 23 March 2013, Municipal Treasurer Anita B. Romasanta traveled to Lucena City and tendered the check to the Supplier's Representative.
12. On 03 April 2013, the Genset was inspected and accepted by the concerned employees of the Municipality of Mulanay and acknowledged by Engineer Delio H. De Leon.

x x x x

21. **The aforementioned facts clearly show that [petitioner] Mayor Ojeda and the named BAC Members, in their official capacities as public officials and employees, acted with manifest partiality, evident bad faith or gross inexcusable negligence in awarding the contract to a preferred Supplier. The pre-selection of the Payee in the Obligation Request, the instructions of [petitioner] Mayor Ojeda to [petitioner] Eroa to convey to the BAC his chosen bidder, and his directive to Romasanta to deliver the check to the bidder in Lucena City even prior to the delivery of the equipment, clearly shows his partiality.<sup>8</sup>**

In the Resolution<sup>9</sup> dated February 6, 2018 in OMB-L-C-16-0537, the OMB found probable cause to indict petitioners for violation of Section 3(e) of RA No. 3019 and directed the filing of the corresponding information in court. Petitioners sought reconsideration, to no avail.<sup>10</sup>

Petitioners were formally indicted<sup>11</sup> on November 5, 2018 for violation of Section 3(e) of RA No. 3019 before the Sandiganbayan, viz.:

The undersigned Graft Investigation and Prosecution Officer IV, Office of the Deputy Ombudsman for Luzon, accuses **JOSELITO A. OJEDA, DELIO H. DE LEON, MARISSA P. CORTEZ, NOEL M. EROA** and **MARINA L. PALILLO** of the crime of violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:

That in March 2013, or sometime prior or subsequent thereto, in the Municipality of Mulanay, Quezon, Philippines and within the jurisdiction of this Honorable Court, accused JOSELITO A. OJEDA, the Municipal Mayor, DELIO H. DE LEON, the Chairman of the Bids and Awards Committee, MARISSA P. CORTEZ, NOEL M. EROA, and MARINA L. PALILLO, members of the Bids and Awards Committee, committing the crime while in the performance of their duties, in relation thereto and taking advantage of their official positions and conspiring and confederating with one

<sup>8</sup> Id. at 29-31 and 33. Emphasis supplied.

<sup>9</sup> Id. at 163-172. The Resolution was penned by Ombudsman Graft Investigation and Prosecution Officer IV Julie P. Mercurio and approved by Ombudsman Conchita Carpio Morales.

<sup>10</sup> Id. at 173-176. The Order dated August 20, 2018 was issued by Ombudsman Graft Investigation and Prosecution Officer IV Julie P. Mercurio, with the approval of Ombudsman Samuel R. Martires.

<sup>11</sup> Id. at 177-178. Information dated November 5, 2018.

another, and acting with evident bad faith, manifest partiality or gross inexcusable negligence, did then and there, willfully, and unlawfully and criminally cause undue injury to the government and give unwarranted benefits, advantage or preference to Alta Maxpower Corporation (AMC) by recommending and awarding the contract for the procurement of one (1) unit of generator set in the amount of Five Hundred Thousand Pesos (Php500,000.00) despite AMC's ineligibility or disqualification in the technical component of the bid and contrary to pertinent procurement laws and regulations, to the damage of the government in the afore-stated amount.

CONTRARY TO LAW.<sup>12</sup>

Petitioners ensuingly filed an Entry of Appearance with *Ad Cautelam* Motion (to Quash Information, Hold in Abeyance the Issuance of Warrants of Arrest and Defer Proceedings).<sup>13</sup> They asseverated that the jurisdiction over the case lies with the Regional Trial Court, and not the Sandiganbayan, invoking Section 4<sup>14</sup> of RA No. 10660.<sup>15</sup> The same was denied by the Sandiganbayan in the first challenged Resolution.

Petitioners' *ad cautelam* motion for reconsideration thereof was denied in the second impugned Resolution.

Undaunted, petitioners elevated the case before this Court *via* the instant petition, raising a lone assignment of error for resolution—

**SANDIGANBAYAN-4<sup>TH</sup> DIVISION COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN HOLDING THAT IT HAS JURISDICTION TO**

<sup>12</sup> Id.

<sup>13</sup> Id. at 180-184.

<sup>14</sup> SEC. 4. *Jurisdiction*. — The Sandiganbayan shall exercise exclusive 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 Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the 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

(b) City mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;

x x x x

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

**Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).**

x x x x

<sup>15</sup> AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR, approved on April 16, 2015.

**TRY PETITIONERS FOR VIOLATION OF SECTION 3(e) OF R.A. NO. 3019 AS CHARGED UNDER THE 5 NOVEMBER 2018 INFORMATION.<sup>16</sup>**

*The Petition deserves short shrift.*

Prior to the amendment of P.D. No. 1606, the Sandiganbayan had jurisdiction over (a) violations of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and R.A. No. 1379; (b) crimes committed by public officers and employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and (c) other crimes or offenses committed by public officers or employees, including those employed in government-owned or-controlled corporations, in relation to their office. This jurisdiction was original and exclusive if the offense charged was punishable by a penalty higher than *prision correccional*, or its equivalent, except as provided in P.D. No. 1606. In other offenses, the jurisdiction was concurrent with the regular courts.

In 1995, Congress enacted R.A. No. 7975 in order for the Sandiganbayan to concentrate on the “larger fish” and leave the “small fry” to the lower courts, the larger fish referring to public officials whose salary grades were at grade “27” or higher and over certain public officials holding important positions in government regardless of salary grade as specifically enumerated in Section 4, and the small fry referring to public officials whose salary grades were at grade “26” or lower and not falling under the aforementioned enumeration.

Hence, Congress limited the jurisdiction of the Sandiganbayan to cases involving public officials occupying positions classified as salary grade “27” and higher as well as those specifically enumerated in Section 4. In cases where none of the principal accused were occupying positions corresponding to salary grade “27” or higher, or PNP officers occupying the rank of superintendent or higher, or their equivalent, Congress conferred exclusive original jurisdiction in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in *Batas Pambansa Blg. 129*. The word “principal” was later removed by R.A. No. 8249. In 2014, Congress enacted R.A. No. 10660 which granted the Regional Trial Court exclusive original jurisdiction where the information (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (₱1,000,000.00).<sup>17</sup>

Petitioners maintain that the Sandiganbayan had no jurisdiction over

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<sup>16</sup> *Rollo*, pp. 9-10.

<sup>17</sup> *People v. Talaue*, G.R. No. 248652, January 12, 2021.

their case. They avouch that the jurisdiction to try a criminal case is determined at the time of the institution of the case, not at the time of the commission of the offense as erringly decreed by the Sandiganbayan in the disputed Resolution. Thus, their case is already covered by RA No. 10660,<sup>18</sup> which was approved on April 16, 2015, since the information herein was filed in 2018. Furthermore, they opine that while the information mentioned “undue injury to the government,” none has been specified and quantified. At the very least, the only thing mentioned in the information was the ₱500,000.00 cost of the subject generator set which is within the jurisdictional threshold of the Regional Trial Court under R.A. No. 10660.<sup>19</sup>

*The Sandiganbayan correctly assumed jurisdiction over the case.*

The jurisdiction of the Sandiganbayan is outlined in Section 4 of Presidential Decree (PD) No. 1606,<sup>20</sup> as amended by Section 2 of RA No. 10660, viz.:

SEC. 4. Jurisdiction. — The Sandiganbayan shall exercise exclusive 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 Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the 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:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads;

(b) **City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;**

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while

<sup>18</sup> AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR, approved on April 16, 2015.

<sup>19</sup> See *Rollo*, pp. 11-12. Petition for *Certiorari* (Under Rule 65 of the Rules of Court).

<sup>20</sup> REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS “SANDIGANBAYAN” AND FOR OTHER PURPOSES, dated December 10, 1978.

occupying the position of provincial director and those holding the rank of senior superintendent and higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

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

(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

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.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

*Provided*, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.<sup>21</sup>

Prior to its amendment, Section 4 of PD 1606 did not set a threshold amount of damage or damages allegedly suffered by the government which would vest the Sandiganbayan with jurisdiction over the offense. The amendment was introduced in RA No. 10660 which took effect on May 5, 2015.<sup>22</sup>

Generally, the jurisdiction of a court to try a criminal case is determined at the time it was filed.<sup>23</sup> By way of exception, however, Section 5 of RA No.

<sup>21</sup> Amendment to P.D. No. 1606 (Functional and Structural Organization of the Sandiganbayan), Republic Act No. 10660, April 16, 2015.

<sup>22</sup> See *People v. Bacaltos*, G.R. No. 248701, July 28, 2020, 945 SCRA 107, 126. Italics omitted.

<sup>23</sup> *Id.*

10660 ordains:

SECTION 5. Transitory Provision. — This Act shall apply to all cases pending in the Sandiganbayan over which trial has not begun: *Provided*, That: (a) **Section 2, amending Section 4 of Presidential Decree No. 1606, as amended, on "Jurisdiction"**; and (b) Section 3, amending Section 5 of Presidential Decree No. 1606, as amended, on "Proceedings, How Conducted; Decision by Majority Vote" **shall apply to cases arising from offenses committed after the effectivity of this Act.** [Emphasis supplied]

Verily, **the amended jurisdiction of the Sandiganbayan only covers offenses committed only after RA No. 10660 took effect on May 5, 2015.** This has already been settled in *Gonowan-Ampongan v. Sandiganbayan*,<sup>24</sup> viz.:

It is clear from the transitory provision of R.A. No. 10660 that the amendment introduced regarding the jurisdiction of the *Sandiganbayan* shall apply to cases arising from offenses committed after the effectivity of the law. Consequently, the new paragraph added by R.A. No. 10660 to Section 4 of Presidential Decree (*P.D.*) No. 1606, as amended, transferring the exclusive original jurisdiction to the RTC of cases where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million Pesos, applies to cases which arose from offenses committed after the effectivity of R.A. No. 10660.<sup>25</sup>

In the case at bench, the Information charged petitioners with violation of Section 3(e) of RA 3019 "x x x **in March 2013**, or sometime prior or subsequent thereto x x x."<sup>26</sup> Moreover, the complaint meticulously detailed the series of events involving the anomalous transaction which was the very basis of the charge against petitioners, beginning on **February 5, 2013** when then Municipal Mayor Ojeda approved a Purchase Request and an Obligation Request for the supply and delivery of one unit of diesel powered AC Generating Set, identifying Alta Maxpower Corporation, Inc. as its supplier even prior to the posting of the Invitation to Bid,<sup>27</sup> until the same was inspected and accepted by the concerned employees of the Municipality of Mulanay on **April 3, 2013.**<sup>28</sup> Plain as day, when the purported crime was committed, RA No. 10660 had yet to take effect, hence, the same is inapplicable here.

All told, the Court finds no grave abuse of discretion on the part of the Sandiganbayan in issuing the impugned Resolutions.

**WHEREFORE**, the Petition for *Certiorari* is hereby **DENIED**. The

<sup>24</sup> G.R. Nos. 234670-71, August 14, 2019, 914 SCRA 235.

<sup>25</sup> Id. at 246.

<sup>26</sup> *Rollo*, p. 178. Emphasis supplied.

<sup>27</sup> See id. at 29.

<sup>28</sup> See id. at 31.



Resolutions dated June 19, 2019 and August 14, 2019 of the Sandiganbayan-Fourth Division, in Criminal Case No. SB-19-CRM-0047, are **AFFIRMED**.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
*nbh*

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