

THIRD DIVISION

[G.R. No. 122641, January 20, 1997]

**BAYANI SUBIDO, JR. AND RENE PARINA, PETITIONERS, VS. THE
HONORABLE SANDIGAN-BAYAN AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

DAVIDE, JR., J.:

In this petition for *certiorari* under Rule 65 of the Rules of Court, the petitioners seek to set aside, on ground of grave abuse of discretion amounting to lack of jurisdiction, the following acts of the respondent Sandiganbayan in Criminal Case No. 22825: (a) the Resolution^[1] of 25 October 1995 which denied the petitioners' Motion to Quash of 28 August 1995 and Supplementary Motion to Quash of 7 October 1995; (b) the Order^[2] of 10 November 1995 which denied the petitioners' motion for reconsideration; and (c) the Order^[3] of 10 November 1995 which entered a plea of not guilty for the petitioners and set pre-trial on 12 January 1996.

In Criminal Case No. 22825, the petitioners were charged with Arbitrary Detention, defined and penalized by Article 124 of the Revised Penal Code (RPC), under an information dated 17 July 1995 (but filed on 28 July 1995), the accusatory portion of which reads as follows:

That on or about June 25, 1992, or sometime subsequent thereto, in Mandaluyong, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Bayani Subido, Jr., being then a Commissioner of the Bureau of Immigration and Deportation (BID) and accused Rene Parina, being then a BID Special Agent, while in the performance of their official functions, and conspiring and confederating with each other, did then and there wilfully, unlawfully and feloniously cause the issuance and implementation of a warrant of arrest dated June 25, 1992 against James J. Maksimuk, said accused knowing fully well that the BID Decision dated June 6, 1991, requiring Maksimuk's deportation has not as yet become final and executory considering the pendency of a Motion for Reconsideration, resulting in the detention of the latter for a period of forty-three (43) days and, thus, causing him undue injury.

CONTRARY TO LAW.^[4]

The arraignment was originally set for 28 August 1995.^[5]

On 28 August 1995, however, the petitioners filed a Motion to Quash,^[6] contending that in view of the effectivity of R.A. No. 7975^[7] on 6 May 1995, amending §4 of P.D. No. 1606,^[8] the Sandiganbayan had no jurisdiction over both the offense charged and the persons of the accused. They argued that: (1) Arbitrary Detention

did not fall within Chapter II, §2, Title VII of the RPC, but within §1, Chapter 1, Title II (Crimes Against the Fundamental Laws of the State), hence, not covered by R.A. No. 7975 and, therefore, the case should have been filed with the Regional Trial Court (RTC) of Manila; (2) R.A. No. 7975 should be given prospective application and at the time the case was filed, petitioner Subido was already a private person since he was separated from the service on 28 February 1995; while petitioner Parina did not hold a position corresponding to salary grade "27"; and (3) penal laws must be strictly construed against the State.

In compliance with the order of the Sandiganbayan, the prosecution filed its Opposition to the Motion to Quash^[9] on 28 September 1995. It contended that it was clear from §4(b) of R.A. No. 7975 that the Sandiganbayan had jurisdiction over both the offense charged and the persons of the accused considering that "the basis of its jurisdiction xxx is the position of the accused in the government service when the offense charged was committed and not the nature of the offense charged, provided the said offense committed by the accused was in the exercise of his duties and in relation to his office." The fact then that accused Subido was already a private individual was of no moment.

In a Supplement to the Motion to Quash^[10] filed on 9 October 1995, the petitioners further asserted that: (1) the allegations in the information were vague; (2) under §1, Rule VIII of Memorandum Order (MO) No. 04-92 (Rules of Procedure to Govern Deportation Proceedings), the grant or denial of bail to an alien in a deportation proceeding was discretionary upon the Commissioner, hence could not be subject to a charge of arbitrary detention; (3) petitioner Subido was separated from the service before the effectivity of R.A. No. 7975, hence retroactive application thereof would be prejudicial to him; and (4) at the time the information was filed, petitioner Parina was not occupying a position corresponding to salary grade "27" or higher, as prescribed by R.A. No. 6758.^[11]

In its Rejoinder^[12] filed on 20 October 1995, the prosecution maintained that with §4 of MO No. 04-92, *Salazar v. Achacoso*,^[13] and *Gatchalian v. CID*,^[14] the only instance when an alien facing deportation proceedings could be arrested by virtue of a warrant of arrest was when the Commissioner issued the warrant to carry out a final order of deportation, which was absent in this case due to the pendency of the motion for reconsideration timely filed. It further reiterated that the basis of the Sandiganbayan's jurisdiction over the case was the position of the accused when the crime was committed, not when the information was filed; in any event, petitioner Subido's position as a Commissioner of the Bureau of Immigration was classified even higher than grade "27" under the Compensation and Classification Act of 1989.

In its Resolution^[15] of 25 October 1995, the Sandiganbayan denied the petitioners' Motion to Quash and the Supplement thereto, ruling:

1. [T]he jurisdiction of the Sandiganbayan remains not only over the specific offenses enumerated in Sec. 4 of P.D. 1606 as Amended by R.A. 7975 but over offenses committed in relation to their office, regardless of the penalty provided that the salary of the accused is at Grade 27 under [R.A. 6758] or that he is occupying any of the position described in Sec. 4(a)e of the law, which includes the position of Deputy Commissioner.

2. [A]t this time the position of the prosecution in response to this Court's misgivings stated in its Order of August 28, 1995, appears to be that aliens may not be arrested except upon execution of a deportation order, a matter which can be taken up at further proceedings after the arraignment of the accused.

It likewise set arraignment on 10 November 1995. To abort arraignment, the petitioners filed on 9 November 1995 a motion for reconsideration^[16] and submitted that under the vast power of the Commissioner of the Department of Immigration, he could authorize the arrest and detention of an alien even though a deportation order had not yet become final, in light of the preventive, not penal, nature of a deportation order.^[17]

On 10 November 1995, the Sandiganbayan issued an Order^[18] denying the petitioners' motion for reconsideration, and a second Order^[19] entering a plea of not guilty in favor of the petitioners since they objected to arraignment, setting pre-trial on 12 January 1996, and making of record that arraignment was conducted with the reservation of the petitioners to seek redress with this Court from the denial of their motion for reconsideration.

Hence, this special civil action, where the parties, in the main, reiterate the arguments they raised before the Sandiganbayan. In due time, we resolved to give due course to the petition and required the parties to file their respective memoranda, which they subsequently complied with.

The petition must be dismissed.

Sections 2 and 7 of R.A. No. 7975 pertinently provide as follows:

Sec. 2. Section 4 of [P.D. No. 1606] is hereby further amended to read as follows:

Sec. 4. Jurisdiction. -- The Sandiganbayan shall exercise 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 of the Revised Penal Code, where one or more of the principal 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

(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 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.

In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested 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 jurisdiction as provided in Batas Pambansa Blg. 129.

Sec. 7. Upon the effectivity of this Act, all criminal cases in which trial has not begun in the Sandiganbayan shall be referred to the proper courts.

R.A. No. 7975 took effect on 16 May 1995,^[20] or one year, ten months and twenty-one days after the alleged commission of the crime charged in Criminal Case No. 22825 before the Sandiganbayan. The provisions of §4 of P.D. No. 1606, as amended by E.O. No. 184, but prior to their further amendment by R.A. No. 7975, are then the applicable provisions. §4 of P.D. No. 1606 then pertinently provided as follows:

SEC. 4. Jurisdiction. -- The Sandiganbayan shall exercise:

(a) Exclusive appellate jurisdiction in all cases involving:

(1) violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prision correccional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correccional or imprisonment of six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

In *Aguinaldo v. Domagas*,^[21] and subsequently in *Sanchez v. Demetriou*,^[22] *Natividad v. Felix*,^[23] and *Republic v. Asuncion*,^[24] we ruled that for the Sandiganbayan to have exclusive original jurisdiction over offenses or felonies committed by public officers or employees under the aforementioned §4(a)(2), it was not enough that the penalty prescribed therefor was higher than prision correccional or imprisonment for six years, or a fine of P6,000.00; it was likewise necessary that the offenses or felonies were committed in relation to their office.^[25]