

SECOND DIVISION

[G.R. NO. 139618, July 11, 2006]

**STEVENS N. FUENTES, PETITIONER, VS. THE SANDIGANBAYAN
AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Once a criminal action has been instituted by the filing of the Information with the court, the latter acquires jurisdiction and has the authority to determine whether to dismiss the case or convict or acquit the accused. However, the court, in the exercise of its judicial discretion, cannot ignore the recommendation of the prosecution. Hence, where the prosecution is convinced that the evidence is insufficient to establish the guilt of an accused, it cannot be faulted for moving for the withdrawal of the Information. However, in granting or denying the motion to withdraw, the court must judiciously evaluate the evidence in the hands of the prosecution.

This special civil action for certiorari seeks to annul and set aside the Resolution^[1] dated April 26, 1999 of the Sandiganbayan in Criminal Case No. 23334 denying the Motion to Quash the Information filed by Stevens Fuentes, petitioner, and its Resolution^[2] dated August 2, 1999 denying his Motion for Reconsideration.

The instant case stemmed from a Deed of Sale entered into by and between Teresita Sta. Maria Racó and the Municipality of Banga, Aklan, represented by petitioner in his capacity as Mayor of the said municipality. The object of the sale was a 1,343-square meter lot located in the same municipality covered by Original Certificate of Title No. P-15999. Petitioner paid Teresita Sta. Maria Racó P114,155.00 for the lot.

When the contract was presented to the Register of Deeds of Aklan, he required the submission of a resolution from the *Sangguniang Bayan* of Banga authorizing petitioner to purchase the lot.

On July 27, 1995, the *Sangguniang Bayan* of Banga held a special session, but failed to pass the required resolution.

In order to avoid any controversy, Teresita Sta. Maria Racó returned to petitioner the amount paid for her lot. That same day, petitioner executed an Affidavit of Rescission of Contract of Sale.

On August 30, 1995, Edgardo L. Ruiz, a member of the Sangguniang Bayan of Banga, filed with the Office of the Deputy Ombudsman for the Visayas a complaint charging petitioner with purchasing the lot at a price manifestly and grossly disadvantageous to the government, in violation of Section 3 (g) of Republic Act (R.A.) No. 3019.^[3] The complaint was docketed as OMB Case No. OMB-VIS-CRIM-

In a Resolution dated February 7, 1996, the Office of the Ombudsman (Visayas) recommended the dismissal of the complaint.

However, then Ombudsman Aniano Desierto disapproved the recommendation and, in a marginal note, stated that "the offense of violation of R.A. 3019, Section 3 (g) was consummated from the signing of the contract by the parties."

Accordingly, on April 11, 1996, the Office of the Special Prosecutor, with the approval of then Ombudsman Desierto, filed with the Sandiganbayan an Information for violation of Section 3 (g) of the Anti-Graft and Corrupt Practices Act, which reads:

That on or about July 12, 1995, in Banga, Aklan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Municipal Mayor of Banga, Aklan, committing the crime herein in relation to, while in the performance and taking advantage of his official functions, did then and there willfully, unlawfully, and criminally cause the purchase of a 1,343 sq.m. parcel of land situated in Mangan, Banga, Aklan from one Teresita Sta. Maria Raco for and in consideration of the amount of PESOS: ONE HUNDRED FOURTEEN THOUSAND ONE HUNDRED FIFTY-FIVE (P114, 155.00), which contract or transaction is manifestly or gross disadvantageous to the government said accused knowing fully well that the said property has a fair market value of PESOS: TWO THOUSAND EIGHT HUNDRED TWENTY and 30/100 (P2,820.30) and a zonal value of PESOS: THIRTEEN THOUSAND FOUR HUNDRED FIFTY (P13,450.00).

CONTRARY TO LAW.^[4]

On May 22, 1997, petitioner filed a Motion for Reconsideration and/or Reinvestigation. After hearing, the Office of the Special Prosecutor found that not all the elements of the offense charged are present.

The Ombudsman filed with the Sandiganbayan a Motion to Withdraw Information "for insufficiency of evidence."

On August 17, 1998, the Sandiganbayan denied the motion, holding that:

The motion at bar now is for the withdrawal of the information on the ground of insufficiency of evidence. As argued by the private complainant, however, quoting the Ombudsman, the offense for which the accused was charged "xxx is consummated upon the signing of the contract by the parties xxx." A perusal of the records would seem that this ground of insufficiency of evidence may not hold water.

Besides, and more importantly, the matter of determining the sufficiency or insufficiency of evidence, is best addressed to the Court after the prosecution has determined the existence of the prima facie case upon the filing of the Information.^[5]

On November 25, 1998, petitioner filed a Motion to Quash the Information on the following grounds: (1) the facts as alleged do not constitute an offense; and (2) there is clearly no *prima facie* evidence of wrongdoing on the part of the accused.

On April 26, 1999, the Sandiganbayan denied petitioner's Motion to Quash the Information, thus:

Anent the first ground, that the facts charged do not constitute an offense, a cursory reading of the allegations in the Information clearly show that the facts alleged therein constitute an offense for violation of Sec. 3 (g), R.A. 3019.

Anent the second ground that there is clearly no *prima facie* evidence against the accused, the same is evidentiary in nature and is not a ground for the quashal of an information. Besides, as ruled earlier, the matter of determining the sufficiency or insufficiency of evidence is best addressed to the Court after the Ombudsman has determined the existence of *prima facie* case on the filing of the Information.^[6]

Petitioner then filed a Motion for Reconsideration, but this was denied by the Sandiganbayan in its Resolution of July 29, 1999.

Hence, the instant petition for certiorari.

The sole issue for our resolution is whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner's Motion to Quash the Information.

In its Comment on the petition, respondent People of the Philippines, represented by the Ombudsman, prayed that the Information in Criminal Case No. 23334 be dismissed on the ground that not all the elements of the crime charged are present.

In his Comment, the Solicitor General, representing the Sandiganbayan, prayed that the instant petition be given due course and that the challenged Resolutions be set aside. The Solicitor General stated:

Contrary to established jurisprudence, respondent court merely relied on the self-serving allegation of the private complainant that the offense for which petitioner was charged "[was] consummated upon the signing of the contract by the parties."

x x x x x x x x

Here, we submit that petitioner was denied due process when respondent court merely accepted the private complainant's word as to the sufficiency of the evidence against the petitioner. By doing so, it relinquished the discretion that it was duty bound to exercise. x x x

It is highly unusual for the Solicitor General to take a position adverse to the People or the Sandiganbayan he is representing. Generally, the Solicitor General has the duty to see to it that the interest of the government is upheld within the limits set by law.^[7] It bears emphasis that in a prosecution for violation of the Anti-Graft and Corrupt Practices Act, as in this case, the government is the offended party.