

EN BANC

[G.R. No. 224162, November 07, 2017]

JANET LIM NAPOLES, PETITIONER, V. SANDIGANBAYAN (THIRD DIVISION), RESPONDENT.

DECISION

REYES, JR., J:

Before this Court is a petition for *certiorari* under Rule 65 of the Rules of Court, which sought to nullify and set aside the Resolutions dated October 16, 2015^[1] and March 2, 2016^[2] of the Sandiganbayan in SB-14-CRM-0238. These Resolutions denied Janet Lim Napoles' (Napoles) application for bail because the evidence of her guilt for the crime of Plunder is strong.

Factual Antecedents

On September 16, 2013, the Office of the Ombudsman received the report of the National Bureau of Investigation (NBI), regarding its investigation on several persons, including Napoles, former Senator Juan Ponce Enrile (Enrile) and his former Chief of Staff, Atty. Jessica Lucila Reyes (Reyes). In its report, the NBI recommended to prosecute Napoles, former Senator Enrile, Reyes, and several other named individuals for the crime of Plunder, defined and penalized under Section 2 of Republic Act (RA) No. 7080, as amended, for essentially misappropriating former Senator Enrile's Priority Development Assistant Fund (PDAF) through non-governmental organizations (NGOs) that were selected without the required bidding procedure.^[3] This case was docketed as OMB-C-C-13-0318.^[4]

Soon after, or on November 18, 2013, the Office of the Ombudsman received a Complaint from its Field Investigation Office (FIO), criminally charging former Senator Enrile, Reyes, Napoles, and fifty-two (52) other individuals with violations of RA No. 7080 and Section 3(e) of RA No. 3019.^[5] Said complaint was docketed as OMB-C-C-13-0396.^[6]

In a Joint Resolution dated March 28, 2014, the Ombudsman Special Panel of Investigators found probable cause to indict Napoles, among others, with one (1) count of Plunder and fifteen (15) counts of violating Section 3(e) of RA No. 3019. They likewise recommended to immediately file the necessary Informations against all the named accused.^[7]

Some of the named accused, including Napoles, filed their respective motions for reconsideration. The Special Panel of Investigators denied these motions in its Joint Order dated June 4, 2014, but dropped Ruby Chan Tuason as a respondent, in light of her admission as a State witness and her corresponding immunity from criminal prosecution.^[8]

Thus, in an Information dated June 5, 2014, Napoles, together with former Senator Enrile, Reyes, Ronald John Lim and John Raymund De Asis, were charged with Plunder in Criminal Case No. SB-14-CRM-0238 filed with the Sandiganbayan.^[9] The pertinent portions of the Information state:

In 2004 to 2010, or thereabout (sic), in the Philippines, and within this Honorable Court's jurisdiction, above-named accused JUAN PONCE ENRILE, then a Philippine Senator, JESSICA LUCILA G. REYES, then Chief of Staff of Senator Enrile's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN LIM, and JOHN RAYMUND DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS (Php172,834,500.00) through a combination or series of overt criminal acts, as follows:

- a) by repeatedly receiving from NAPOLES and/or representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and ENRILE and/or REYES received, a percentage of the cost of a project to be funded from ENRILE's Priority Development Assistance Fund (PDAF), in consideration of ENRILE's endorsement, directly or through REYES, **to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementors (sic) of ENRILE's PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;**
- b) by taking undue advantage, on several occasions, of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.^[10] (Emphasis Ours)

On July 7, 2014, Napoles filed her Petition for Bail, arguing that the evidence of the prosecution is insufficient to prove her guilt beyond reasonable doubt. She particularly assailed the credibility of the State witnesses (otherwise referred to as whistleblowers) as these are allegedly mere hearsay, tainted with bias, and baseless. Citing the *res inter alios acta* rule, Napoles submitted that the testimonies of these whistleblowers are inadmissible against her.^[11]

In view of Napoles' application for bail, the Sandiganbayan conducted bail hearings. The prosecution presented the following witnesses: (a) Carmencita N. Delantar, then Director in the Department of Budget and Management (DBM); (b) Susan P. Garcia,

an Assistant Commissioner in the Commission on Audit (COA), and the former Director of the Special Audit Office; (c) Ryan P. Medrano, the Graft Investigation and Prosecution Officer from the FIO, Office of the Ombudsman; (d) Marina Cortez Sula, former employee of Napoles; (e) Mary Arlene Joyce Baltazar, former bookkeeper for JLN Corporation; (f) Merlina P. Suñas, former employee of Napoles; (g) Benhur K. Luy, former finance officer of Napoles; and (h) Ruby Chan Tuason, former Social Secretary of former President Joseph E. Estrada.^[12]

The prosecution likewise presented the following supposed beneficiaries of former Senator Enrile's PDAF projects, all of whom identified their respective sworn statements before the Sandiganbayan: (a) Eldred P. Tumbocon, Municipal Mayor of Umingan, Pangasinan; (b) Francisco O. Collado, Jr., Municipal Agriculturist of Umingan, Pangasinan; (c) Bartolome Ramos, Municipal Mayor of Sta. Maria, Bulacan; (d) Ricardo V. Revita, Municipal Mayor of Rosales, Pangasinan; (e) Rodolfo A. Mendoza, Municipal Agriculturist of San Miguel, Bulacan; and (f) Imelda Alvarado Eudenio, Municipal Agriculturist of Sta. Maria, Bulacan. The defense also stipulated that: (a) the witnesses occupied their respective positions at the time material to the case; (b) they were unaware that their respective municipalities were recipients of livelihood projects from former Senator Enrile's PDAF; (c) they did not receive any agricultural package or livelihood training from former Senator Enrile, the implementing agencies of his PDAF, or from any NGO; and (d) they did not sign or prepare any acknowledgment receipt or liquidation documents pertaining to the transactions.^[13]

Furthermore, the prosecution presented another group of beneficiaries, whose testimonies were subject of the same stipulations: (a) Shiela May Cebedo, Municipal Mayor of Bacuag, Surigao del Norte; (b) Elyzer C. Chavez, City Mayor of Passi, Iloilo; (c) Benito D. Siadto, Municipal Mayor of Kibungan, Benguet; (d) Florencio Bentrez, Municipal Mayor of Tuba, Benguet; and (e) Jose C. Ginez, Municipal Mayor of Sta. Maria, Pangasinan. The defense cross-examined this group of beneficiaries.^[14]

After the conclusion of the prosecution's presentation of evidence, Napoles manifested that she is not presenting any evidence for her bail application.^[15]

Ruling of the Sandiganbayan

In the first assailed Sandiganbayan Resolution dated October 16, 2015, the Petition for Bail of Napoles was denied for lack of merit.^[16] The relevant portions of this Resolution reads:

It is true that none of the prosecution witnesses testified that Senator Enrile directly received the kickbacks/commissions/rebates from accused Napoles. Based on the DDRs of Luy, accused Napoles repeatedly gave kickbacks/commissions/rebates to Senator Enrile's middlepersons. Also, prosecution witnesses Suñas and Luy categorically testified that they were the ones who prepared the documents and money in paying the kickbacks/commissions/rebates for Senator Enrile. These kickbacks/commissions/rebates were given by them or by accused Napoles to Ruby Tuason and other middlepersons for Senator Enrile.

A FINAL WORD

The Court stresses, however, that in resolving this petition for bail of accused Napoles, it is not passing judgment on the culpability or non-culpability of Senator Enrile, Atty. Reyes, accused Napoles, Lim[,] and de Asis. Again, in a petition for bail, the Court is only mandated to determine whether based on the pieces of evidence presented by the prosecution, proof evident exists or the presumption of guilt is strong. As above discussed, the prosecution had presented clear and strong evidence which leads to a well-guarded dispassionate judgment that the offense of plunder has been committed as charged; that accused Napoles is guilty thereof, and that she will probably be punished capitally if the law were administered at this stage of the proceedings.

WHEREFORE, accused Janet Lim Napoles's (*sic*) *Petition for Bail* dated July 7, 2014, is DENIED for lack of merit.

SO ORDERED.^[17]

On November 4, 2015, Napoles moved for the reconsideration of the Sandiganbayan's Resolution denying her *Petition for Bail*.^[18] This motion was likewise deemed unmeritorious and the Sandiganbayan denied it in its Resolution dated March 2, 2016,^[19] viz.:

WHEREFORE, accused Janet Lim Napoles's (*sic*) *Motion for Reconsideration* dated November 4, 2015 is DENIED for lack of merit.

SO ORDERED.^[20]

Napoles thus filed the present petition before this Court, alleging that the Sandiganbayan gravely abused its discretion, amounting to lack or excess of jurisdiction, in denying her bail application. She insists in the present petition that the prosecution was unable to discharge its burden of proving that the evidence of her guilt is strong.^[21]

Ruling of this Court

Preliminarily, it should be emphasized that since this is a petition for *certiorari* under Rule 65 of the Rules of Court, this Court's review is limited to whether the Sandiganbayan gravely abused its discretion amounting to lack or excess of jurisdiction in issuing its assailed Resolutions denying Napoles' application for bail. The Court's *certiorari* jurisdiction covers only errors of jurisdiction on the part of the Sandiganbayan. It should be borne in mind that not every error in the proceedings, or every erroneous conclusion of law or fact, constitutes grave abuse of discretion. Errors in the appreciation of the parties' evidence, including the conclusions anchored on these findings, are not correctible by the writ of *certiorari*.^[22]

In this regard, Napoles bears the burden of showing that the Sandiganbayan's denial of her bail application was capricious, whimsical, arbitrary, or despotic, so as to amount to grave abuse of discretion. This Court is not a trier of facts. As such, it must be established that there was a patent and gross abuse of discretion amounting to an evasion of a positive duty, or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law.^[23]

It is within this framework that the Court reviewed the assailed Sandiganbayan Resolutions.

The prosecution bears the burden of proving that the evidence of Napoles' guilt for the crime of Plunder is strong.

Despite the arrest of the accused, or his/her voluntary surrender as the case may be, the accused may be granted provisional liberty under certain conditions. This right to bail is guaranteed in the Bill of Rights, except when the accused is charged with a capital offense,^[24] viz.:

Section 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.^[25]

While bail may generally be granted as a matter of right prior to the conviction of the accused,^[26] those charged with a capital offense is granted bail only when the evidence of guilt is not strong:

Section 7. *Capital offense of an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution. (7a)^[27]

The trial court is thus granted the discretion to determine whether there is strong evidence of guilt on the part of the accused. The trial court may also deny the application for bail when the accused is a flight risk, notwithstanding the prosecution's evidence on the guilt of the accused.^[28]

In exercising this discretion, the trial court should receive the parties' evidence at a hearing duly scheduled for this purpose. The prosecution and the accused are granted reasonable opportunity to prove their respective positions: on the part of the prosecution, that the evidence of guilt against the accused is strong, and on the part of the defense, the opposite.^[29] The hearing is summary and limited to the determination of the weight of evidence for purposes of granting or denying bail. The denial or refusal must be supported by a summary of the prosecution's evidence.^[30]

In *Cortes v. Catral*,^[31] this Court laid down the following duties of the trial court in cases of an application for bail:

1. In all cases, whether bail is a matter of right or of discretion, notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation (Section 18, Rule 114 of the Rules of Court as amended);