

SECOND DIVISION

[G.R. Nos. 203797-98, June 27, 2018]

**CARMENCITA O. REYES, PETITIONER, V. SANDIGANBAYAN
(FIRST DIVISION), OFFICE OF THE SPECIAL PROSECUTOR,
OFFICE OF THE OMBUDSMAN, AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

DECISION

REYES, JR., J:

This is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court with Prayer for Preliminary Injunction and/or Temporary Restraining Order, seeking to set aside the Resolutions dated February 29, 2012^[2] and August 13, 2012^[3] of the First (1st) Division of the Sandiganbayan in Case Nos. SB-11-CRM-0089 to 0101 and SB-11-CRM-0111 to 0113. The said Resolution dated February 29, 2012 denied petitioner's Urgent Omnibus Motion dated July 19, 2011,^[4] while the Resolution dated August 13, 2012^[5] denied the Motion for Reconsideration thereof.

THE ANTECEDENTS

This case stemmed from the investigation of various transactions of the famous P728,000,000.00 fertilizer fund allegedly involving public officers from the Department of Agriculture (DA) and others.

On July 9, 2008, the Task Force Abono, Field Investigation Office (FIO) of the Office of the Ombudsman filed a Complaint^[6] with the Office of the Ombudsman against some persons which included petitioner Carmencita O. Reyes (Reyes).

Reyes was charged for alleged violation of Article 220 (Illegal Use of Public Funds or Property, commonly known as Technical Malversation) of Act 3135, otherwise known as the "Revised Penal Code of the Philippines" (RPC); and Section 3(e) and (g) of Republic Act (R.A.) No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act." Thereafter, Reyes then filed a consolidated counter affidavit^[7] upon which Task Force Abono filed its Reply^[8] on November 26, 2008.

Based on the said Complaint, the Ombudsman filed two (2) Informations against Reyes, one for violation of Section 3(e) of R.A. No. 3019^[9] docketed as Criminal Case No. SB-11-CRM-0100; and the other for violation of Article 220 of the RPC^[10] docketed as Criminal Case No. SB-11-CRM-0113, both of which were allegedly committed during the incumbency of Reyes as Provincial Governor of Marinduque. The Informations were consolidated into one case with the First (1st) Division of the Sandiganbayan (Sandiganbayan). The accusatory portion of the said Informations read as follows:

Criminal Case No. SB-11-CRM-0100

That on or about the period covering 30 April to 08 December 2004, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused CARMENCITA O. REYES, a high ranking official being then the Governor of the Province of Marinduque, DENNIS B. ARAULLO, a high ranking official being a Regional Executive Director with Salary Grade 28, RODOLFO M. GUIEB, MARIE PAZ JASMINE M. CABUCOL, RAYMUNDO E. BRAGANZA, GROVER L. DINO, DORY A. IRANZO, ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGALANG; all of the Department of Agriculture Regional Field Unit IV (DA-RFU IV), while in the performance of their official functions and committing the offense in relation to their office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, acting with manifest partiality and evident bad faith or through gross inexcusable negligence, at the very least, did then and there willfully, unlawfully and criminally cause undue injury to the government, through the issuance of Bids and Awards Committee (BAC) Resolution No. 290, dated 30 April 2004, upon the order of accused REYES as evidenced by her letter and purchase requests dated 30 April 2004 and 03 May 2004, respectively, which requests have induced the accused DA-RFU IV employees to transact with LCV Design and Fabrication Corporation (LCV), with accused REMUS C. VILLANUEVA as president, in whose favor the purchase order and payment for one (1) unit Shredding Machine, one (1) unit Hammermill/Shifter, one (1) unit Pelletizer and one (1) unit Tornado Brush Chipper/Shredder as listed under Purchase Order No. 119-04, dated 05 May 2004, duly signed by accused MARIE PAZ JASMINE M. CABUCOL, amounting to Five Million Pesos (Php5,000,000.00), Philippine currency, charged against the Farm Input Fund for the Ginintuang Masaganang Ani Program of the DA as covered by SARO No. E-04-00164, has been awarded by accused BAC Members ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGGALANG; without the conduct of a public bidding, thereby resorting to Direct Contracting, thus, giving said corporation unwarranted benefit, preference or advantage, knowing fully well that at the time of procurement, the patent application of said corporation for the equipment purchased has not yet been approved as evidenced by a notation "*Subject to the condition that the patent will be approved by the Bureau of Patent. Patent of the ff: 1) Shredding Machine 2) Hammermill 3) Pelletizer 4) Brush Chipper*" appearing on Disbursement Voucher Nos. 2004-07-2941 dated 30 July 2004, and 2004-12-6056 dated 08 December 2004, duly signed by accused DENNIS B. ARAULLO, RODOLFO M. GUIEB and RAYMUNDO E. BRAGANZA, hence, said corporation cannot as yet then be considered as the exclusive distributor of the equipment purchased and public bidding should have been conducted, aside from the fact that the purchase of said equipment was not in accordance with the purpose for which said funds as covered by SARO No. E-04-00164 has been appropriated, to the damage and prejudice of the government in the amount of Five Million Pesos(Php5,000,000.00), Philippine currency, covered by check nos. 270843-CL dated 30 July 2004 as signed by accused DORY A. IRANZO and DENNIS B. ARAULLO and 274415-CL dated 08 December 2004 as signed by accused GROVER L. DINO and DENNIS B. ARAULLO.

CONTRARY TO LAW.^[11]

Criminal Case No. SB-11-CRM-0113

That from the period covering 30 April to 08 December 2004, or for some time prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused CARMENCITA O. REYES, a high ranking public officer being then the Governor and now the Representative of the Province of Marinduque, DENNIS B. ARAULLO, also a high ranking public officer being the Regional Executive Director (Salary Grade 28), Department of Agriculture-Regional Field Unit No. IV, RODOLFO M. GUIEB, MARIE PAZ JASMINE M. CABUCOL, RAYMUNDO E. BRAGANZA, GROVER L. DINO, DORY A IRANZO, ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGALANG, all employees of the Department of Agriculture Regional Field Unit IV (DA-RFU IV), being the OIC-Regional Executive Director (Salary Grade 26), Chief Accountant (Salary Grade 15), Regional Accountant (Salary Grade 18), Cashier I, Cashier IV-B (Salary Grade 14), members of the Bids and Awards Committee-CALABARZON, respectively, and as such is responsible/accountable for the P5,000,000.00 which they received from DA-Central Office by reason of their office, which amount is part of the P728 Million Fertilizer Fund released by the Department of Budget and Management to the Department of Agriculture under SARO No. E-04-00164 dated February 3, 2004 and allocated by Republic Act No. 8435, otherwise known as the "*Agricultural and Fisheries Modernization Act (AFMA)*" for the purchase of fertilizer by the identified beneficiaries/proponent in different regions of the country in line with the "*Ginintuang Masaganang Ani Program*" of the Department of Agriculture, while in the performance of their official functions and committing the offense in relation to their office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, either by awarding the transaction to LCV Design and Fabrication Corporation through Bids and Awards Committee Resolution No. 290, dated 30 April 2004, signing, certifying, or approving, Purchase Request 119-04, dated 05 May 2004, Disbursement Voucher Nos. 2004-07-2941, dated 30 July 2004, and 2004-12-6056, dated 08 December 2004, and Check Nos. 270843-CL, dated 30 July 2004, or accepting the items delivered by LCV Design and Fabrication Corporation, did then and there willfully, unlawfully and feloniously allow/cause the diversion/conversion of the said P5,000,000.00 fertilizer fund for the purpose for which it was intended, i.e. purchase of fertilizer, by purchasing, upon request/inducement of accused Reyes and in fact she received, one (1) unit Shredding Machine, one unit (1) unit Hammermill/Shifter, one (1) unit Pelletizer and one (1) unit Tornado Brush Chipper/Shredder from LCV Design and Fabrication Corporation, without the benefit of public bidding and knowing fully well that the equipment purchase was not in accordance with the purpose for which the fund was appropriated under Republic Act No. 8435, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.^[12]

On July 19, 2011, Reyes filed an Urgent Omnibus Motion (For Judicial Determination of Probable Cause and Deferment of Arraignment set for 28 July 2011)^[13] in the anti-graft case, and another Urgent Omnibus Motion (For Judicial Determination of Probable Cause; and Deferment of/Holding in Abeyance the Arraignment) on September 12, 2011^[14] in the technical malversation case.

The Office of the Special Prosecutor (OSP) filed a Consolidated Opposition/Comment dated August 18, 2011^[15] and an Opposition/Comment dated October 5, 2011^[16] upon which Reyes filed her Consolidated Reply.^[17]

In a Resolution dated February 29, 2012,^[18] the Sandiganbayan resolved the said Urgent Omnibus Motions denying both motions. The said Resolution dated February 12, 2012 disposed thus:

WHEREFORE, in the light of all the foregoing, the Court hereby resolves as follows:

x x x x

7. To **FIND THAT PROBABLE CAUSE EXISTS** to issue warrant of arrest against accused Reyes [herein Petitioner] in Crim. Cases No. SB-11-CRM-0100 and No. SB-11-CRM-0113; x x x.

However, considering that the accused had already posted their bail bonds, the Court will no longer issue a warrant of arrest against them.

x x x x

SO ORDERED." ^[19]

On March 29, 2012, Reyes filed a Motion for Reconsideration^[20] of the said Resolution dated February 29, 2012. However, it was denied in a Resolution dated August 13, 2012.

Hence, this petition.

Issues

Reyes submits the following issues for Our Resolution:

1. Does the evidence, relied on by the Ombudsman, justify the conclusion that there is probable cause to charge the petitioner for the violation of Section 3 (e) of R.A. No. 3019, as amended?
2. Does the evidence, relied on by the Ombudsman, justify the conclusion that there is probable cause to charge the petitioner for the Illegal Use of Public Funds/Technical Malversation under Article 220 of the RPC?
3. Did the respondent court commit grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the assertion of the petitioner that no probable cause exists for either case?
4. Is the petitioner entitled to injunctive relief?^[21]