

## THIRD DIVISION

[ G. R. No. 136974, August 27, 2002 ]

**SALVADOR K. MOLL, PETITIONER, VS. HON. MAMERTO M. BUBAN, PRESIDING JUDGE, REGIONAL TRIAL COURT OF TABACO, ALBAY, BRANCH 18 AND ATTY. NICETO N. VILLAMIN, PROSECUTOR II, TABACO ALBAY, RESPONDENTS.**

### DECISION

**CARPIO, J.**

In this special civil action for certiorari,<sup>[1]</sup> petitioner seeks to set aside the Orders dated December 10, 1998 and January 5, 1999 of the Regional Trial Court of Tabaco, Albay, Branch 18, issued in Criminal Case No. T-2685. Petitioner prays for the reinstatement of the Order dated November 12, 1998 of the trial court allowing petitioner to withdraw his first notice of appeal to the Court of Appeals and giving due course to his second notice of appeal directed to the Sandiganbayan.

#### The Antecedent Facts

The trial court rendered a Decision<sup>[2]</sup> on October 28, 1998 in *People of the Philippines vs. Salvador K. Moll and Ysmael Zepeda*, finding petitioner Salvador K. Moll, former Vice Mayor of Malinao, Albay, guilty of violating Section 3 (e) of Republic Act No. 3019, as follows:

"ACCORDINGLY, we find from the totality of the evidence, oral and documentary, unfolded before us that the GUILT of the accused, Salvador K. Moll, for VIOLATION OF SEC. 3 (e), RA 3019, AS AMENDED, alleged and recited in the information, had been established by proof beyond reasonable doubt, for which reason he is hereby SENTENCED to an imprisonment of six (6) Years and one (1) month, as minimum, to twelve (12) years as maximum, with perpetual disqualification from public office.

"Accused, YSMAEL ZEPEDA, whose GUILT has not been proved beyond reasonable doubt, is hereby ACQUITTED. Consequently, the property bailbond for his provisional liberty is ordered cancelled.

"SO ORDERED."<sup>[3]</sup>

On November 3, 1998, petitioner, through counsel, filed a notice of appeal,<sup>[4]</sup> stating that he was appealing the decision to the Court of Appeals. Petitioner furnished a copy of his notice of appeal to respondent Prosecutor Niceto Villamin. The trial court gave due course to the appeal in an Order<sup>[5]</sup> dated November 4, 1998. However, on November 12, 1998, the last day of the reglementary period to appeal, petitioner filed a "Manifestation/Motion"<sup>[6]</sup> withdrawing the notice of appeal dated November 3, 1998 and filing in its stead a second notice of appeal.<sup>[7]</sup> This

second notice of appeal sought to bring the appeal to the Sandiganbayan. In its Order<sup>[8]</sup> of November 12, 1998, the trial court gave due course to petitioner's "Manifestation/Motion," set aside its earlier Order, and ordered the entire record of the case forwarded to the Sandiganbayan for proper disposition.

On November 19, 1998, the respondent prosecutor filed a Motion for Reconsideration of the Order of November 12, 1998 and a Motion for Issuance of Mittimus<sup>[9]</sup> praying that the Order of November 12, 1998 be set aside on three grounds. First, the accused perfected his appeal upon filing the first notice of appeal, and therefore, the respondent court, under Section 9, Rule 41 of the Rules of Court, lost jurisdiction over the case. Second, the accused failed to serve a copy of his "Manifestation/Motion" and second notice of appeal to the prosecution in violation of Section 3(a), Rule 122 and Section 4, Rule 13 of the Rules of Court. Third, the "Manifestation/Motion" did not contain a notice of hearing and proof of service to the prosecution. The prosecution further prayed that the trial court declare the Decision of October 28, 1998 final because of the withdrawal of the first notice of appeal. Alternatively, the prosecution prayed that the record of the case be forwarded to the Court of Appeals in accordance with the trial court's earlier Order of November 4, 1998.

On December 10, 1998, the trial court issued an Order<sup>[10]</sup> giving due course to the prosecution's motion and reinstated its Order of November 4, 1998 giving due course to the appeal to the Court of Appeals. Upon petitioner's motion for reconsideration, the trial court on January 5, 1999 affirmed<sup>[11]</sup> its Order of December 10, 1998.

On January 20, 1999, petitioner filed this petition for certiorari under Rule 65 of the Rules of Court. Respondent prosecutor later filed his Comment, and the Office of the Solicitor General filed a Manifestation and Motion in Lieu of Comment recommending that petitioner's second notice of appeal to the Sandiganbayan be given due course.

## The Issues

The petitioner raises the following issues:

1. WHETHER RESPONDENT COURT ERRED WHEN IT GRANTED DUE COURSE TO THE SECOND NOTICE OF APPEAL FILED BY THE ACCUSED ON NOVEMBER 12, 1998.
2. WHETHER RESPONDENT COURT ERRED WHEN IT GAVE DUE COURSE TO THE MOTION FOR RECONSIDERATION FILED BY THE PROSECUTION ON NOVEMBER 19, 1998.
3. WHETHER RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT ISSUED ITS ORDERS OF DECEMBER 10, 1998 AND JANUARY 5, 1999.

These issues can be reduced into one central issue - whether the first notice of appeal is valid, rendering the second notice of appeal unnecessary.

## The Court's Ruling

The Court grants this petition.

The assailed Orders of the trial court direct petitioner, over his vigorous objections, to bring his appeal to the Court of Appeals where the appeal is bound to be dismissed outright for being filed in the wrong court. Petitioner asserts that the trial court, in directing him to bring his appeal to the wrong court, acted with grave abuse of discretion amounting to lack of jurisdiction.

At the time of the alleged commission of the offense, petitioner was the municipal vice-mayor of Malinao, Albay, a position corresponding to Salary Grade "25" pursuant to Republic Act No. 7160.<sup>[12]</sup> Under Republic Act No. 8249, the Sandiganbayan had exclusive appellate jurisdiction over petitioner's case, to wit:

"SECTION 4. Section 4 of the same decree is hereby further amended to read as follows:

Sec. 4. Jurisdiction. — The Sandiganbayan shall exercise exclusive 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 of the Revised Penal Code, where one or more of the 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:

xxx xxx xxx

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided."

<sup>[13]</sup> (Emphasis supplied)

Section 1 of Presidential Decree No. 1861,<sup>[14]</sup> which amended Presidential Decree No. 1606 and Batas Pambansa Blg. 129 relative to the jurisdiction of the Sandiganbayan, also provides:

"Sec. 1. Section 4 of Presidential Decree No. 1606 is hereby amended to read as follows:

'Sec. 4. Jurisdiction. The Sandiganbayan shall exercise:

xxx xxx xxx

(b) Exclusive appellate jurisdiction:

(1) On appeal, from the final judgments, resolutions or orders of the Regional Trial Courts in cases originally decided by them in their respective territorial jurisdiction.

(2) By petition for review, from the final judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction