

SECOND DIVISION

[G.R. No. 162214, November 11, 2004]

**MARIALEN C. CORPUZ AND ANTONIO H. ROMAN, SR.,
PETITIONERS, VS. THE SANDIGANBAYAN (SPECIAL FOURTH
DIVISION) AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

This is a petition for certiorari for the nullification of the February 4, 2002 Resolution of the Sandiganbayan (Division of Five Members)^[1] setting aside the verbal Order of Justice Narciso S. Nario, the Chairman of its Fourth Division, ordering the dismissal of Criminal Cases Nos. 25911-25915; 25917-25939; 25983-26016; and its December 12, 2003 Resolution denying the motions for reconsideration of the petitioners and the other accused in said cases,^[2] as well as their petition for mandamus to compel the Sandiganbayan to dismiss the said cases.

The Antecedents

After the termination of the requisite preliminary investigation in OMB Cases Nos. 0-99-2188 to 2205, the Office of the Ombudsman issued a Resolution on July 27, 2000 finding probable cause against petitioners Antonio H. Roman, Sr. and Marialen C. Corpuz, the President and Vice-President of FILSYN Corporation, respectively, and several others. On April 10, 2000, the petitioners, the Undersecretary of Finance Antonio P. Belicena, and the officers of the Petron Corporation, were charged with violation of Section 3(e) of Republic Act No. 3019, involving the so-called "tax credit scam" in an Information docketed as Criminal Case No. 25922 which reads:

The undersigned Ombudsman Prosecutors, Office of the Ombudsman, hereby accuse ANTONIO P. BELICENA, ULDARICO P. ANDUTAN, JR., MONICO V. JACOB, CELSO L. LEGARDA, ABDULAZIZ F. AL-KHAYYAL, APOLINARIO G. REYES, REYNALDO V. CAMPOS, RAFAEL S. DIAZ, JR., ANTONIO H. ROMAN, SR., AND MARIALEN C. CORPUZ, of violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:

That, during the period from 13 May 1994 to 09 June 1997, or for sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the aforementioned first two (2) accused Antonio P. Belicena and Uldarico P. Andutan, Jr., both public officers, being then the Assistant Secretary/Administrator, and Deputy Executive Director, respectively, of the One Stop Shop Inter-Agency Tax Credit & Duty Drawback Center, Department of Finance, Manila, while in the performance of their official

functions and acting with evident bad faith and manifest partiality, conspiring and confederating with each other, together with accused Monico V. Jacob, Celso L. Legarda, Abdulaziz F. Al-Khayyal, Apolinario G. Reyes, Reynaldo V. Campos and Rafael S. Diaz, Jr., all officials of Petron Corporation, and Antonio H. Roman, Sr. and Marialen C. Corpuz, both officers of Filsyn Corporation, did then and there, willfully, unlawfully and (*sic*) recommend and criminally approve the transfer of the following Tax Credit Certificates purportedly issued to Filsyn Corp., to wit:

<u>TCC No.</u>	<u>Amount</u>
0159	P 713,213.00
0164	1,399,912.00
0205	1,313,576.00
1106	1,128,118.00
1010	2,268,599.00
1029	956,662.00
1030	2,243,517.00
1165	1,282,215.00
1180	1,399,950.00
1189	1,884,327.00
1204	702,105.00
1208	563,121.00
1245	562,551.00
1496	1,826,342.00
1497	2,453,521.00
1498	731,196.00
1499	418,534.00
1564	1,431,912.00
1592	2,006,920.00
1633	784,148.00
1634	1,213,080.00
1667	1,649,799.00
1732	119,795.00
1756	2,663,711.00
1798	2,436,946.00
1805	602,212.00
2160	2,375,949.00
19762	948,215.00
19763	2,011,753.00
2205	3,701,703.00
2219	4,792,190.00
2253	441,461.00
2273	1,081,349.00
2274	1,237,078.00
2308	1,805,291.00
2309	1,044,837.00
2331	1,474,537.00
2420	1,807,435.00
2421	1,351,385.00
2422	687,520.00
2423	1,508,715.00
2424	501,893.00
2430	1,609,726.00
2436	901,146.00

2463	1,016,673.00
2465	337,001.00
2482	1,960,916.00
2583	593,876.00
2587	1,588,883.00
2602	1,770,638.00
2727	1,487,893.00
2728	1,402,612.00
2755	1,499,909.00
2762	1,163,789.00
2763	1,854,245.00
3113	1,079,770.00
3131	99,578.00
3164	459,986.00
3202	3,699,103.00
3204	1,225,135.00
3288	408,000.00
3289	7,228,572.00
3291	2,844,774.00
3530	374,272.00
3549	1,658,172.00
3550	613,410.00
3416	653,750.00
3653	370,500.00
3670	805,480.00
3708	2,899,693.00
3909	1,867,139.00
3910	1,509,529.00
4009	2,308,264.00
4035	2,790,331.00
4042	6,326,431.00
4147	5,317,781.00
4299	3,336,559.00
4557	<u>4,987,214.00</u>
	P131,547,043.00

Total

from Filsyn Corporation, represented by accused Antonio H. Roman, Sr. and Marialen C. Corpuz, unto and in favor of Petron Corp., represented by accused Monico V. Jacob, Cesar L. Legarda, Abdulaziz F. Al-Khayyal, Apolinario G. Reyes, Reynaldo V. Campos or Rafael S. Diaz, Jr., without legal basis and proper/required documentation, thereby causing undue injury and damage to the government in the aforestated amount and at the same time giving unwarranted benefit, preference or advantage to the said private firms.

CONTRARY TO LAW.^[3]

Aside from the aforestated case, sixty-one (61) similar Informations were filed by the Office of the Ombudsman against some fifty (50) public officials and private individuals relating to the issuance of tax credit certificates.

The accused Monico V. Jacob and Celso Legarda were arraigned and pleaded not guilty.^[4]

As narrated by the petitioners, the following events transpired in the Sandiganbayan/Office of the Ombudsman:

4.2 Criminal Case No. 25922, along with other cases involving allegedly anomalous TCC transfers, namely, Criminal Cases Nos. 25911-25915, 25917-25921, 25923-25939, and 25983-26016 were raffled to the Fourth Division of the *Sandiganbayan*.

4.3 On 17 April 2000, petitioners filed with the Office of the Ombudsman a "Very Urgent Motion for Leave to File Motion for Reconsideration or Reinvestigation" dated 16 April 2000, with an attached "Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000, through which they sought reversal of the Office of the Ombudsman's 27 March 2000 "Resolution" which directed the filing of the "Information" in Criminal Case No. 25922. A copy of petitioners' "Very Urgent Motion for Leave to File Motion for Reconsideration or Reinvestigation" dated 16 April 2000, with their "Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000 attached to it as its Annex "1", is attached to this "Petition", and made an integral part of it, as its Annex "D."

4.4 On 28 April 2000, the Fourth Division of the *Sandiganbayan* issued an "Order" granting petitioners, among other movants, leave to file their respective motions for reinvestigation or reconsideration, and gave the Prosecution sixty (60) days to resolve the said motions.

4.5 The sixty (60) day deadline given the Prosecution to complete its reinvestigations and report its findings in relation to such reinvestigations passed without the Prosecution resolving petitioners' Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000.

4.6 The Prosecution's failure to resolve the motions for reconsideration filed by petitioners and the other accused in Criminal Cases Nos. 25911-25939 and 25983-26016 dragged on into the middle of 2001.

4.7 At the hearing of Criminal Cases Nos. 25911-25939 and 25983-26016 held on 1 June 2001, the Prosecution was specifically warned by the court that should it fail to resolve the accused's pending motions for reconsideration, it was possible that Criminal Cases Nos. 25911-25939 and 25983-26016 would be dismissed.

4.9 The court's warning notwithstanding, the Prosecution, in a "Manifestation" dated 21 June 2001, again sought cancellation of the arraignment and pre-trial conference in Criminal Cases Nos. 25911-25939 and 25983-26016 set on 2 July 2001, but the court denied that request in a "Resolution" dated 26 June 2001, in which the court again reminded the Prosecution that Criminal Cases Nos. 25911-25939 and 25983-26016 had been pending for more than a year and that further delay caused by it would not be countenanced.

4.10 Despite the court's warning, the Prosecution still failed to resolve the pending motions for reinvestigation by the time of the scheduled arraignment and pre-trial conference set on 2 July 2001, prompting the court to issue an order which gave the Prosecution an additional ten (10) days to resolve the motions, and reset the scheduled arraignment and pre-trial conference to 17 July 2001.

4.11 Despite the lapse of the ten (10) day additional period given it, the Prosecution again failed to complete, and submit the results of, its reinvestigation, and instead filed a "Manifestation" requesting the cancellation and resetting of the arraignment and pre-trial conference set on 17 July 2001.

4.12 In an "Order" dated 17 July 2001, the court directed the Prosecution to complete its reinvestigation, and submit the results of that reinvestigation to the court, by 16 August 2001, and granted the Prosecution's request for a resetting by canceling the scheduled arraignment and pre-trial conference and setting it on 20 August 2001.

4.13 On 16 August 2001, the Prosecution again failed to report completion of the reinvestigation process, but only filed an "Omnibus Motion" in which it informed the court only that the prosecutor concerned had already made a recommendation to the Office of the Special Prosecutor. There being no resolution of the pending motions for reinvestigation yet, the Prosecution sought yet another cancellation of the scheduled arraignment and pre-trial conference on 20 August 2001.

4.14 The Prosecution repeated its request for deferment of the scheduled arraignment and pre-trial conference at the scheduled hearing on 20 August 2001, but this time, the request was denied by Justice Nario, who issued an oral order dismissing the case on account of the long delay associated with the Prosecution's resolution of the motions for reinvestigation filed by accused.

4.15 However, since Justice Nario and the other (2) regular members of the Fourth Division of the *Sandiganbayan* could not reach unanimity on upholding Justice Nario's dismissal of Criminal Cases Nos. 25911-25939 and 25983-26016, a Special Fourth Division composed of five (5) members of the Honorable *Sandiganbayan* was constituted pursuant to Section 1(b) of Rule XVIII of the 1984 Revised Rules of the *Sandiganbayan*.

4.15 On 4 February 2002, a bare majority of respondent court,^[5] overruling dissents by Justice Nario and Justice Raoul Victorino, issued its first questioned "Resolution" dated 4 February 2002, the dispositive portion of which set aside the order of dismissal issued by Justice Nario in open court at the hearing of 20 August 2001 in the following manner:

"WHEREFORE, the dismissal of these cases orally ordered in open court by the Chairman of the Fourth Division during its