

THIRD DIVISION

[G.R. Nos 204978-83, July 06, 2020]

**IGNACIO C. BAYA, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN (2ND DIVISION), THE OFFICE OF THE
SPECIAL PROSECUTOR, AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

LEONEN, J.:

The right to speedy disposition of cases is a relative and flexible concept. It is also waivable and must be seasonably raised. When considered appropriate, the assertion of the right ultimately depends on the peculiar circumstances of the case; hence, citing *Tatad v. Sandiganbayan*^[1] will not automatically result in a dismissal on the ground of inordinate delay.

This resolves the Petition for Certiorari^[2] filed by Ignacio C. Baya (Board Member Baya), alleging grave abuse of discretion on the part of the Sandiganbayan in denying^[3] his Motion for Judicial Determination of Probable Cause^[4] and eventually issuing a warrant for his arrest.^[5]

Board Member Baya maintains that: (1) he was deprived of his right to due process when cases for malversation of public funds and violation of the Anti-Graft and Corrupt Practices Act were filed against him despite alleged lack of probable cause; and (2) the Sandiganbayan gravely abused its discretion in not dismissing the case against him, despite the violation of his right to speedy disposition of cases.^[6]

Baya was a Board Member of the Sangguniang Panlalawigan of Zamboanga Sibugay.^[7] In 2001, the provincial government implemented the "Aid to the Poor" program to grant financial assistance to its poor constituents.^[8] Funds for the program came from the savings in Personnel Services (PS) and Maintenance and Other Operating Expenses (MOOE) of the province's regular budget.^[9]

Claiming that the implementation of the "Aid to the Poor" program was marred with anomalies and irregularities, Provincial Accountant Venancio C. Ferrer filed before the Office of the Deputy Ombudsman for Mindanao criminal and administrative complaints against the Governor, Vice-Governor, and members of the Sangguniang Panlalawigan in 2003.^[10] Provincial Governor George T. Hofer filed a complaint to question the legality of the realignment of funds for the "Aid to the Poor" program,^[11]

Considering that the complaints involved the disbursement of public funds, in March 2003, the Office of the Deputy Ombudsman requested the Commission on Audit to

conduct an audit investigation.^[12] In the meantime, the complaints were dismissed without prejudice to their refiling depending on the Commission on Audit's findings.^[13]

In an audit report submitted on February 19, 2004,^[14] the Commission on Audit confirmed that there were anomalies in the implementation of the "Aid to the Poor" program. The scheme essentially consisted of the Governor, Vice-Governor, and Zamboanga Sibugay's Board Members allegedly giving financial assistance, from their own pockets, then seeking reimbursement of the amounts from the realigned funds.^[15] Reimbursement forms were submitted thereafter, and the disbursement vouchers were approved either by the Governor or by the Vice-Governor.^[16] In reality, however, the beneficiaries were nonexistent,^[17] and the officials used the realigned funds for their own benefit.

Specifically with respect to Board Member Baya, he was found to have requested for the reimbursement of a total of P60,000.00. The amount was allegedly given to 18 named beneficiaries, 14 of whom were found to be fictitious. The 14 were not listed as residents of the area indicated in the application forms, and the Municipal Local Government Operations Officers deployed to the supposed residences of the beneficiaries did not find them there.^[18]

The Office of the Deputy Ombudsman considered the submission of Commission on Audit Report as the docketing of the case.^[19] It then required Board Member Baya and members of his staff^[20] who had prepared the Brief Social Case Study Reports, Application Forms, and Reimbursement Expense Receipts to file their counter-affidavits.^[21]

Board Member Baya first submitted a Counter-Affidavit and a Supplemental Counter-Affidavit to the Office of the Deputy Ombudsman. In his Counter-Affidavit, Board Member Baya alleged that members of his staff, namely: (1) Nelita Rodriguez; (2) Alice Libre; and (3) Rex Tago conducted the interview of the beneficiaries and prepared the Brief Social Case Study Reports.^[22] He also chose to "[advance] the amounts to the clients to expeditiously meet their financial problems rather than follow the rigorous processing of vouchers and checks which would take days [and] would have defeated the purpose upon which the clients sought said financial assistance."^[23]

However, in his Supplemental Counter-Affidavit filed on July 14, 2004.^[24] Board Member Baya claimed that he himself conducted the preliminary interview of the intended beneficiary before giving the monetary assistance.^[25] He then left the gathering and completion of the other requirements to his staff,^[26]

Further, Board Member Baya maintained that he extended financial assistance to existing beneficiaries, but that he "cannot point out with absolute accuracy the names and other personal circumstances of all those who availed assistance through. . . the 'Aid to the Poor' program[.]"^[27] In any case, he allegedly gave his best efforts to locate those who had availed themselves of the financial assistance through him, instructing members of his staff to trace the whereabouts of these beneficiaries.^[28] He found that some of the allegedly nonexistent beneficiaries held

residence in the addresses indicated in their application forms, evidenced by either barangay certifications or affidavits from the beneficiaries themselves or persons who knew of their existence.^[29]

As for the confirmation letters sent by the Commission of Audit to the alleged beneficiaries which were returned to senders, Board Member Baya argued that the returned letters, in themselves, do not prove that the intended recipients did not exist. He alleged that upon consultation with the barangay captain and other officials of Poblacion Diplahan in Zamboanga Sibugay, letters were oftentimes not delivered personally to the addressee especially in remote barangays. Instead, names of addressees were posted in the barangay bulletin board and, if the letters were not claimed after a few days, they were returned to senders. It could very well be that the addressees were unaware that they had letters awaiting them in the barangay hall. However, it does not mean that these beneficiaries do not exist. Therefore, the finding of the Commission on Audit that the beneficiaries who had availed themselves of financial assistance through him were fictitious was presumptuous.^[30]"

In a 136-page Resolution^[31] dated July 10, 2006, the Office of the Ombudsman found probable cause to indict Board Member Baya, together with 31 other co-respondents, including the Provincial Governor, Vice- Governor, Board Members of the Province of Zamboanga Sibugay, and their respective staff who participated in the scheme,^[32] for the commission of malversation of public funds ^[33] through falsification of public documents and violation of Section 3(e)^[34] of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

The Office of the Deputy Ombudsman for Mindanao found that Board Member Baya indeed caused the reimbursement of a total of P60,000.00 under three (3) disbursement vouchers for amounts he allegedly advanced to poor beneficiaries of the "Aid to the Poor" program. However, of the 18 beneficiaries that had allegedly availed of financial assistance, 14 could not be located. While Board Member Baya submitted affidavits from the alleged beneficiaries of the "Aid to the Poor" program, the Office of the Ombudsman said that these do not "sufficiently explain the inconsistency attending the grant of financial aid to the other beneficiaries whose existence remains doubtful."^[35]

It thus concluded that "the documents, such as the [Brief Social Case Study Reports], Application Forms[,], and the Reimbursement Expense Receipts, submitted by [Baya and his co-respondents] to support the claims under the different disbursement vouchers were false and merely fabricated to make it appear that the money was spent and given to the poor."^[36]

Aside from the Provincial Governor, Vice-Governor, and the Provincial Board Members, the members of their respective staff who had prepared and signed the Brief Social Case Study Reports, Application Forms, and Reimbursement Expense Receipts were likewise indicted as principals because, according to the Ombudsman, "[t]he appropriation of the subject public funds would not have been carried out were it not for [their] indispensable and active participation[.]"^[37]

Even granting that the funds were under the custody of the Provincial Social Welfare

and Development Office, the Office of the Ombudsman held, nonetheless, that Board Member Baya and his co-respondents may still be held accountable and responsible since they participated in the misuse and misapplication of the funds. [38] Lastly, the undue haste and evident bad faith of the respondents were shown by the grant of financial assistance even before the enactment in 2002 of the ordinance providing for guidelines regulating the "Aid to the Poor" program. [39]

The dispositive portion of the July 10, 2006 Resolution of the Office of the Ombudsman partly read:

WHEREFORE, FOREGOING PREMISES CONSIDERED, this Office after due consideration of the evidence on hand finds the existence of probable cause for the commission of the crimes of Malversation thru Falsification of Public Documents and violation of Sec. 3(e) of RA 3019 against the following respondents:

. . . .

IGNACIO BAYA, NELITA R. RODRIGUEZ, ALICE B. LIBRE and REX P. TAGO

For violation of Sec. 3(e) of R.A. 3019 for causing undue injury to the government thru evident bad faith by collecting the amount of P29,000.00 under **[Disbursement Voucher] No. 101-0201-91** and paid under Check No. 75448 and making it appear that the said amount was used for the Aid to the Poor Program and distributed as financial assistance to the poor of Zamboanga Sibugay when no such financial assistance was granted or extended as the alleged recipients/beneficiaries of said assistance were fictitious and non-existent, to the detriment of the government and the people of Zamboanga Sibugay.

For violation of Sec. 3(e) of RA 3019 for causing undue injury to the government thru evident bad faith by collecting the amount of P10,000.00 under **[Disbursement Voucher] No. 101-0109-363** and paid under Check No. 59463 and making it appear that the said amount was used for the Aid to the Poor Program and distributed as financial assistance to the poor of Zamboanga Sibugay when no such financial assistance was granted or extended as the alleged recipients/beneficiaries of said assistance were fictitious and non-existent, to the detriment of the government and the people of Zamboanga Sibugay.

For violation of Sec. 3(e) of RA 3019 for causing undue injury to the government thru evident bad faith by collecting the amount of P21,000.00 under **[Disbursement Voucher] No. 101-0201-90** and paid under Check No. 75447 and making it appear that the said amount was used for the Aid to the Poor Program and distributed as financial assistance to the poor of Zamboanga Sibugay when no such financial assistance was granted or extended as the alleged recipients/beneficiaries of said assistance were fictitious and non-existent, to the detriment of the government and the people of

Zamboanga Sibugay.

For Malversation thru Falsification of Public/Official Document for falsifying the [Brief Social Case Study Report], [Department of Social Welfare and Development] Form 200, and the [Reimbursement Expense Receipt] used as supporting paper to **[Disbursement Voucher] No. 101-0201-91** and making it appear therein that there were beneficiaries who were given financial assistance when no such beneficiaries exist, thus enabling respondents to collect and appropriate the aggregate amount of P29,000.00 paid under Check No. 75448 dated 03 January 2002.

For Malversation thru Falsification of Public/Official Document for falsifying the [Brief Social Case Study Report], [Department of Social Welfare and Development] Form 200, and the [Reimbursement Expense Receipt] used as supporting paper (to **[Disbursement Voucher] No. 101-0109-363** and making it appear therein that there were beneficiaries who were given financial assistance when no such beneficiaries exist, thus enabling respondents to collect and appropriate the aggregate amount of P10,000.00 paid under Check No. 59463 dated 04 September 2001.

For Malversation thru Falsification of Public/Official Document for falsifying the [Brief Social Case Study Report], [Department of Social Welfare and Development] Form 200, and the [Reimbursement Expense Receipt] used as supporting paper to **[Disbursement Voucher] No. 101-0201-90** and making it appear therein that there were beneficiaries who were given financial assistance when no such beneficiaries exist, thus enabling respondents to collect and appropriate the aggregate amount of P21,000.00 paid under Check No. 75447 dated 03 January 2002.

. . . .

ACCORDINGLY, THE SPECIAL PROSECUTION OFFICE is respectfully urged to cause the filing of the herewith attached Information(s) against the aforementioned accused. . .

. . . .

Moreover, as admitted by the members of the Audit Team, they sampled only forty-two (42) Disbursement Vouchers used in the alleged anomalous disbursement of funds appropriated for the "Aid to the Poor" program, due to lack of time. Hence, there are other Disbursement Vouchers which are not yet audited by the Audit Team.

For a comprehensive resolution of the issues involved, there is a need for the [Commission on Audit-Regional Office Number IX] to conduct an investigation touching on the alleged illegal reversions of public funds as presented in OMB-M-C-02-0496-I; and to complete its audit-investigation on the remaining Disbursement Vouchers used in the disbursement of public funds allocated for the "Aid to the Poor" program. To simplify matters, the issue presented in OMB-M-C-02-0496-I, and the remaining