

FIRST DIVISION

[G.R. Nos. 159017-18, March 09, 2011]

**PAULINO S. ASILO, JR., PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES AND SPOUSES VISITACION AND CESAR C.
BOMBASI, RESPONDENTS.**

[G.R. No. 159059]

**VICTORIA BUETA VDA. DE COMENDADOR, IN REPRESENTATION
OF DEMETRIO T. COMENDADOR, PETITIONER, VS. VISITACION
C. BOMBASI AND CESAR C. BOMBASI, RESPONDENTS.**

D E C I S I O N

PEREZ, J.:

At bench are appeals by *certiorari*^[1] from the Decision^[2] of the Fourth Division of the Sandiganbayan; (1) finding Demetrio T. Comendador^[3] (Mayor Comendador) and Paulino S. Asilo, Jr.^[4] guilty beyond reasonable doubt of violation of Sec. 3(e) of Republic Act No. 3019; (2) dismissing the cases against accused Alberto S. Angeles;^[5] (3) ordering the defendants Municipality of Nagcarlan, Laguna, Demetrio T. Comendador and Paulino S. Asilo, Jr. to pay the plaintiffs now respondents Visitacion C. Bombasi (Visitacion) and Cesar C. Bombasi damages; and (4) dismissing the cases against the spouses Alida and Teddy Coroza^[6] and Benita and Isagani Coronado.^[7]

The factual antecedents of the case are:

On 15 March 1978, Private Respondent Visitacion's late mother Marciana *Vda.* De Coronado (*Vda.* De Coronado) and the Municipality of Nagcarlan, Laguna (represented by the then Municipal Mayor Crisostomo P. Manalang) entered into a lease contract whereby the Municipality allowed the use and enjoyment of property comprising of a lot and a store located at the corner of Coronado and E. Fernandez Sts. at Poblacion, Nagcarlan, Laguna, in favor of the respondent's mother for a period of twenty (20) years beginning on 15 March 1978 until 15 March 1998, extendible for another 20 years.^[8]

The lease contract provided that the late *Vda.* De Coronado could build a firewall on her rented property which must be at least as high as the store; and in case of modification of the public market, she or her heir/s would be given preferential rights.

Visitacion took over the store when her mother died sometime in 1984.^[9] From then on up to January 1993, Visitacion secured the yearly Mayor's permits.^[10]

Sometime in 1986, a fire razed the public market of Nagcarlan. Upon Visitacion's request for inspection on 15 May 1986, District Engineer Marcelino B. Gorospe (Engineer Gorospe) of the then Ministry of Public Works and Highways,^[11] Regional Office No. IV-A, found that the store of Visitacion remained intact and stood strong. This finding of Engineer Gorospe was contested by the Municipality of Nagcarlan.

The store of Visitacion continued to operate after the fire until 15 October 1993.

On 1 September 1993, Visitacion received a letter^[12] from Mayor Comendador directing her to demolish her store within five (5) days from notice. Attached to the letter were copies of *Sangguniang Bayan* Resolution No. 156^[13] dated 30 August 1993 and a Memorandum issued by Asst. Provincial Prosecutor Marianito Sasondoncillo of Laguna.

The relevant provisos of the Resolution No. 156 states that:

NOW THEREFORE, be it RESOLVED, as it hereby resolved to authorize Hon. Demetrio T. Comendador to enforce and order the Coronado's to demolish the building constructed on the space previously rented to them in order to give way for the construction of a new municipal market building.

RESOLVED FURTHER, to authorize Demetrio T. Comendador, Honorable Mayor of Nagcarlan to file an Unlawful Detainer Case with damages for the expenses incurred due to the delay in the completion of the project if the Coronado's continuously resists the order.

On 3 September 1993, Visitacion wrote a reply letter to Mayor Comendador saying that: (1) the lease contract was still existing and legally binding; (2) she was willing to vacate the store as long as same place and area would be given to her in the new public market; and (3) in case her proposals are not acceptable to Mayor Comendador, for the latter to just file an unlawful detainer case against her pursuant to *Sangguniang Bayan* Resolution No. 156. Pertinent portions of the letter read:

x x x With all due respect to the resolution of the Municipal Council and the opinion rendered by the Laguna Asst. Provincial Prosecutor, it is my considered view, however, arrived at after consultation with my legal counsel, that our existing lease contract is still legally binding and in full force and effect. Lest I appear to be defiant, let me reiterate to you and the council that we are willing to vacate the said building provided that a new contract is executed granting to us the same space or lot and the same area. I believe that our proposal is most reasonable and fair under the circumstance. If you are not amenable to the said proposal, I concur with the position taken by the Council for you to file the appropriate action in court for unlawful detainer to enable our court to finally thresh out our differences.^[14]

On 15 September 1993, Asst. Provincial Prosecutor Florencio Buyser sent a letter to Visitacion ordering her to vacate the portion of the public market she was occupying within 15 days from her receipt of the letter; else, a court action will be filed against her.

On 11 October 1993, the *Sangguniang Bayan* of Nagcarlan, Laguna issued Resolution No. 183 authorizing Mayor Comendador to demolish the store being occupied by Visitacion using legal means. The significant portion of the Resolution reads:

*Kung kaya ang Sangguniang Bayan ay buong pagkakaisang IPINASIYA:
Ang pagbibigay kapangyarihan kay Kgg. Demetrio T. Comendador na
ipagiba ang anumang istrakturang nagiging sagabal sa mabilis at maayos
na pagbabangon ng pamilihang bayan.*^[15]

On 14 October 1993, Municipal Administrator Paulino S. Asilo, Jr. (Asilo) also sent a letter^[16] to Visitacion informing her of the impending demolition of her store the next day. Within the same day, Visitacion wrote a reply letter^[17] to Asilo, alleging that there is no legal right to demolish the store in the absence of a court order and that the Resolutions did not sanction the demolition of her store but only the filing of an appropriate unlawful detainer case against her. She further replied that if the demolition will take place, appropriate administrative, criminal and civil actions will be filed against Mayor Comendador, Asilo and all persons who will take part in the demolition.

On 15 October 1993, Mayor Comendador relying on the strength of *Sangguniang Bayan* Resolution Nos. 183 and 156 authorized the demolition of the store with Asilo and Angeles supervising the work.

Engineer Winston Cabrega (Engineer Cabrega), a licensed civil engineer, estimated the cost of the demolished property as amounting to P437,900.00^[18]

On 19 August 1994, Visitacion, together with her husband Cesar Bombasi (Spouses Bombasi) filed with the Regional Trial Court of San Pablo City, Laguna a Civil Case^[19] for damages with preliminary injunction against the Municipality of Nagcarlan, Laguna, Mayor Demetrio T. Comendador, Paulino S. Asilo, Jr., and Alberto S. Angeles. The complaint was soon after amended to include the Spouses Benita and Isagani Coronado and Spouses Alida and Teddy Corozza as formal defendants because they were then the occupants of the contested area.

The spouses prayed for the following disposition:

1. RESTRAINING or ENJOINING defendant Municipality and defendant Municipal Mayor from leasing the premises subject of lease Annex "A" hereof, part of which is now occupied by PNP Outpost and by the Municipal Collectors' Office, and the equivalent adjacent area thereof, and to cause the removal of said stalls;

2. UPHOLDING the right of plaintiffs to occupy the equivalent corner area of the leased areas being now assigned to other persons by defendants Municipality and/or by defendant Municipal Mayor, and to allow plaintiffs to construct their stalls thereon;
3. MAKING the injunction permanent, after trial;
4. ORDERING defendants to pay plaintiffs, jointly and severally, the following -
 - (a) P437,900.00 for loss of building/store and other items therein;
 - (b) P200,000.00 for exemplary damages;
 - (c) P200,000.00 for moral damages;
 - (d) P30,000.00 for attorney's fees and P700.00 for every attendance of counsel in court.
5. GRANTING further reliefs upon plaintiffs as justice and equity may warrant in the premises.^[20]

Spouses Bombasi, thereafter, filed a criminal complaint^[21] against Mayor Comendador, Asilo and Angeles for violation of Sec. 3(e) of Republic Act No. 3019 otherwise known as the "Anti-Graft and Corrupt Practices Act" before the Office of the Ombudsman. On 22 February 1996, an Information^[22] against Mayor Comendador, Asilo and Angeles was filed, which reads:

That on or about October 15, 1993, at Nagcarlan, Laguna, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, all public officers, accused Demetrio T. Comendador, being then the Municipal Mayor, accused Paulino S. Asilo, Jr. being then the Municipal Administrator and accused Alberto S. Angeles being then the Municipal Planning and Development Coordinator, all of the Municipality of Nagcarlan, Laguna, committing the crime herein charged in relation to, while in the performance and taking advantage of their official functions, conspiring and confederating with each other, and with evident bad faith, manifest partiality or through gross inexcusable negligence, did then and there willfully, unlawfully, criminally cause the demolition of a public market stall leased by the municipal government in favor of one Visitacion Coronado-Bombasi without legal or justifiable ground therefor, thus, causing undue injury to the latter in the amount of PESOS: FOUR HUNDRED THIRTY SEVEN THOUSAND AND NINE HUNDRED ONLY (P437,900.00).

Upon their arraignments, all the accused entered their separate pleas of "Not Guilty."

On 4 March 1997, the Sandiganbayan promulgated a Resolution ordering the consolidation of Civil Case No. SP-4064 (94)^[23] with Criminal Case No. 23267 pending before the Third Division pursuant to Section 4, Presidential Decree No.

1606, which pertinently reads:

Any provision of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized; Provided, however, that where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.^[24]

During the pendency of the case, Alberto S. Angeles died on 16 November 1997. Accordingly, the counsel of Angeles filed a motion to drop accused Angeles. On 22 September 1999, the Third Division of Sandiganbayan issued an Order^[25] **DISMISSING** the case against Angeles. The germane portion of the Order reads:

In view of the submission of the death certificate of accused/defendant Alberto S. Angeles, and there being no objection on the part of the Public Prosecutor, cases against deceased accused/defendant Angeles only, are hereby DISMISSED.

The death of Mayor Comendador followed on 17 September 2002. As a result, the counsel of the late Mayor filed on 3 March 2003 a Manifestation before the Sandiganbayan informing the court of the fact of Mayor Comendador's death.

On 28 April 2003, the Sandiganbayan rendered a decision, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In Criminal Case No. 23267, the court finds accused Demetrio T. Comendador and Paulino S. Asilo, Jr. guilty beyond reasonable doubt of violation of Sec. 3(e) of Republic Act. No. 3019 as amended, and in the absence of aggravating and mitigating circumstances, applying the Indeterminate Sentence Law, said accused are sentenced to suffer the indeterminate penalty of 6 years and 2 months imprisonment as minimum to 10 years and 1 day as maximum.

The order of the court dated September 22, 1999 dismissing the cases against the accused Alberto S. Angeles, who died on November 16, 1997