

EN BANC

[G.R. No. 152259, July 29, 2004]

**ALFREDO T. ROMUALDEZ, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN (FIFTH DIVISION) AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

Repetitive motions to invalidate or summarily terminate a criminal indictment prior to plea and trial, however they may be named or identified -- whether as a motion to quash or motion to dismiss or by any other nomenclature -- delay the administration of justice and unduly burden the court system. Grounds not included in the first of such repetitive motions are generally deemed waived and can no longer be used as bases of similar motions subsequently filed.

Section 5 of the Anti-Graft Law is constitutional. It penalizes certain presidential relatives who "intervene, directly or indirectly, in any business, transaction, contract or application with the Government." This provision is not vague or "impermissibly broad," because it can easily be understood with the use of simple statutory construction. Neither may the constitutionality of a criminal statute such as this be challenged on the basis of the "overbreadth" and the "void-for-vagueness" doctrines, which apply only to free-speech cases.

The Case

Before us is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court, seeking to set aside the November 20, 2001^[2] and the March 1, 2002^[3] Resolutions of the Sandiganbayan in Criminal Case No. 13736. The first Resolution disposed thus:

"WHEREFORE, for lack of merit, the Motion to Dismiss is hereby DENIED. The arraignment of the accused and the pre-trial of the case shall proceed as scheduled."^[4]

The second Resolution denied reconsideration.

The Facts

The facts of the case are narrated by the Sandiganbayan as follows:

"[The People of the Philippines], through the Presidential Commission on Good Government (PCGG), filed on July 12, 1989 an information before [the anti-graft court] charging the accused [with] violation of Section 5, Republic Act No. 3019,^[5] as amended. The Information reads:

'That on or about and during the period from July 16, 1975 to July 29, 1975, in Metro Manila, Philippines, and within the jurisdiction of [the Sandiganbayan], said [petitioner], brother-in-law of Ferdinand E. Marcos, former President of the Philippines, and therefore, related to the latter by affinity within the third civil degree, did then and there wil[l]fully and unlawfully, and with evident bad faith, for the purpose of promoting his self-interested [sic] and/or that of others, intervene directly or indirectly, in a contract between the National Shipyard and Steel Corporation (NASSCO), a government-owned and controlled corporation and the Bataan Shipyard and Engineering Company (BASECO), a private corporation, the majority stocks of which is owned by former President Ferdinand E. Marcos, whereby the NASSCO sold, transferred and conveyed to the BASECO its ownership and all its titles and interests over all equipment and facilities including structures, buildings, shops, quarters, houses, plants and expendable and semi-expendable assets, located at the Engineer Island known as the Engineer Island Shops including some of its equipment and machineries from Jose Panganiban, Camarines Norte needed by BASECO in its shipbuilding and ship repair program for the amount of ₱5,000,000.00.

'Contrary to law.'

"On December 27, 1996, the accused filed his first 'MOTION TO DISMISS AND TO DEFER ARRAIGNMENT' claiming that no valid preliminary investigation was conducted in the instant case. He asserts that if a preliminary investigation could be said to have been conducted, the same was null and void having been undertaken by a biased and partial investigative body.

"On January 9, 1997, [the Sandiganbayan], through the First Division, issued an order giving the accused fifteen days to file a Motion for Reinvestigation with the Office of the Special Prosecutor.

"[Petitioner] questioned said order before the Supreme Court via a petition for Certiorari and Prohibition with prayer for temporary restraining order. On January 21, 1998, the Supreme Court dismissed the petition for failure to show that [the Sandiganbayan] committed grave abuse of discretion in issuing the assailed order.

"On November 9, 1998, the [petitioner] filed with the Office of the Special Prosecutor a Motion to Quash.

"On September 22, 1999, x x x Special Prosecution Officer (SPO) III Victorio U. Tabanguil, manifested that the prosecution had already concluded the reinvestigation of the case. He recommended the dismissal of the instant case. Both the Deputy Special Prosecutor and the Special Prosecutor approved the recommendation. However, Ombudsman Aniano A. Desierto disagreed and directed the prosecutors to let the [petitioner] present his evidence in Court.

"Subsequently, [petitioner] filed on October 8, 1999 his second 'MOTION TO QUASH AND TO DEFER ARRAIGNMENT'.

"On February 9, 2000, the [Sandiganbayan] denied the motion for lack of merit.

"On June 19, 2001, [the] accused filed a 'MOTION FOR LEAVE TO FILE MOTION TO DISMISS'. On June 29, 2001, the [Sandiganbayan] admitted the motion and admitted the attached (third) Motion to Dismiss.

"The [Motion to Dismiss] raise[d] the following grounds:

- 'I. THE CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW OF [PETITIONER] WAS VIOLATED DURING THE PRELIMINARY INVESTIGATION STAGE IN THE FOLLOWING WAYS:
 - 'A. NO VALID PRELIMINARY INVESTIGATION WAS CONDUCTED IN THE INSTANT CASE; AND
 - 'B. THE PRELIMINARY INVESTIGATION WAS CONDUCTED BY A BIASED AND PARTIAL INVESTIGATOR
- 'II. THE CONSTITUTIONAL RIGHT OF [PETITIONER] TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM WAS VIOLATED
- 'III. PURSUANT TO ARTICLE VII, SECTION 17 OF THE 1973 CONSTITUTION, [PETITIONER] IS IMMUNE FROM CRIMINAL PROSECUTION
- 'IV. THE CRIMINAL ACTION OR LIABILITY HAS BEEN EXTINGUISHED BY PRESCRIPTION'"^[6]

Ruling of the Sandiganbayan

The Sandiganbayan explained that all the grounds invoked by petitioner, except the third one, had already been raised by him and passed upon in its previous Resolutions.^[7] In resolving the third ground, the anti-graft court pointed out that Section 17 of the 1973 Constitution became effective only in 1981 when the basic law was amended. Since his alleged illegal intervention had been committed on or about 1975, the amended provision was inapplicable to him.^[8]

In denying the Motion for Reconsideration filed by petitioner, the Sandiganbayan passed upon the other grounds he had raised. It ruled that his right to a preliminary investigation was not violated, because he had been granted a reinvestigation.^[9] It further held that his right to be informed of the nature and cause of the accusation was not trampled upon, either, inasmuch as the Information had set forth the essential elements of the offense charged.^[10]

Hence, this Petition.^[11]

The Issues

In his Memorandum, petitioner assigns the following errors for our consideration:

“Whether or not the Honorable Sandiganbayan erred and gravely abused its discretion amounting to lack of, or in excess of jurisdiction –

I. In not dismissing and/or quashing Criminal Case No. 13736 despite clear and incontrovertible evidence that:

A. Section 5 of Republic Act No. 3019 is unconstitutional because its vagueness violates the due process right of an individual to be informed of the nature and the cause of the accusation against him;

B. Section 5 of Republic Act No. 3019 is unconstitutional because it violates the due process right of an individual to be presumed innocent until the contrary is proved;

C. The constitutional right of petitioner x x x to be informed of the nature and the cause of the accusation against him was violated;

D. The constitutional right to due process of law of petitioner x x x was violated during the preliminary investigation stage in the following ways:

I. No valid preliminary investigation was conducted for Criminal Case No. 13736; and

II. The preliminary investigation was conducted by a biased and partial investigator.

E. The criminal action or liability has been extinguished by prescription; and

F. Pursuant to Article VII, Section 17 of the 1973 Constitution, petitioner x x x is immune from criminal prosecution.

And

II. In light of the foregoing, in denying petitioner[’s] x x x right to equal protection of the laws.”^[12]

Simply stated, the issues are as follows: (1) whether Section 5 of Republic Act 3019 is unconstitutional; (2) whether the Information is vague; (3) whether there was a valid preliminary investigation; (4) whether the criminal action or liability has been extinguished by prescription; and (5) whether petitioner is immune from criminal prosecution under then Section 17 of Article VII of the 1973 Constitution.

The Court's Ruling

The Petition has no merit.

First Issue: **Constitutionality of Section 5,** **Republic Act 3019**

Petitioner challenged the constitutionality of Section 5 of RA 3019 for the first time in the Sandiganbayan through a Supplemental Motion to Dismiss. Attached to his December 7, 2001 Motion for Reconsideration of the Order denying his Motion to Dismiss was this Supplemental Motion which was, in effect, his third motion to quash.^[13] We note that the Petition for Certiorari before us challenges the denial of his original, not his Supplemental, Motion to Dismiss.

Upon the denial of his original Motion to Quash on February 9, 2000, petitioner could have filed a motion for reconsideration of the denial. Had reconsideration been turned down, the next proper remedy would have been either (1) a petition for certiorari^[14] -- if there was grave abuse of discretion -- which should be filed within 60 days from notice of the assailed order;^[15] or (2) to proceed to trial without prejudice to his right, if final judgment is rendered against him, to raise the same questions before the proper appellate court.^[16] But instead of availing himself of these remedies, he filed a "Motion to Dismiss" on June 19, 2001.

Impropriety of **Repetitive Motions**

There is no substantial distinction between a "motion to quash" and a "motion to dismiss." Both pray for an identical relief, which is the dismissal of the case. Such motions are employed to raise preliminary objections, so as to avoid the necessity of proceeding to trial. A motion to quash is generally used in criminal proceedings to annul a defective indictment. A motion to dismiss, the nomenclature ordinarily used in civil proceedings, is aimed at summarily defeating a complaint. Thus, our Rules of Court use the term "motion to quash" in criminal,^[17] and "motion to dismiss" in civil, proceedings.^[18]

In the present case, however, both the "Motion to Quash" and the "Motion to Dismiss" are anchored on basically the same grounds and pray for the same relief. The hairsplitting distinction posited by petitioner does not really make a difference.

By filing a Motion to Dismiss, petitioner submitted in effect a prohibited second motion to quash. A party is not permitted to raise issues, whether similar or different, by installment. The Rules abhor repetitive motions. Otherwise, there would be no end to preliminary objections, and trial would never commence. A second motion to quash delays the administration of justice and unduly burdens the courts. Moreover, Rule 117 provides that grounds not raised in the first motion to quash are generally deemed waived.^[19] Petitioner's "Motion to Dismiss" violates this rule.

Constitutionality of