



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 31, 2023, which reads as follows:

“G.R. No. 267458 (SULTAN USMAN TANTAO SARANGANI, Petitioner v. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN SIXTH DIVISION, Respondents). — The Court resolves to **INFORM** petitioner that he or his authorized representative may claim from the Cash Disbursement and Collection Division of this Court the earmarked payment for prayer for the issuance of a writ of preliminary injunction in the amount of PHP 1,000.00 and the amount of PHP 10.00 for legal research fund, both under O.R. No. 358833 dated June 20, 2023.

In the instant Verified Petition for *Certiorari*, Prohibition and Mandamus with Application for Temporary Restraining Order (TRO) and/or Preliminary Injunction,¹ Sultan Usman Tantao Sarangani (petitioner) seeks to enjoin the Sandiganbayan from further exercising jurisdiction over SB-23-CRM-0001 to 0016 and SB-23-CRM-0017 to 0032, involving complaints for graft and corruption filed by the Field Investigation Bureau of the Office of the Ombudsman in Mindanao against him and for the Court to order the dismissal of the aforesaid cases invoking violation of petitioner’s constitutional right to due process.

Stripped of unnecessary verbiage, the prevent facts unfurl as follows:

On March 22, 2016, the Field Investigation Unit of the Office of the Ombudsman (FIU-OMB) in Mindanao filed a complaint-affidavit against petitioner - then Regional Secretary of the Department of Environment and Natural Resources (DENR), Autonomous Region in Muslim Mindanao (ARMM) Regional Office in Cotabato City, Legal Officer Nasser Liliken Talipasan (Talipasan), Administrative Officer V Taya Candao (Candao), Budget Officer III Emma Maligaya (Maligaya), Cashier Trinidad L. Amaga (Amaga), and Regional Accountant Nanayaon Mapandi Dibratun

¹ Rollo, pp. 3-16.

(Dibaratun),² charging them with violation of Section 3(e) and (h)³ of Republic Act (R.A.) No. 3019⁴ and Section 7(a)⁵ of R.A. No. 6713.⁶

The complaint was based on the report of Audit Team Leader Mayaman Saga of the Commission on Audit (COA) which revealed that the DENR-ARMM procured supplies amounting to, more or less, ₱3,512,500.00 from suppliers/companies owned by Dibaratun and the latter took in the procurement thereof in her official capacity as Regional Accountant.⁷

The COA-ARMM likewise issued Notices of Disallowance for the illegal payment of Representation and Transportation Allowances (RATA) to Talipasan, Candao, Maligaya, Amaga, and Dibaratun, in the amount of ₱408,000.00.⁸

In due course, the Ombudsman found probable cause to indict petitioner and Dibaratun for 16 counts each of violation of Section 3(e) and (h) of R.A. No. 3019. Meanwhile, the charges against Talipasan, Candao, Maligaya, and Amaga were dismissed.⁹

Accordingly, the corresponding Informations were filed, docketed as SB-23-CRM-0001 to 0016 and SB-23-CRM-0017 to 0032.¹⁰

On May 10, 2023, respondent Sandiganbayan (Sixth Division) issued the first impugned Resolution,¹¹ denying petitioner's motion to dismiss for lack of merit.

² *Rollo*, pp. 56-64. The Resolution dated June 4, 2018 was penned by Graft Investigation and Prosecution Officer I Janice Joanne T. Torres-Arenas, Office of the Ombudsman.

³ **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:

(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.

x x x x

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

⁴ ANTI-GRAFT AND CORRUPT PRACTICES ACT, approved on August 17, 1960.

⁵ **Section 7. Prohibited Acts and Transactions.** - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) Financial and material interest. - Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

x x x x

⁶ CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, approved on February 20, 1989.

⁷ *Rollo*, p. 57. Ombudsman Resolution.

⁸ *Id.*

⁹ *Rollo*, p. 63. The Resolution dated June 4, 2018 was penned by Graft Investigation and Prosecution Officer I Janice Joanne T. Torres-Arenas, Office of the Ombudsman.

¹⁰ *Id.* at 69-128.

¹¹ *Id.* at 43-53. The Resolution was penned by Sandiganbayan Associate Justice Sarah Jane T. Fernandez, and concurred in by Associate Justices Karl B. Miranda and Kevin Narce B. Vivero.

Petitioner's bid for a reconsideration¹² of the foregoing disposition was struck down in the second challenged Resolution dated May 25, 2023.¹³

Unruffled, petitioner seeks refuge before this Court *via* the present recourse, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction upon respondent Sandiganbayan (Sixth Division) when it—

- I. **ALLOWED THE FILING OF INFORMATIONS AGAINST PETITIONER EVEN THOUGH THE PRINCIPAL ACCUSED, WITH WHOM PETITIONER WAS ALLEGED TO HAVE CONSPIRED, HAS DIED PRIOR TO THE FILING OF THE CHARGES.**
- II. **REFUSED TO DISMISS THE ADDITIONAL TWENTY (20) INFORMATIONS AGAINST PETITIONER.**¹⁴

Corollary thereto, petitioner prayed for the issuance of a TRO to enjoin respondent Sandiganbayan and all those acting under its orders and authority from proceeding with the prosecution of the subject cases with respect to him while the instant Petition is pending.¹⁵

The Petition is bereft of merit.

Incipiently, the Court will pass upon petitioner's prayer for the issuance of a TRO and/or writ of preliminary injunction.

Section 5, Rule 58 of the Rules of Court provides that a TRO may be issued only if it appears from the facts shown by affidavits or by verified application that great or irreparable injury would be inflicted on the applicant before the writ of preliminary injunction could be heard, thusly:

Section 5. Preliminary injunction not granted without notice; exception. — No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, **if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury**, the executive judge of a multiple-sala

¹² Id. at 26-42. Petitioner's Motion for Reconsideration.

¹³ Id. at 18-25.

¹⁴ Id. at 8. Verified Petition for *Certiorari*, Prohibition and Mandamus.

¹⁵ Id. at 13.

court or the presiding judge of a single sala court may issue *ex-parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. **A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.**

Guided by the foregoing legal precept, it is clear that to be entitled to an injunctive writ, the applicant must show that there exists a right to be protected which is directly threatened by the act sought to be enjoined. Moreover, there must be a showing that the invasion of the right is material and substantial, and that there is an urgent and paramount necessity for the writ to prevent serious damage.¹⁶ A writ of preliminary injunction and a TRO are injunctive reliefs and preservative remedies for the protection of substantive rights and interest. Essential to granting the injunctive relief is the existence of an urgent necessity for the writ in order to prevent serious damage. A TRO issues only if the matter is of such extreme urgency that grave injustice and irreparable injury would arise unless it is issued immediately.

A perusal of the petition elucidates the following avowals of the petitioner—

x x x [P]etitioner respectfully prays for relief in the form of temporary restraining order/preliminary injunction to preserve the *status quo* because of extreme urgency and petitioner as applicant will suffer grave injustice and irreparable injury. x x x¹⁷

Verily, it neither appears from the facts shown by the TRO application that great or irreparable injury would result to petitioner before the matter can be heard, nor did petitioner show any clear and positive right to be entitled to the protection of the ancillary relief of TRO. These assertions are speculative with no proof adduced to substantiate them. It is primal that injury is

¹⁶ See *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*, 820 Phil. 123, 136 (2017).

¹⁷ *Rollo*, p. 12.

irreparable where there is no standard by which its amount can be measured with reasonable accuracy.¹⁸

Delving now into the merits, the pith of the controversy is whether or not the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the challenged resolutions essentially holding that the filing of the 32 informations against petitioner was appropriate.

Petitioner contends that by reason of the death of the principal and his purported co-conspirator, Regional Accountant Dibratun, the prosecution against him may not prosper.

The Court is not swayed.

Jurisprudence teems with iteration that **it is not necessary to join all alleged co-conspirators in an indictment for conspiracy**. If two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by each of them and it makes no difference whether the actual actor is alive or dead, sane or insane at the time of trial. **The death of one of two or more conspirators does not prevent the conviction of the survivor or survivors.**¹⁹ Thus, this Court held that:

x x x [a] conspiracy is in its nature a joint offense. One person cannot conspire alone. The crime depends upon the joint act or intent of two or more persons. **Yet, it does not follow that one person cannot be convicted of conspiracy. So long as the acquittal or death of a co-conspirator does not remove the bases of a charge for conspiracy, one defendant may be found guilty of the offense.**²⁰

Notably, the complaint-affidavit filed by the FIU-OMB averred that petitioner had conspired with Dibratun, *inter alia*, in violating Section 3 of R.A. No. 3019 and Section 7 of R.A. No. 6713, and that in conspiracy, the act of one is the act of all.²¹ Hence, the criminal liability incurred by a co-conspirator is also incurred by the other co-conspirators. The death of Dibratun does not mean that the assertion of conspiracy between them can no longer be proved or that their purported conspiracy is already expunged. In fact, the Office of the Deputy Ombudsman for Mindanao found probable cause to indict Dibratun for violation of Section 3(e) and (h) of R.A. 3019.²² Were it not for his death, he should have been charged along with petitioner.

¹⁸ See *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*, supra note 18 at 139.

¹⁹ See *People v. Go*, 730 Phil. 362, 370-371 (2014).

²⁰ Id. at 371.

²¹ *Rollo*, p. 60. Ombudsman Resolution.

²² Id. at 63.

The only thing extinguished by Dibratun's death is his criminal liability. His death did not extinguish the crime nor did it remove the basis of the charge of conspiracy between him and petitioner.

Nonetheless, this is not to say that petitioner should be found guilty of conspiring with Dibratun. The absence or presence of conspiracy is factual in nature and involves evidentiary matters. Thence, the imputation of conspiracy against petitioner is better left ventilated before the trial court during trial, where petitioner can adduce evidence to prove otherwise.

Anent petitioner's insistence for the withdrawal of the 20 informations filed against him, which purportedly violated his constitutional right to due process, the Court finds the same factually and legally unwarranted.

Contrary to the assertion of petitioner, no additional disbursement vouchers were belatedly added in the informations *sans* notice to him. There were only 16 disbursement vouchers utilized as evidence. The Sandiganbayan aptly pointed out:

With respect to the filing of 32 informations despite there being only sixteen (16) disbursement vouchers, the Court finds that the same was appropriate. The dispositive portion of the Ombudsman Resolution reads:

WHEREFORE, the Office finds probable cause to indict [petitioner] Sultan Usman Tanta Sarangani and Nanayaon Mapandi Dibratun for 16 counts each of violation of Section 3(e) and (h) of R.A. No. 3019. Let the corresponding Informations be filed with the appropriate Court.

x x x x

Accordingly, sixteen (16) Informations for Violation of Sec. 3(e) of R.A. No. 3019, and another sixteen (16) Informations for Violation of Sec. 3(h) of R.A. No. 3019 were filed with the Sandiganbayan. There are no additional Disbursement Vouchers not included in the Ombudsman's Resolution. The Informations for Violation of Sec. 3(e) of R.A. No. 3019 and those for Violation of Sec. 3(h) of the same law pertain to the same sixteen (16) Disbursement Vouchers.²³

In *précis*, the Sandiganbayan (Sixth Division) committed no grave abuse of discretion in issuing the questioned Resolutions.

WHEREFORE, the Petition for *Certiorari*, Prohibition and Mandamus is hereby **DISMISSED**. Accordingly, the temporary restraining order or Preliminary Injunction prayed for is **DENIED** for lack of factual and legal mooring.

²³ Id. at 51-52. Sandiganbayan Resolution dated May 10, 2023.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
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Division Clerk of Court
12/11/23

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