

## THIRD DIVISION

**[ G.R. No. 173956, August 06, 2008 ]**

**FRISCO F. SAN JUAN, PETITIONER, VS. THE SANDIGANBAYAN  
AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**YNARES-SATIAGO, J.:**

This petition for certiorari under Rule 65 of the Rules of Court assails the February 6, 2006 Resolution<sup>[1]</sup> of the Sandiganbayan in Criminal Case No. 27808 granting the prosecution's Manifestation with Motion for Additional Marking of Documentary Exhibits and the June 21, 2006 Resolution<sup>[2]</sup> denying the motions for reconsideration separately filed by petitioner and his co-accused.

Petitioner Frisco F. San Juan, in his capacity as Chairman of the Public Estates Authority (PEA), together with 26 other accused, composed of PEA Board of Directors, PEA Officers, Officers of the Commission on Audit and the contractor of Central Boulevard Project (now the President Diosdado Macapagal Boulevard), Jesusito D. Legaspi, were charged before the Sandiganbayan with violation of Sec. 3 (e) of Republic Act No. 3019<sup>[3]</sup> in an Information which reads:

That in or about the period from April 1999 to August 2002, in Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, accused public officials of the Public Estates Authority (PEA), namely: CARLOS P. DOBLE, former General Manager (with Salary Grade 30) and ex-officio member of the PEA Board, BENJAMIN V. CARIÑO, PEA General Manager (with Salary Grade 30) and ex-officio member of the Board, and other responsible public officials of PEA, namely: FRISCO FRANCISCO SAN JUAN, former Chairman of the Board, CARMELITA DE LEON-CHAN, DANIEL T. DAYAN, SALVADOR P. MALBAROSA, LEO V. PADILLA and ELPIDIO G. DAMASO, all former members of the Board, ERNEST FREDERICK O. VILLAREAL, Chairman of the Board, and JOEMARI D. GEROCHI, ANGELITO M. VILLANUEVA, MARTIN S. SANCIEGO, JR., and RODOLFO T. TUAZON, all Board members, JAIME R. MILLAN, Assistant General Manager, MANUEL R. BERIÑA, JR., Deputy General Manager for Operations & Technical Services and Chairman of the Ad Hoc Committee responsible for the bidding and award of the construction contract for the President Diosdado Macapagal Boulevard Project, THERON VICTOR V. LACSON, Deputy General Manager for Finance, Legal and Administration and member of the Ad Hoc Committee, BERNARDO T. VIRAY, Manager for Technical Services Department and member of the Ad Hoc Committee, RAPHAEL POCHOLO A. ZORILLA, Project Management Officer, ERNESTO L. ENRIQUEZ, Senior Corporate Attorney and member of the Ad Hoc Committee, and CRISTINA AMPOSTA-MORTEL, Department Manager, Legal Department, and other responsible public officials of the

Commission on Audit (COA), namely: MANUELA E. DELA PAZ, State Auditor V, ARTURO S. LAYUG, State Auditor V and Chief of the Technical Services Audit Division A, Technical Services Office, BENILDA E. MENDOZA, Supervising Technical Audit Specialist, EPIFANIO L. PUREZA, Assistant Chief of the Technical Services Audit Division A, JOSE G. CAPISTRANO, Technical Audit Specialist II, and MA. CECILIA A. DELA RAMA, Technical Audit Specialist I, all of whom were public officials during the times material to the subject offense, while said public officials were occupying their respective positions as just stated, acting in such capacity and committing the subject offense in relation to office and while in the performance of their functions and duties, with manifest partiality and evident bad faith (or at the very least, gross inexcusable negligence), conspiring and confederating with accused JESUSITO D. LEGASPI, a private contractor doing business under the name of J.D. Legaspi Construction, did then and there, willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to accused JESUSITO D. LEGASPI, through the commission of numerous illegal related acts all pertaining to the President Diosdado Macapagal Boulevard Project, such as (but not limited to) the bidding out of the said project and illegally awarding the same to accused JESUSITO D. LEGASPI's J.D. Legaspi Construction and approving the award of the project to, as well as the Construction Agreement with, J.D. Legaspi Construction despite the lack of compliance with the mandatory requirements and procedure for bidding, even if no funds are yet available to finance the project, without the requisite certificate of availability of funds and without complying with the mandatory conditions imposed by the Office of the President of the approval thereof, per Memorandum dated 29 January 2000 from the Office of the Executive Secretary, Malacañang, and approving/allowing several improper variation/change orders and overruns to be implemented without the requisite presidential approval and the appropriate funds, recognizing, affirming and causing the implementation of the just-mentioned void contract, allowing and paying or causing the allowance and payment of several claims of accused JESUSITO D. LEGASPI for initial contract price, contract price adjustment, variation orders, overruns and other claims even when the same were clearly improper, illegal and without the requisite presidential approval, thereby paving the way for accused JESUSITO D. LEGASPI to claim and receive undue payments from the Government totaling millions of pesos in improper overprice, thereby causing undue injury and grave damage to the government in the aggregate amount of at least FIVE HUNDRED THIRTY TWO MILLION NINE HUNDRED TWENTY-SIX THOUSAND FOUR HUNDRED TWENTY AND 39/100 PESOS (P532,926,420.39), more or less, constituting the total illegal overprice paid to accused JESUSITO D. LEGASPI for the subject Project.

CONTRARY TO LAW.<sup>[4]</sup>

When arraigned on January 21, 2005, petitioner and his co-accused pleaded "not guilty."

The People, represented by the Office of the Special Prosecutor (OSP), filed its pre-

trial brief with proposed Exhibits A to HHHH dated March 16, 2005. Petitioner filed his pre-trial brief on June 23, 2005.

Thereafter, the Sandiganbayan issued a Pre-Trial Order,<sup>[5]</sup> the pertinent portions of which state:

The Prosecution reserves the right to present additional documentary evidence, although this reservation was objected to by the accused on the ground that it violates their constitutional right.<sup>[6]</sup>

x x x x

Accused Frisco F. San Juan reserves the right to present additional documentary evidence.<sup>[7]</sup>

x x x x

This Pre-Trial Order shall bind the parties, limit the issues and control the course of the trial, unless modified by the Court to prevent manifest injustice.

SO ORDERED.<sup>[8]</sup>

On November 10, 2005, trial commenced with the OSP presenting Karen Villamil as its first witness, without prejudice to the signing of the Pre-Trial Order by the parties.

At the scheduled hearing on January 24, 2006, instead of proceeding with the presentation of its evidence, the OSP filed a manifestation with motion for additional marking of documentary exhibits.<sup>[9]</sup>

Petitioner filed an Opposition<sup>[10]</sup> alleging that the motion fails to comply with the three (3) day notice rule, thus, it is fatally defective which must be dismissed outright; that the prosecution's attempt to introduce additional evidence after Pre-Trial has been completed, without petitioner having been confronted by such evidence, violates petitioner's fundamental rights under the Constitution; that petitioner's right to due process has been violated by the presentation of the prosecution's "additional evidence" when such pieces of evidence ought to have been presented during the pre-trial of the case; that the prosecution failed to show "good cause" in order for the "additional evidence" to be accepted, since only those pieces of evidence which are identified and marked are allowed by the court.

On February 6, 2006, the Sandiganbayan issued the herein assailed Resolution<sup>[11]</sup> granting the motion of the OSP, the pertinent portion of which reads:

Acting on the Prosecution's Manifestation with Motion for Additional Marking of Documentary Exhibits dated January 23, 2006, with the comments and/or oppositions thereto separately filed by accused: (1) Layug, (2) de Leon-Chan, (3) Pureza and Capistrano, (4) Legaspi, (5) Padilla, (6) Beriña, Millan, Viray and Zorilla, (7) San Juan, and (8) Amposta-Mortel, the Court resolves to GRANT the aforementioned

motion but only insofar as to allow additional marking of documentary exhibits which have been sufficiently described in the said motion, over the objection of the defense, in order to give the Prosecution the opportunity to fully present its case, and considering that the Pre-Trial Order has not been signed by the parties. The defense may register their objections to the documentary exhibits at the time that the same are introduced in evidence. As prayed for, the prosecution may present the additional documents enumerated in its aforesaid motion for marking, and the same shall be included in its list of exhibits in the Amended Pre-Trial Order to be issued by the Court.<sup>[12]</sup>

Petitioner and his co-accused filed separate motions for reconsideration but were denied by the Sandiganbayan in its June 21, 2006 Resolution,<sup>[13]</sup> the pertinent portions of which state:

While it is true that pre-trial has already been terminated, records show that, before the Pre-Trial Order dated November 7, 2005 was issued, the Court made clear to all the parties, considering the numerous documentary evidence sought to be marked and presented by the parties, that the said Order was "without prejudice to the comment [on the Pre-Trial Order] of the prosecution and the accused;" that is, the Court may still accept any modification of the said Order from both the prosecution and the accused. Upon request of the parties, the Court gave the prosecution and the accused a period of time "to file a formal manifestation with respect to some changes they would like to propose in the Pre-Trial Order" notwithstanding the commencement of the trial.<sup>[14]</sup>

x x x x

Apparent from the foregoing is the fact that while the pre-trial has effectively been terminated, the Court gave both the prosecution and the accused the opportunity to submit comments to the Pre-Trial Order or to modify their submissions or in some instances, even to withdraw the stipulations they made during the pre-trial. The Court's position is consistent with the exercise of its discretion to decide how best to dispense justice in accordance with the circumstances of the proceedings before it. The decision to grant the prosecution's motion for additional marking of documentary exhibits is another exercise of this judicial prerogative, which prerogative was made known to the parties in the Pre-Trial Order dated November 7, 2005, when the Court stated that such was subject to modification "in order to prevent manifest injustice."

The guidelines on the conduct of the pre-trial, including A.M. No. 03-1-09-SC, were prescribed by the Honorable Supreme Court to "abbreviate court proceedings, ensure prompt disposition of cases and decongest court dockets." The Court does not mean to disregard or ignore these guidelines but the Court is compelled to take into consideration, in the interest of substantial justice, the various submissions of both the prosecution and the accused mentioned above in connection with the agreements reached by the parties that they be allowed to submit their comments on the pre-trial order, even while the trial had begun so as not to delay the proceedings.