

## SECOND DIVISION

[ G.R. Nos. 228494-96, March 21, 2018 ]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HONORABLE  
SANDIGANBAYAN (FOURTH DIVISION) AND CAMILO LOYOLA  
SABIO, RESPONDENTS.**

### DECISION

**REYES, JR., J:**

Before this Court is a Petition for *Certiorari*<sup>[1]</sup> under Rule 65 of the 1997 Rules of Court instituted by People of the Philippines (petitioner), represented by the Office of the Ombudsman, assailing the Decision<sup>[2]</sup> dated April 20, 2016 and Resolution<sup>[3]</sup> dated October 18, 2016 of the Sandiganbayan acquitting private respondent Camilo Loyola Sabio (Sabio), for having been issued with grave abuse of discretion, amounting to lack or excess of jurisdiction, thereby denying petitioner's right to due process.

### The Facts

Sabio, the then Chairperson of the Presidential Commission on Good Government (PCGG) with Salary Grade 30, was charged before the Sandiganbayan with (a) one count for violation of Section 3(e) of Republic Act No. 3019,<sup>[4]</sup> as amended, otherwise known as the Anti-Graft and Corrupt Practices Act; and (b) two counts for Malversation of Public Funds as defined and penalized under Article 217<sup>[5]</sup> of the Revised Penal Code.<sup>[6]</sup> The three sets of Information are quoted as follow:

#### **CRIMINAL CASE NO. SB-11-CRM-0276**

(For Violation of Sec. 3 (e), R.A. No. 3019, as amended)

"That on or about the period from **February 14, 2006 to October 3, 2006** or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused. [**SABIO**], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and committing the offense in relation to and/or taking advantage of his official position, did then and there wilfully, unlawfully and criminally cause undue injury to the government through evident bad faith by appropriating, misappropriating, and converting to his own personal use and benefit, the following remittances of Mid-Pasig Land Development Corporation (MPLDC) from , the proceeds of the sale of A. Soriano Corporation shares which form part of the ill-gotten wealth of Former President Ferdinand E. Marcos and his cronies in the amount of **TEN MILLION THREE HUNDRED FIFTY THOUSAND PESOS (P10,350,000.00)** consisting of:

Voucher No.	Check No.	Date	Amount
a. Unnumbered	56626	02/14/2006	P 500,000.00
b. 03-45	56643	03/08/2006	1,000,000.00
c. 03-46	56644	03/13/2006	2,000,000.00
d. 04-57	56659	04/21/2006	500,000.00
e. 05-86	56688	05/03/2006	700,000.00
f. 05-94	56696	05/11/2006	350,000.00
g. 05-100	56702	05/25/2006	1,300,000.00
h. 06-125	56722	06/30/2006	1,000,000.00
i. 08-147	56744	08/18/2006	500,000.00
j. 09-150	56747	09/07/2006	1,000,000.00
k. 10-164	56761	10/03/2006	1,500,000.00
TOTAL			P10,350,000.00

which amount although he received as cash advances was supposed to be remitted to the Bureau of Treasury (BOT) as part of the CARP Fund, thereby causing damage and prejudice to the Philippine Government in the aforementioned amount."<sup>[7]</sup>

**CRIMINAL CASE NO. SB-11-CRM-0277**

(For Malversation of Public Funds under Sec. 217 of the Revised Penal Code)

"That on or about the period from **February 14, 2006 to October 3, 2006** or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [**SABIO**], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and as such is accountable for the public funds or property collected and received by reason of his office, committing the offense in relation to and/or taking advantage, of his official position, did then and there wilfully, unlawfully, feloniously and with grave abuse of confidence, appropriate, misappropriate, misapply, embezzle and convert to his own personal use and benefit the following remittances of Mid-Pasig Land Development Corporation (MPLDC) from the proceeds of sale of A. Soriano Corporation shares which form part of the ill-gotten wealth of Former President Ferdinand E. Marcos and his cronies in the amount of **TEN MILLION THREE HUNDRED FIFTY THOUSAND PESOS (P10,350,000.00)**, consisting of:

Voucher No.	Check No.	Date	Amount
a. Unnumbered	56626	02/14/2006	P 500,000.00
b. 03-45	56643	03/08/2006	1,000,000.00
c. 03-46	56644	03/13/2006	2,000,000.00
d. 04-57	56659	04/21/2006	500,000.00
e. 05-86	56688	05/03/2006	700,000.00
f. 05-94	56696	05/11/2006	350,000.00
g. 05-100	56702	05/25/2006	1,300,000.00
h. 06-125	56722	06/30/2006	1,000,000.00
i. 08-147	56744	08/18/2006	500,000.00
j. 09-150	56747	09/07/2006	1,000,000.00
k. 10-164	56761	10/03/2006	1,500,000.00
TOTAL			P10,350,000.00

which amount although he received as cash advances was supposed to be remitted to the Bureau of Treasury (BOT) as part of the CARP Fund, thereby causing damage and prejudice to the Philippine Government in the aforementioned amount."<sup>[8]</sup>

**CRIMINAL CASE NO. SB-11-CRM-0278**<sup>[9]</sup>

(For Malversation of Public Funds under Sec. 217 of the Revised Penal Code)

"That on or about the period from **May 30, 2007 to August 14, 2008**, or for sometime prior or subsequent thereto, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [**SABIO**], a high ranking public officer being then the Chairman of the [PCGG] with a Salary Grade of 30 and as such, accountable for the public funds and property collected and received by reason of his office, committing the offense in relation to and/or taking advantage, of his official position, did then and there wilfully, unlawfully, feloniously and with grave abuse of confidence, appropriate, misappropriate, misapply, embezzle and convert to his own personal use and benefit the following cash advances from the [PCGG] to defray expenses in connection with litigation, accommodation and contingency fund in his trip to Kuala Lumpur, Malaysia in the total amount of **ONE MILLION FIVE HUNDRED FIFTY-FIVE THOUSAND EIGHT HUNDRED SIXTY-TWO PESOS AND THREE CENTAVOS (P1,555,862.03)**, consisting of:

Date	Nature / Purpose	Disbursement Voucher No.	Amount
a. 05/30/2007	Emergency / Miscellaneous, etc.	2007-05-0617	P 500,000.00
b. 08/16/2007	Litigation and other related expenses	2007-08-0972	P 450,000.00
c. 09/30/2007	Litigation and other related expenses	2007-09-1122	P 500,000.00
d. 04/17/2008	Plane fare, per diem hotel accommodation, contingency fund re: trip to Kuala Lumpur, Malaysia	2008-04-0358	P 55,862.03
e. 08/14/2008	Litigation and other related expenses	2008-08-0795	P 50,000.00
TOTAL			P1,555,862.03

Upon arraignment on January 12, 2012, Sabio entered a 'plea of not guilty on all the three charges filed against him."<sup>[10]</sup>

After the termination of the pre-trial conference and compliance with the pre-trial order, the trial ensued between the parties."<sup>[11]</sup>

During the trial, the prosecution presented the testimonies of numerous witnesses and submitted their respective documentary exhibits to prove the guilt of Sabio on the offenses charged."<sup>[12]</sup>

Among the pertinent testimonies as gathered from the decision of the Sandiganbayan are the following:

Lorna Gaerlan Reyes (Reyes), the Chief Administrative Officer of the Collection Division of the Finance and Administrative Department of the PCGG, testified that she was called to the office of Atty. Manuel Paras (Atty. Paras), the former General Manager of Independent Realty Corporation (IRC) Group of Companies (one of the surrendered companies to PCGG), to receive remittances. In connection thereof, Reyes was given RCBC Check No. 955805 dated November 23, 2006 issued in the name of PCGG from IRC in the amount of P26,930,670.99 and PNB Manager's Check No. 1528106 in the amount of P13,069,329.01 representing remittances for the Comprehensive Agrarian Reform Program to be remitted to the Bureau of Treasury (BOT). Thereafter, Atty. Paras asked for an official receipt in a total amount of P50,350,000.00 which Reyes refused to issue since she only received an amount of P40,000,000.00. Reyes then prepared a transmittal letter addressed to the BOT and had it signed by then PCGG Chairman Sabio and Commissioner Ricardo Abcede (Commissioner Abcede). The official receipts were all issued in the name of IRC as payee and the checks issued to her 'were all in the name of PCGG. The checks, on the other hand, were deposited in the name of BOT. During cross-examination, Reyes admitted that the Chairman of IRC, and not Sabio, determined the amount to be remitted to BOT. Sabio's participation was only limited to the signing of the transmittal letter to BOT.<sup>[13]</sup>

Primitiva Solinap Hingco-Millado (Millado), the former Cashier of IRC, testified that she prepared the vouchers, checks (Exhibits S to NN, PP, QQ and SS) and documents of IRC in the name of Sabio. During cross-examination, she disclosed that Atty. Paras verbally instructed her to prepare the voucher marked as Exhibit S, which turned out to be MPLDC Cash Voucher dated February 14, 2007, despite lack of supporting document. She likewise prepared a check marked as Exhibit T, referring to MPLDC dated March 8, 2006 payable to Sabio in the amount of P1,000,000.00, upon instruction of Atty. Paras through the IRC Chief Accountant Corazon San Mateo Escorpizo (Escorpizo), even without the approval of the approving officer. Similarly, she prepared MPLDC Cash Voucher No. 03-46 dated March 13, 2006 in the name of Sabio amounting to P2,000,000.00 marked as Exhibit W, PNB Check in the name of MPLDC with Sabio as payee in the amount of P2,000,000.00 dated March 13, 2006 marked as Exhibit X, MPLDC Cash Voucher No. 04-57 dated April 21, 2006 payable to Sabio amounting to P500,000.00 marked as Exhibit Y, all upon verbal instructions of Atty. Paras. During cross-examination, Millado admitted that she has no evidence to show that the checks payable under the name of Sabio were received by the latter.<sup>[14]</sup>

Escorpizo, testified that the preparation of the check voucher with regard to cash advances and remittances to the National Treasury depended upon the instruction of the Office of the General Manager and/or the President of IRC. She clarified that Commissioners Abcede and Nicasio Conti (Commissioner Conti) facilitated the transaction of the cash advances but the checks must be made in the name of Sabio since he was authorized as the Chairman of PCGG. Escorpizo added further that she facilitated the preparation of the checks and cash advances premised upon the collective promise of Atty. Paras, IRC President Ernesto R. Jalandoni (President Jalandoni) and Commissioners Abcede and Conti that a board resolution will be

submitted to authorize the cash advance.<sup>[15]</sup>

Finally, Marcial Velarga Flores, the Chief Administrative Officer of the Finance Department of the PCGG testified that he issued a Memorandum addressed to Sabio for his failure to liquidate the issued cash advances and the same was received by an office staff named Wilson.<sup>[16]</sup>

On his part, Sabio stood as the lone witness of the defense. He denied having misappropriated, embezzled, misapplied and converted to his own personal use and benefit the amount of P10,350,000.00 as remitted by MPLDC. He explained that as the Chairman of the PCGG, he signed and endorsed the checks to be delivered to the cashier for encashment for the operational expense of PCGG in view of the one-peso budget of the office for the year 2006. In the same note, he alleged that he endorsed to his office staff the cash advance of P1,550,862.03 for proper liquidation.<sup>[17]</sup>

On April 20, 2016, the Sandiganbayan rendered the assailed Decision,<sup>[18]</sup> the dispositive portion of which reads as follows:

**WHEREFORE**, premises considered, and for insufficiency of evidence engendering reasonable doubt, judgment is hereby rendered Acquitting herein accused [Sabio] from the charge of Violation of Sec. 3(e), RA 3019 in Crim. Case No. SB-11-CRM-0276 and Malversation in Crim. Cases Nos. SB-11-CRM-0277 and SB-11-CRM-0278.

SO ORDERED.<sup>[19]</sup>

The petitioner filed its motion for reconsideration which was denied in a Resolution<sup>[20]</sup> dated October 18, 2016. Thus:

Acting on the prosecution's **MOTION FOR RECONSIDERATION (Re: Decision dated April 20, 2016)** dated May 5, 2016, this Court must emphasize that it had already acquitted the accused after trial on the merits. The rule against double jeopardy proscribes a reconsideration or reversal of a judgment of acquittal on the merits. It is well-settled that acquittal in a criminal case is final and executory upon its promulgation, and that accordingly, the State may not seek its review without placing the accused in double jeopardy.

Accordingly, the subject motion for reconsideration is DENIED.<sup>[21]</sup>

Hence, this petition.

In this present petition for *certiorari*, the Office of the Ombudsman raises the following issues:

A.

THE HONORABLE SANDIGANBAYAN (FOURTH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR IN EXCESS OF ITS JURISDICTION WHEN IT CAPRICIOUSLY AND WANTONLY RULED THAT THE PARTIAL REMITTANCES SUBJECT OF CRIMINAL CASES