

EN BANC

[**A.M. OCA IPI No. 10-25-SB-J, January 15, 2013**]

**RE: COMPLAINT OF LEONARDO A. VELASCO AGAINST
ASSOCIATE JUSTICES FRANCISCO H. VILLARUZ, JR., ALEX L.
QUIROZ, AND SAMUEL R. MARTIRES OF THE SANDIGANBAYAN.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint filed by Leonardo A. Velasco against the respondents, Honorable Associate Justices Francisco H. Villaruz, Jr. (Justice Villaruz, Jr.), Alex L. Quiroz (Justice Quiroz), and Samuel R. Martires (Justice Martires) of the Third Division of the Sandiganbayan for grave misconduct and violation of the Code of Judicial Conduct.

The Facts

On December 10, 2008, the Third Division of the Sandiganbayan, then composed of respondent Justice Villaruz, Jr. as Chairman and Associate Justices Efren N. Dela Cruz and Norberto Y. Giraldez as Members, rendered a Decision^[1] convicting accused Pacifico C. Velasco^[2] (accused Velasco) in Criminal Case No. 27564 for violation of Section 3(e) of Republic Act (RA) No. 3019.^[3] The *fallo* of the Decision reads:

WHEREFORE, this court finds MAYOR PACIFICO C. VELASCO **GUILTY**, beyond reasonable doubt, for violation of Section 3 (e) of R.A. 3019, and is hereby sentenced to suffer the penalty of:

(I.) Imprisonment of, after applying the Indeterminate Sentence Law, six (6) years and one (1) month as minimum, up to eight (8) years, as maximum; and,

(II.) Perpetual Disqualification from Public Office.

SO ORDERED.

Accused Velasco sought its reconsideration, which the Sandiganbayan denied in its March 13, 2009 Resolution.^[4] He, then, elevated the case before the Court via a petition for review on certiorari, docketed as G.R. No. 187277, which was denied in a minute resolution^[5] dated June 3, 2009. His motion for reconsideration was also denied in the Resolution dated August 17, 2009 which further contained a directive that no further pleadings shall be entertained and that entry of judgment be made in due course.

Subsequently, accused Velasco filed a motion for leave to file and to admit a second motion for reconsideration of the Court's June 3, 2009 Resolution, which the Court merely noted without action in its January 11, 2010 Resolution.^[6] The Court's June 3, 2009 Resolution became final and executory on September 25, 2009.^[7]

Notwithstanding, however, the finality of accused Velasco's conviction, the execution of his sentence did not immediately take place due to the numerous motions and pleadings he subsequently filed.

On May 26, 2010,^[8] in the hearing for the execution of accused Velasco's sentence before the Sandiganbayan, his counsel manifested that he was confined at the San Juan De Dios Hospital in Pasay City and was due for surgery. The hearing was reset to June 9, 2010 upon agreement of the parties, with a directive to accused Velasco's attending physician to submit a medical bulletin relative to his physical fitness. Nonetheless, a warrant of arrest was issued, but as agreed by the parties, accused Velasco shall remain in the hospital until further order by the Sandiganbayan. By this time, the Third Division of the Sandiganbayan was already composed of respondents Justice Villaruz, Jr., Justice Quiroz and Justice Martires (Sandiganbayan Justices).

Thereafter or on June 9, 2010, accused Velasco filed an Urgent Motion to Recall Warrant of Arrest,^[9] invoking humanitarian consideration, having allegedly just undergone a rigid and serious surgical operation. However, the Sandiganbayan Justices, on June 17, 2010, instead issued an Order of Arrest^[10] which they eventually recalled^[11] on June 25, 2010, conditioned on the posting of a bail bond in the amount of P30,000.00.

On September 30, 2010, the Sandiganbayan Justices set aside^[12] their earlier order *recalling* the warrant of arrest and issued anew an Order of Arrest^[13] for failure of accused Velasco to attend the hearing of even date.

Subsequently, or on November 15, 2010, accused Velasco filed a Motion to Defer Promulgation of Sentence, to Suspend Proceedings and/or Recall Warrant of Arrest^[14] claiming, once again, that he had just undergone a major operation necessitating hospitalization and post-operation treatment. He also averred that he had filed, on even date, a petition for certiorari, prohibition and mandamus before the Court, docketed as G.R. No. 194263, to restrain the execution of judgment, and prayed that his motion be granted pending action on his petition.

On January 17, 2011, during the rescheduled hearing for the execution of the judgment, the Sandiganbayan Justices ordered^[15] the issuance of a warrant of arrest for failure of accused Velasco to appear despite due notice and the forfeiture of his cash bond.

On March 9, 2011, the Court dismissed the petition filed by accused Velasco in G.R. No. 194263^[16] and on March 30, 2011, noted without action his second supplement to petition and urgent motion to resolve his petition for certiorari.^[17] Accused Velasco filed a motion for reconsideration and the prosecution was given until

February 6, 2012 to file its comment.^[18]

Meanwhile, in another hearing before the Sandiganbayan Justices on January 18, 2012, accused Velasco was directed to post a new cash bail bond in the amount of P70,000.00 on the verbal motion of his counsel, and the hearing was reset once more to March 19, 2012.^[19]

Hence, the instant administrative complaint^[20] for grave misconduct and violation of the Code of Judicial Conduct filed by Leonardo A. Velasco (complainant Velasco) against the Sandiganbayan Justices. In his verified complaint, complainant Velasco asserts that, the conviction of accused Velasco having attained finality on September 25, 2009, the Sandiganbayan Justices should have merely performed the ministerial duty of executing his final sentence of conviction and not entertained his motions or pleadings that forestalled its execution. In doing so, they have shown evident partiality, bias and impropriety in favor of accused Velasco.

In their Comment,^[21] the Sandiganbayan Justices claimed that the repeated resetting of the hearings for the execution of judgment against accused Velasco was mainly due to medical reasons and the pendency of incidents before the Court. Vehemently denying that their questioned orders were issued to unduly favor accused Velasco, they insisted that these were prompted by circumstances which were not at their instance and that the instant complaint consists of unfounded allegations and suspicions of partiality. They also argued that since accused Velasco had already been committed to the national penitentiary on May 10, 2012, this case is now moot and academic and therefore, should be dismissed.

Issue Before The Court

The sole issue to be determined by the Court is whether the respondent Sandiganbayan Justices may be held administratively liable for their actions which unduly delayed the execution of the final sentence of conviction of accused Velasco.

The Court's Ruling

After a judicious review of the records, the Court finds no grave misconduct or violation of a specific provision of the Code of Judicial Conduct to have been committed by the Sandiganbayan Justices.

"Misconduct means intentional wrongdoing or deliberate violation of a rule of law or a standard of behavior.^[22] To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions of a public officer.^[23] In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of an established rule must be established."^[24]

In this case, the actions of the Sandiganbayan Justices respecting the execution of the final judgment against accused Velasco were shown to be in respectful deference to the Court's action on the various petitions filed by the former, who apparently exhausted what he perceived were valid available remedies under the law. Records are bereft of evidence showing any trace of corruption, clear intent to