

FIRST DIVISION

[G.R. No. 145951, August 12, 2003]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN (2ND DIV.), AND JOSE S. RAMISCAL, JR.,
JULIAN ALZAGA, ATTY. MANUEL SATUITO, ELIZABETH LIANG
AND JESUS GARCIA, RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Respondents Jose S. Ramiscal, Jr., Julian Alzaga, Manuel Satuito, Elizabeth Liang and Jesus Garcia were all charged with Malversation through Falsification of Public Documents before the Sandiganbayan in Criminal Case No. 25741. The Information alleged that respondents misappropriated and converted for their personal use the amount of P250,318,200.00 from the funds of the Armed Forces of the Philippines Retirement and Separation Benefits System (AFP-RSBS).^[1]

On November 12, 1999, respondent Ramiscal filed with the Sandiganbayan an "Urgent Motion to Declare Nullity of Information and to Defer Issuance of Warrant of Arrest."^[2] He argued, *inter alia*, that the Sandiganbayan had no jurisdiction over the case because the AFP-RSBS is a private entity. The said Urgent Motion was later adopted by respondents Alzaga and Satuito.

The Urgent Motion was denied by the Sandiganbayan in a Resolution promulgated on January 6, 2000.^[3] Respondents filed a Motion for Reconsideration. In a Resolution issued on May 12, 2000, the Sandiganbayan sustained respondents' contention that the AFP-RSBS is a private entity. Hence, it reconsidered its earlier Resolution and ordered the dismissal of Criminal Case No. 25741. Upon denial of its Motion for Reconsideration, the prosecution filed the instant special civil action for *certiorari* anchored on the following grounds:

I

RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ISSUING THE RESOLUTION DATED MAY 9, 2000 INsofar AS IT DISMISSED THE CASE FOR LACK OF JURISDICTION.

II

RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF EXCESS OF JURISDICTION IN DENYING PROSECUTION'S MOTION FOR RECONSIDERATION DATED JUNE 1, 2000, SUPPLEMENTAL MOTION FOR RECONSIDERATION DATED JULY 10, 2000

AND SECOND SUPPLEMENTAL MOTION FOR RECONSIDERATION DATED
MAY 12, 2000.^[4]

Considering that the Resolution of the Sandiganbayan which dismissed Criminal Case No. 25741 was a final order which finally disposed of the case, the proper remedy therefrom is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure.^[5] Section 1 of said Rule 45 explicitly provides:

Filing of petition with Supreme Court. - A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

Moreover, Section 7 of Presidential Decree No. 1606, as amended by Section 3 of Republic Act No. 7975, states:

Form, Finality and Enforcement of Decisions. -

xxx xxx xxx.

Decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on certiorari raising pure questions of law in accordance with Rule 45 of the Rules of Court.

Basic is the rule that a special civil action for *certiorari* under Rule 65 of the Rules may be availed of only where there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.^[6] Certiorari cannot be availed of as a substitute for the lost remedy of an ordinary appeal.^[7]

The foregoing rule, however, may be relaxed where the issue raised is one purely of law, where public interest is involved, and in case of urgency. In such cases, *certiorari* is allowed notwithstanding the existence and availability of the remedy of appeal. *Certiorari* may also be availed of where an appeal would be slow, inadequate and insufficient.^[8] If the strict application of the Rules will tend to frustrate rather than promote justice, it is always within our power to suspend the rules, or except a particular case from its operation.^[9]

We now come to the substantive issue of whether the AFP-RSBS is a government-owned or controlled corporation or a private corporation and, corollarily, whether its funds are public or private. The Sandiganbayan based its ruling that the AFP-RSBS is a private entity on its findings that the Government does not provide counterpart contribution to the System; that the employees of the AFP-RSBS do not receive any salary from the Government and are not covered by the salary standardization law; that their remittances and contributions were made to the Social Security System and not to the Government Service Insurance System; and that the contribution to the System of the sum of P200,000,000.00 under Presidential Decree 361 can not be deemed as equity of the government in the System but rather, a donation or "seed money" which was never increased thereafter.^[10]

Generally, factual findings of the Sandiganbayan are conclusive on us. This rule,