

SECOND DIVISION

[G.R. No. 169004, September 15, 2010]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN (THIRD DIVISION) AND ROLANDO PLAZA,
RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

For this Court's resolution is a petition^[1] dated September 2, 2005 under Rule 45 of the Rules of Court that seeks to reverse and set aside the Resolution^[2] of the Sandiganbayan (Third Division), dated July 20, 2005, dismissing Criminal Case No. 27988, entitled *People of the Philippines v. Rolando Plaza* for lack of jurisdiction.

The facts follow.

Respondent Rolando Plaza, a member of the *Sangguniang Panlungsod* of Toledo City, Cebu, at the time relevant to this case, with salary grade 25, had been charged in the Sandiganbayan with violation of Section 89 of Presidential Decree (P.D.) No. 1445, or *The Auditing Code of the Philippines* for his failure to liquidate the cash advances he received on December 19, 1995 in the amount of Thirty-Three Thousand Pesos (P33,000.00) . The Information reads:

That on or about December 19, 1995, and for sometime prior or subsequent thereto at Toledo City, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused ROLANDO PLAZA, a high-ranking public officer, being a member of the Sangguniang Panlungsod of Toledo City, and committing the offense, in relation to office, having obtained cash advances from the City Government of Toledo in the total amount of THIRTY THREE THOUSAND PESOS (P33,000.00), Philippine Currency, which he received by reason of his office, for which he is duty bound to liquidate the same within the period required by law, with deliberate intent and intent to gain, did then and there, willfully, unlawfully and criminally fail to liquidate said cash advances of P33,000.00, Philippine Currency, despite demands to the damage and prejudice of the government in the aforesaid amount.

CONTRARY TO LAW.

Thereafter, respondent Plaza filed a Motion to Dismiss^[3] dated April 7, 2005 with the Sandiganbayan, to which the latter issued an Order^[4] dated April 12, 2005 directing petitioner to submit its comment. Petitioner filed its Opposition^[5] to the Motion to Dismiss on April 19, 2005. Eventually, the Sandiganbayan promulgated

its Resolution^[6] on July 20, 2005 dismissing the case for lack of jurisdiction, without prejudice to its filing before the proper court. The dispositive portion of the said Resolution provides:

WHEREFORE, premises considered, the instant case is hereby ordered dismissed for lack of jurisdiction without prejudice to its filing in the proper court.

SO ORDERED.

Thus, the present petition.

Petitioner contends that the Sandiganbayan has criminal jurisdiction over cases involving public officials and employees enumerated under Section 4 (a) (1) of P.D. 1606, (as amended by Republic Act [R.A.] Nos. 7975 and 8249), whether or not occupying a position classified under salary grade 27 and above, who are charged not only for violation of R.A. 3019, R.A. 1379 or any of the felonies included in Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, but also for crimes committed in relation to office. Furthermore, petitioner questioned the Sandiganbayan's appreciation of this Court's decision in *Inding v. Sandiganbayan*,^[7] claiming that the *Inding* case did not categorically nor implicitly constrict or confine the application of the enumeration provided for under Section 4 (a) (1) of P.D. 1606, as amended, exclusively to cases where the offense charged is either a violation of R.A. 3019, R.A. 1379 or Chapter II, Section 2, Title VII of the Revised Penal Code. Petitioner adds that the enumeration in Section 4 (a) (1) of P.D. 1606, as amended by R.A. 7975 and R.A. 8249, which was made applicable to cases concerning violations of R.A. 3019, R.A. 1379 and Chapter II, Section 2, Title VII of the Revised Penal Code, equally applies to offenses committed in relation to public office.

In his Comment^[8] dated November 30, 2005, respondent Plaza argued that, as phrased in Section 4 of P.D. 1606, as amended, it is apparent that the jurisdiction of the Sandiganbayan was defined first, while the exceptions to the general rule are provided in the rest of the paragraph and sub-paragraphs of Section 4; hence, the Sandiganbayan was right in ruling that it has original jurisdiction only over the following cases: (a) where the accused is a public official with salary grade 27 and higher; (b) in cases where the accused is a public official below grade 27 but his position is one of those mentioned in the enumeration in Section 4 (a) (1) (a) to (g) of P. D. 1606, as amended and his offense involves a violation of R.A. 3019, R.A. 1379 and Chapter II, Section 2, Title VII of the Revised Penal Code; and (c) if the indictment involves offenses or felonies other than the three aforementioned statutes, the general rule that a public official must occupy a position with salary grade 27 and higher in order that the Sandiganbayan could exercise jurisdiction over him must apply.

In a nutshell, the core issue raised in the petition is whether or not the Sandiganbayan has jurisdiction over a member of the *Sangguniang Panlungsod* whose salary grade is below 27 and charged with violation of The Auditing Code of the Philippines.

This Court has already resolved the above issue in the affirmative. *People v.*

Sandiganbayan and Amante^[9] is a case with uncanny similarities to the present one. In fact, the respondent in the earlier case, Victoria Amante and herein respondent Plaza were both members of the *Sangguniang Panlungsod* of Toledo City, Cebu at the time pertinent to this case. The only difference is that, respondent Amante failed to liquidate the amount of Seventy-One Thousand Ninety-Five Pesos (P71,095.00) while respondent Plaza failed to liquidate the amount of Thirty-Three Thousand Pesos (P33,000.00).

In ruling that the Sandiganbayan has jurisdiction over a member of the *Sangguniang Panlungsod* whose salary grade is below 27 and charged with violation of The Auditing Code of the Philippines, this Court cited the case of *Serana v. Sandiganbayan, et al.*^[10] as a background on the conferment of jurisdiction of the Sandiganbayan, thus:

x x x The Sandiganbayan was created by P.D. No. 1486, promulgated by then President Ferdinand E. Marcos on June 11, 1978. It was promulgated to attain the highest norms of official conduct required of public officers and employees, based on the concept that public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain at all times accountable to the people.^[11]

P.D. No. 1486 was, in turn, amended by P.D. No. 1606 which was promulgated on December 10, 1978. P.D. No. 1606 expanded the jurisdiction of the Sandiganbayan.^[12]

P.D. No. 1606 was later amended by P.D. No. 1861 on March 23, 1983, further altering the Sandiganbayan jurisdiction. R.A. No. 7975 approved on March 30, 1995 made succeeding amendments to P.D. No. 1606, which was again amended on February 5, 1997 by R.A. No. 8249. Section 4 of R.A. No. 8249 further modified the jurisdiction of the Sandiganbayan. x x x .

Section 4 of P.D. 1606, as amended by Section 2 of R.A. 7975 which took effect on May 16, 1995, which was again amended on February 5, 1997 by R.A. 8249, is the law that should be applied in the present case, the offense having been allegedly committed on or about December 19, 1995 and the Information having been filed on March 25, 2004. As extensively explained in the earlier mentioned case,

The jurisdiction of a court to try a criminal case is to be determined at the time of the institution of the action, not at the time of the commission of the offense.^[13] **The exception contained in R. A. 7975, as well as R. A. 8249, where it expressly provides that to determine the jurisdiction of the Sandiganbayan in cases involving violations of R. A. No. 3019, as amended, R. A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code is not applicable in the present case as the offense involved herein is a violation of The Auditing Code of the Philippines.** The last clause of the opening sentence of paragraph (a) of the said two

provisions states:

Sec. 4. *Jurisdiction*. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, other known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the 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:** x x x.^[14]

Like in the earlier case, the present case definitely falls under Section 4 (b) where other offenses and felonies committed by public officials or employees in relation to their office are involved where the said provision, contains no exception. Therefore, what applies in the present case is the general rule that jurisdiction of a court to try a criminal case is to be determined at the time of the institution of the action, not at the time of the commission of the offense. The present case having been instituted on March 25, 2004, the provisions of R.A. 8249 shall govern. P.D. 1606, as amended by R.A. 8249 states that:

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:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan and provincial treasurers, assessors, engineers, and other city department heads;

(b) City mayors, vice mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads.

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) PNP chief superintendent and PNP officers of higher rank;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and Special Prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

(2) Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(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, whether simple or complexed with other crimes 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.

Again, the earlier case interpreted the above provisions, thus:

The above law is clear as to the composition of the original jurisdiction of the Sandiganbayan. Under Section 4 (a), the following offenses are specifically enumerated: violations of R.A. No. 3019, as amended, R.A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code. In order for the Sandiganbayan to acquire jurisdiction over the said offenses, the latter must be committed by, among others, officials of the executive branch occupying positions of regional director and higher, otherwise classified as Grade 27 and higher, of the Compensation and