

EN BANC

[G.R. No. 143047, July 14, 2004]

**RICARDO S. INDING, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure for the nullification of the September 23, 1999 Resolution^[1] of the Sandiganbayan (Second Division), which denied the petitioner's omnibus motion with supplemental motion, and its Resolution dated April 25, 2000, denying the petitioner's motion for the reconsideration of the same.

The Antecedents

On January 27, 1999, an Information was filed with the Sandiganbayan charging petitioner Ricardo S. Inding, a member of the *Sangguniang Panlungsod* of Dapitan City, with violation of Section 3(e) of Republic Act No. 3019,^[2] committed as follows:

That from the period 3 January 1997 up to 9 August 1997 and for sometime prior or subsequent thereto, in Dapitan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Ricardo S. Inding, a high-ranking public officer, being a Councilor of Dapitan City and as such, while in the performance of his official functions, particularly in the operation against drug abuse, with evident bad faith and manifest partiality, did then and there, willfully, unlawfully and criminally, faked buy-bust operations against alleged pushers or users to enable him to claim or collect from the coffers of the city government a total amount of ₱30,500.00, as reimbursement for actual expenses incurred during the alleged buy-bust operations, knowing fully well that he had no participation in the said police operations against drugs but enabling him to collect from the coffers of the city government a total amount of ₱30,500.00, thereby causing undue injury to the government as well as the public interest.^[3]

The case was docketed as Criminal Case No. 25116 and raffled to the Second Division of the Sandiganbayan.

On June 2, 1999, the petitioner filed an Omnibus Motion^[4] for the dismissal of the case for lack of jurisdiction over the officers charged or, in the alternative, for the referral of the case either to the Regional Trial Court or the Municipal Trial Court for appropriate proceedings. The petitioner alleged therein that under Administrative

Order No. 270 which prescribes the Rules and Regulations Implementing the Local Government Code of 1991, he is a member of the *Sangguniang Panlungsod* of Dapitan City with Salary Grade (SG) 25. He asserted that under Republic Act No. 7975, which amended Presidential Decree No. 1606, the Sandiganbayan exercises original jurisdiction to try cases involving crimes committed by officials of local government units only if such officials occupy positions with SG 27 or higher, based on Rep. Act No. 6758, otherwise known as the "Compensation and Position Classification Act of 1989." He contended that under Section 4 of P.D. No. 1606, as amended by Section 2 of Rep. Act No. 7975, the RTC, not the Sandiganbayan, has original jurisdiction over the crime charged against him. The petitioner urged the trial court to take judicial notice of Adm. Order No. 270.

In its comment on the omnibus motion, the Office of the Special Prosecutor asserted that the petitioner was, at the time of the commission of the crime, a member of the *Sangguniang Panlungsod* of Dapitan City, Zamboanga del Norte, one of those public officers who, by express provision of Section 4 a.(1)(b) of P.D. No. 1606, as amended by Rep. Act No. 7975,^[5] is classified as SG 27. Hence, the Sandiganbayan, not the RTC, has original jurisdiction over the case, regardless of his salary grade under Adm. Order No. 270.

On September 23, 1999, the respondent Sandiganbayan issued a Resolution denying the petitioner's omnibus motion. According to the court, the Information alleged that the petitioner has a salary grade of 27. Furthermore, Section 2 of Rep. Act No. 7975, which amended Section 4 of P.D. No. 1606, provides that the petitioner, as a member of the *Sangguniang Panlungsod* of Dapitan City, has a salary grade of 27.^[6]

On October 27, 1999, the petitioner filed a Supplemental Motion to his omnibus motion,^[7] citing Rep. Act No. 8294 and the ruling of this Court in *Organo v. Sandiganbayan*,^[8] where it was declared that Rep. Act No. 8249, the latest amendment to the law creating the Sandiganbayan, "*collated the provisions on the exclusive jurisdiction of the Sandiganbayan,*" and that "*the original jurisdiction of the Sandiganbayan as a trial court was made to depend not on the penalty imposed by law on the crimes and offenses within its jurisdiction but on the rank and salary grade of accused government officials and employees.*"

In the meantime, the petitioner was conditionally arraigned on October 28, 1999 and entered a plea of not guilty.^[9]

On November 18, 1999, the petitioner filed a Motion for Reconsideration of the Sandiganbayan's September 23, 1999 Resolution.^[10] The motion was, however, denied by the Sandiganbayan in a Resolution promulgated on April 25, 2000.^[11]

Dissatisfied, the petitioner filed the instant petition for certiorari, contending as follows:

- A. That Republic Act [No.] 8249 which took effect last 05 February 1997 made the jurisdiction of the Sandiganbayan as a trial court depend not only on the penalty imposed by law on the crimes and offenses within its jurisdiction but on the rank and salary grade of accused government officials and employees.

B. That the ruling of the Supreme Court in "*Lilia B. Organo versus The Sandiganbayan and the People of the Philippines*," G.R. No. 133535, 09 September 1999, settles the matter on the original jurisdiction of the Sandiganbayan as a trial court which is over public officials and employees with rank and salary grade 27 and above.

The petitioner contends that, at the time the offense charged was allegedly committed, he was already occupying the position of *Sangguniang Panlungsod* Member I with SG 25. Hence, under Section 4 of Rep. Act No. 8249, amending Rep. Act No. 7975, it is the RTC and not the Sandiganbayan that has jurisdiction over the offense lodged against him. He asserts that under Adm. Order No. 270,^[12] Dapitan City is only a component city, and the members of the *Sangguniang Panlungsod* are classified as *Sangguniang Panlungsod* Members I with SG 25. Thus, Section 4 a.(1) (b) of P.D. No. 1606, as amended by Section 2 of Rep. Act No. 7975, and retained by Section 4 of Rep. Act No. 8249, does not apply to him.

On the other hand, the respondents, through the Office of the Special Prosecutor, contend that Section 4 a.(1)(b) of P.D. No. 1606, as amended by Section 2 of Rep. Act No. 7975, expressly provides that the Sandiganbayan has original jurisdiction over violations of Rep. Act No. 3019, as amended, committed by the members of the *Sangguniang Panlungsod*, without qualification and regardless of salary grade. They argue that when Congress approved Rep. Act No. 7975 and Rep. Act No. 8249, it was aware that not all the positions specifically mentioned in Section 4, subparagraph (1) were classified as SG 27, and yet were specifically included therein, viz:

It is very clear from the aforecited provisions of law that the members of the *sangguniang panlungsod* are specifically included as among those falling within the exclusive original jurisdiction of the Sandiganbayan.

A reading of the aforesaid provisions, likewise, show that the qualification as to Salary Grade 27 and higher applies only to such officials of the executive branch other than the regional director and higher and those specifically enumerated. To rule, otherwise, is to give a different interpretation to what the law clearly is.

Moreover, had there been an intention to make Salary Grade 27 and higher as the sole factor to determine the exclusive original jurisdiction of the Sandiganbayan then the lawmakers could have simply stated that the officials of the executive branch, to fall within the exclusive original jurisdiction of the Sandiganbayan, should have been occupying the positions with a Salary Grade of 27 and higher. But the express wordings in both RA No. 7975 and RA No. 8249 specifically including the members of the *sangguniang panlungsod*, among others, as those within the exclusive original jurisdiction of the Sandiganbayan only means that the said *sangguniang* members shall be within the exclusive original jurisdiction of the said court regardless of their Salary Grade.

In this connection too, it is well to state that the lawmakers are very well aware that not all the positions specifically mentioned as those within the exclusive original jurisdiction of the Sandiganbayan have a Salary Grade

of 27 and higher. Yet, the legislature has explicitly made the officials so enumerated in RA No. 7975 and RA No. 8249 as falling within the exclusive original jurisdiction of the Sandiganbayan because of the nature of these officials' functions and responsibilities as well as the power they can wield over their respective area of jurisdiction.^[13]

The threshold issue for the Court's resolution is whether the Sandiganbayan has original jurisdiction over the petitioner, a member of the *Sangguniang Panlungsod* of Dapitan City, who was charged with violation of Section 3(e) of Rep. Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The Court rules in the affirmative.

Rep. Act No. 7975, entitled "An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606," took effect on May 16, 1995. Section 2 thereof enumerates the cases falling within the original jurisdiction of the Sandiganbayan. Subsequently, Rep. Act No. 7975 was amended by Rep. Act No. 8249, entitled "An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor, and for Other Purposes." The amendatory law took effect on February 23, 1997 and Section 4 thereof enumerates the cases now falling within the exclusive original jurisdiction of the Sandiganbayan.

For purposes of determining which of the two laws, Rep. Act No. 7975 or Rep. Act No. 8249, applies in the present case, the reckoning period is the *time of the commission of the offense*.^[14] Generally, the jurisdiction of a court to try a criminal case is to be determined by the law in force at the time of the institution of the action, not at the time of the commission of the crime.^[15] However, Rep. Act No. 7975, as well as Rep. Act No. 8249, constitutes an exception thereto as it expressly states that to determine the jurisdiction of the Sandiganbayan in cases involving violations of Rep. Act No. 3019, the reckoning period is the *time of the commission of the offense*. This is plain from the last clause of the opening sentence of paragraph (a) of these two provisions which reads:

Sec. 4. Jurisdiction. The Sandiganbayan shall exercise [exclusive]^[16] 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, [Book II]^[17] 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:

...

In this case, as gleaned from the Information filed in the Sandiganbayan, the crime charged was committed from the period of January 3, 1997 up to August 9, 1997. The applicable law, therefore, is Rep. Act No. 7975. Section 2 of Rep. Act No. 7975 expanded the jurisdiction of the Sandiganbayan as defined in Section 4 of P.D. No. 1606, thus:

Sec. 4. Jurisdiction. The Sandiganbayan shall exercise original jurisdiction in all cases involving:^[18]

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,^[19] 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 provincial department heads;

B. City mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;^[20]

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;^[21]

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