

SECOND DIVISION

[G.R. No. 164298, April 30, 2008]

ENGR. ROGER F. BORJA, Petitioner, vs. THE PEOPLE OF THE PHILIPPINES, Respondent.

DECISION

QUISUMBING, J.:

For review on certiorari are the Decision [1] dated March 19, 2004 and Resolution [2] dated June 28, 2004, of the Court of Appeals in CA-G.R. SP. No. 77453.

The facts are as follows:

In three Informations [3] filed with the Regional Trial Court of San Pablo City, Laguna, Branch 30, petitioner Engr. Roger F. Borja, in his capacity as General Manager C of the San Pablo Water District, was charged with violation of Section 3 (e) [4] of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

On January 13, 2003, Borja filed a Motion to Suspend Arraignment. [5] Borja alleged that there is a pending civil case entitled *Feliciano v. Commission on Audit*, [6] docketed before this Court as G.R. No. 147402, which involves the issue of whether local water districts are private or government-owned or controlled corporations (GOCCs). [7] He argued that the issue is a prejudicial question, the resolution of which determines whether or not the criminal actions against him may proceed. If this Court resolves that local water districts are private corporations, the graft cases against him will not prosper since then he would not be a public officer covered by Rep. Act No. 3019.

On February 18, 2003, the trial court denied the motion. Later it also denied his motion for reconsideration.

Aggrieved, Borja filed a petition for certiorari before the Court of Appeals, which, however, dismissed his petition for lack of merit after noting the previous cases wherein we held that local water districts are GOCCs. [8] Borja sought reconsideration, but it was likewise denied. Hence, this petition.

Borja raises the following issues:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS SECOND DIVISION ERRED IN DISMISSING THE PETITION FOR CERTIORARI IN CA-[G.R.] SP NO. 77453 AS WELL AS PETITIONER'S MOTION FOR

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS SECOND DIVISION ERRED IN NOT APPLYING ESTABLISHED JURISPRUDENCE IN RESOLVING TO DISMISS THE PETITION FOR CERTIORARI IN CA-[G.R.] SP NO. 77453[.] [9]

Simply, the issue is: Did the Court of Appeals err in ruling that there was no prejudicial question warranting the suspension of the proceedings of the graft cases?

Petitioner reiterates his arguments before the Court of Appeals and insists that the appellate court should have ordered the suspension of his arraignment while the *Feliciano* case is pending before us.

For the People, the Office of the Solicitor General pointed out that we had already rendered a decision on the *Feliciano* case on January 14, 2004 and that we had ruled therein that local water districts are not private corporations but GOCCs. Therefore, the criminal cases against Borja must proceed because he is a public officer covered by Rep. Act No. 3019.

The petition is bereft of merit.

Borja's contention that a prejudicial question exists in his case is clearly devoid of any legal basis, considering that it had been settled, long before the *Feliciano* case, that local water districts are GOCCs, and not private corporations. [10] This is because local water districts do not derive their existence from the Corporation Code, [11] but from Presidential Decree No. 198, [12] as amended.

Thus, being a public officer, Borja can certainly be indicted for violation of Rep. Act No. 3019.

Moreover, it did not also escape our notice that at the time Borja filed his petition before us on July 21, 2004, he no longer has any basis to question the Decision and Resolution of the Court of Appeals. This is because more than six months have elapsed by then since we had decided the *Feliciano* case.

WHEREFORE, the petition is **DENIED** for lack of merit. The assailed Decision dated March 19, 2004 and Resolution dated June 28, 2004 of the Court of Appeals in CA-G.R. SP. No. 77453 are hereby **AFFIRMED**. Costs against the petitioner.

SO ORDERED.

*Carpio Morales, Azcuna**, *Tinga* and *Velasco, Jr., JJ.*, concur.

*Additional member in place of Justice Arturo D. Brion, who inhibited due to close relation to a party.