

FIRST DIVISION

[G.R. No. 236293, December 10, 2019]

**PROCESO L. MALIGALIG, PETITIONER, VS. SANDIGANBAYAN
(SIXTH DIVISION), PEOPLE OF THE PHILIPPINES,
REPRESENTED BY THE OFFICE OF THE SPECIAL PROSECUTOR OF
THE OFFICE OF THE OMBUDSMAN, PRESIDENTIAL COMMISSION
ON GOOD GOVERNMENT AND BATAAN SHIPYARD AND
ENGINEERING CORPORATION, INC., Respondents.**

D E C I S I O N

PERALTA, C.J.:

This Petition for Certiorari under Rule 65 of the Rules of Court seeks to set aside the Sandiganbayan Sixth Division's (Sandiganbayan) Resolutions dated October 10, 2017^[1] and November 17, 2017^[2] in SB-CRM- 17-0736 and SB-CRM-17-0737, which respectively denied petitioner's Alternative Motion to Quash or To Suspend Proceedings and Motion for Reconsideration.

Petitioner was charged before the Sandiganbayan with violation of Section 3(e) of Republic Act (R.A.) No. 3019 and Article 217, in relation to paragraph 4 of Article 48 of the Revised Penal Code, under two (2) Informations, which read as follows:

SB-CRM-17-0736

That on March 29, 2010, or sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PROCESO LAWAS MALIGALIG, a public officer, being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or controlled corporation, in the discharge of his administrative and/or official functions and taking advantage of his official position, did then and there, willfully, unlawfully and criminally, with evident bad faith or gross inexcusable negligence, execute a Release, Waiver and Quitclaim in favor of Northstar Transport Facilities, Inc. (Northstar) without authority from the BASECO Board of Directors, and receive from Northstar the amount of PhP3,554,000.00 as full settlement of its total arrearages of PhP4,819,198.13 to BASECO for the period May 2009 to February 2010 covered by the Contract of Lease dated September 15, 2006 between BASECO, as lessor, and Northstar, as lessee, over BASECO properties including the eastern portion of the land area known as Engineer Island and accretions in Port Area, Manila totaling 17,896.10

square meters more or less, and not remit the amount of PhP3,554,000.00 to BASECO, causing undue injury to BASECO and the Government in the total amount of PhP4,819,198.13 that was due from Northstar, and giving Northstar unwarranted benefits and advantage.

CONTRARY TO LAW."

SB-CRM-17-0737

That on March 29, 2010, or sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PROCESO LAWAS MALIGALIG, a public officer, being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or controlled corporation, and as such by reason of his office and duties is responsible and accountable for public funds entrusted to and received by him, committing the complex crime charged herein while in the performance of or in relation to office and taking advantage of his official position, did then and there, willfully, unlawfully and feloniously, appropriate, take or misappropriate the amount of PhP3,554,000.00 under his charge and custody and which he received from Northstar Transport Facilities, Inc. (Northstar) as full settlement of its total arrearages of PhP4,819,198.13 to BASECO for the period May 2009 to February 2010 under the Contract of Lease dated September 15, 2006 between BASECO, as lessor, and Northstar, as lessee, over BASECO properties including the eastern portion of the land area known as Engineer Island and accretions in Port Area, Manila totaling 17,896.10 square meters more or less, by means of falsifying the Release, Waiver and Quitclaim dated March 29, 2010 that he executed in favor of Northstar by making an untruthful statement therein that he executed a Release, Waiver and Quitclaim to implement the Resolutions approved on March 24, 2010 by the BASECO Board of Directors in its special board meeting when, in truth and in fact, said statement is absolutely false because the BASECO Board of Directors neither approved nor issued such Resolutions, and for which the accused has a legal obligation to disclose the truth about the absence of such Resolutions, to the damage and prejudice of BASECO, the Government and the public interest in the aforestated amount.

CONTRARY TO LAW."^[3]

On May 26, 2017, petitioner filed before the Sandiganbayan an Alternative Motion to Quash or To Suspend Proceedings^[4] (motion to quash or to suspend proceedings) on the ground that the Sandiganbayan has no jurisdiction over his person and that the Office of Ombudsman had no authority to file the above-quoted Informations against him. Petitioner, in the alternative, also moved for the suspension of his arraignment on the ground of a prejudicial question. The

People, through the Office of the Special Prosecutor (OSP), opposed petitioner's motion to quash or to suspend proceedings, insisting on its authority to file the Informations and on the jurisdiction of the Sandiganbayan to hear the case against the petitioner. The OSP argued that there was no prejudicial question involved, since the issue on the ownership of shares of BASECO will not affect any of the elements of the crimes charged in the Informations.

On October 10, 2017, the Sandiganbayan denied petitioner's Motion to Quash or to Suspend Proceedings. His motion for reconsideration having been denied in the Sandiganbayan's Resolution dated November 17, 2017, petitioner interposes the present petition raising the following issues:

I

WHETHER OR NOT THE RESPONDENT COURT ACTED WITHOUT JURISDICTION IN ISSUING THE RESOLUTION DATED OCTOBER 10, 2017 INSOFAR AS IT HELD THAT IT HAS JURISDICTION OVER THE CASE AND THE PERSON OF THE ACCUSED.

II

WHETHER OR NOT THE RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DENYING PETITIONER'S ALTERNATIVE MOTION TO QUASH OR TO SUSPEND PROCEEDINGS DATED MAY 12, 2017 AND MOTION FOR RECONSIDERATION DATED OCTOBER 17, 2017 (SIC).^[5]

Petitioner contends that the Bataan Shipyard and Engineering Co., Inc. (BASECO) is not a government-owned or controlled corporation. Invoking the ruling in BASECO v. PCGG, et al.,^[6] he argued that, while BASECO was under sequestration by the Presidential Commission on Good Government (PCGG), there was no divestment of title over the seized property since the PCGG has only powers of administration and that it may not exercise acts of ownership over the property sequestered, frozen or provisionally taken over. Petitioner alleged that he bought one (1) share of stock of the company in 2001 and, thus, he was entitled to be voted upon as member of the Board of Directors (BOD) of BASECO. He theorizes that while the former President intimated her desire to the PCGG that he be made a member of the BOD, the same would not nevertheless have materialized had he not acquired a share of stock in the company. He was elected as member of the BOD and, eventually, as President of BASECO every year until he was unceremoniously replaced in 2011.

Petitioner posits that since BASECO is a private corporation under the tutelage of PCGG as conservator and that he was elected to the BOD by reason of his being a stockholder of the company, he cannot be considered as a public official or employee within the definition of Section 2(b) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Not being a public official or employee, he asserts that the Sandiganbayan has no jurisdiction over his person and that, consequently, the Office of the Ombudsman also has no jurisdiction to conduct preliminary investigation against him. Petitioner, thus, concludes that the