

## SECOND DIVISION

[ G.R. No. 156981, October 05, 2009 ]

**ARTURO C. CABARON AND BRIGIDA CABARON, PETITIONERS,  
VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN,  
RESPONDENTS.**

### RESOLUTION

**BRION, J.:**

For our review is the petition<sup>[1]</sup> filed by petitioners Arturo C. Cabaron and Brigida Cabaron assailing the decision<sup>[2]</sup> and resolution<sup>[3]</sup> of the Sandiganbayan dated October 15, 2002 and January 23, 2003, respectively, in Criminal Case No. 24153. The challenged decision found the petitioners guilty beyond reasonable doubt of violation of Section 7(d) of Republic Act No. 6713 (*R.A. No. 6713*), otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees. The assailed resolution denied the petitioners' motion for reconsideration but modified the imposed penalties.

#### ANTECEDENT FACTS

The case traces its roots to the complaint for grave threats, extortion, bribery, dereliction of duty, violation of Republic Act No. 3019 (the Anti-Graft and Corrupt Practices Act) and violation of R.A. No. 6713 filed by Richter G. Pacifico (*Pacifico*) before the Deputy Ombudsman (Visayas) against the petitioners, docketed as OMB-VIS-CRIM-96-1213.

The Deputy Ombudsman for the Visayas, in his resolution<sup>[4]</sup> dated June 27, 1997, recommended the filing of an Information for violation of Section 7(d) of R.A. No. 6713 against the petitioners. The Ombudsman approved the resolution on September 5, 1997.<sup>[5]</sup> The Information subsequently filed with the Sandiganbayan for violation of Section 7(d) of R.A. No. 6713 states:

That on or about the 7<sup>th</sup> day of October 1996, at about 2:30 o'clock in the afternoon, and for sometime subsequent thereto, at Cebu City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ARTURO C. CABARON, a public officer, being an Assistant Provincial Prosecutor of Cebu in such capacity and committing the offense in relation to office, taking advantage of his public functions, conniving, confederating and mutually helping with accused BRIGIDA Y. CABARON, his wife and a private individual, with deliberate intent, with intent of gain and evident bad faith, did then and there willfully, unlawfully and feloniously solicit/demand from one Richter G. Pacifico, mother of Abraham Pacifico, Jr., who have pending cases before the Office of the Provincial Prosecutor for preliminary investigation the amount of FIFTY THOUSAND (P50,000.00) PESOS, Philippine Currency in

consideration for the consolidation and handling by him of the case entitled "Ohyeen Alesna vs. Abraham Pacifico, Jr.," for Rape (IS No. 96-11651), which is assigned to Provincial Prosecutor Rodolfo Go, with another criminal case entitled "Abraham Pacifico, Jr. vs. Alvin Alesna," for Frustrated Murder, which is handled by accused Arturo C. Cabaron, and the giving of a lawyer to defend Abraham Pacifico, Jr. who bears similar family name with the Provincial Prosecutor of Cebu, in order that Abraham Pacifico, Jr. can get a favorable Resolution in the above-mentioned cases, thus, accused in the course of his official functions solicited/demanded anything of monetary value from litigants, which act is prohibited under Sec. 7(d) of R.A. 6713, "The Code of Conduct and Ethical Standards for Public Officials and Employees," to the detriment of public service and interest.

CONTRARY TO LAW.<sup>[6]</sup>

The Sandiganbayan issued warrants of arrest against the petitioners on September 16, 1997. The petitioners voluntarily surrendered to the Sandiganbayan on October 3, 1997 and filed a *motion for reconsideration/reinvestigation*<sup>[7]</sup> alleging, among others, that the Ombudsman's findings were based on a false assumption of fact. The Office of the Special Prosecutor recommended the withdrawal of the Information and the dismissal of the case in its order<sup>[8]</sup> of December 15, 1997. The Ombudsman, however, disapproved this recommendation and directed the petitioners' prosecution.<sup>[9]</sup>

The petitioners were duly arraigned and pleaded "not guilty" to the charge laid.<sup>[10]</sup> Trial on the merits thereafter followed. Meanwhile, the prosecution filed on October 29, 1998, filed a motion to suspend accused *pendente lite*.<sup>[11]</sup> The Sandiganbayan denied this motion in its resolution<sup>[12]</sup> dated June 14, 2000.

The Sandiganbayan convicted the petitioners of the crime charged in its decision of October 15, 2002 as follows:

WHEREFORE, this Court finds accused ARTURO C. CABARON and BRIGIDA CABARON GUILTY beyond reasonable doubt, of the crime of Violation of Sec. 7(d) R.A. 6713, hereby sentences both accused to each suffer an imprisonment for TWO (2) YEARS and ONE (1) DAY, and to pay the costs. Likewise, both accused are solidarily liable to Richter Pacifico in the amount of P30,000 as moral damages.

SO ORDERED.<sup>[13]</sup>

The petitioners moved to reconsider this decision, but the Sandiganbayan denied their motion in its resolution dated January 23, 2003. The Sandiganbayan, however, applied the Indeterminate Sentence Law and modified the dispositive portion of its decision as follows:

**WHEREFORE**, this Court finds accused ARTURO C. CABARON and BRIGIDA Y. CABARON GUILTY beyond reasonable doubt of the crime of violation of Sec. 7(d), R.A. 6713, hereby sentences both accused to each suffer the indeterminate penalty of ONE (1) YEAR AS MINIMUM to TWO

(2) YEARS AND ONE (1) DAY AS MAXIMUM, and to pay the costs. Likewise, both accused are solidarily liable to Richter Pacifico in the amount of P30,000.00 as moral damages.

SO ORDERED.<sup>[14]</sup> [*Emphasis and underscoring in the original*]

Petitioners filed a petition for review on *certiorari* before this Court, alleging, among others, that the Sandiganbayan erred -

1. in overlooking the fact that the case was merely a harassment case instigated by Atty. Valencia;
2. in relying on the testimonies of Pacifico and Editha Baylon (Editha); and
3. in not giving weight to the testimonies of defense witnesses Russo and Zoe.

**This Court's Third Division, in a resolution<sup>[15]</sup> dated April 7, 2003, denied this petition for *raising factual issues* and for failing to show that the Sandiganbayan committed reversible error in its decision.**

The petitioners moved to reconsider this resolution.<sup>[16]</sup> This Court reinstated the petition for review on *certiorari* in its resolution<sup>[17]</sup> dated July 7, 2003.

### **THE COURT'S RULING**

We **deny** the petition for raising pure questions of fact.

#### **Only questions of law should be raised in a Rule 45 petition**

It is settled that the appellate jurisdiction of the Supreme Court over decisions and final orders of the Sandiganbayan is limited only to questions of law; it does not review the factual findings of the Sandiganbayan which, as a rule, are conclusive upon the Court.<sup>[18]</sup>

A question of law exists when there is doubt or controversy as to what the law is on a certain state of facts. On the other hand, a question of fact exists when the doubt or controversy arises as to the truth or falsity of the alleged facts. The resolution of a question of fact necessarily involves a calibration of the evidence, the credibility of the witnesses, the existence and the relevance of surrounding circumstances, and the probability of specific situations.<sup>[19]</sup>

Simple as it may seem, determining the true nature and extent of the distinction is not always easy. In a case involving a question of law, the resolution of the issue must rest solely on what the law provides for a given set of facts drawn from the evidence presented. Once it is clear that the issue invites a review of the *probative value* of the evidence presented, the question posed is one of fact. If the query requires a **re-evaluation of the credibility of witnesses**, or the existence or relevance of surrounding circumstances and their relation to each other, the issue in