

FIRST DIVISION

[G.R. No. 150684, June 12, 2008]

**ANDRES T. MELENCION, PETITIONER, VS. SANDIGANBAYAN AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

R E S O L U T I O N

CARPIO, J.:

This petition for review^[1] assails the 2 October 2001^[2] Minute Resolution of the Sandiganbayan in A/R No. 042. The Sandiganbayan returned to the First Division of the Court of Appeals the matter under A/R No. 042. The Sandiganbayan stated that an appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

On 16 August 1989, 13 secondary school teachers and the librarian of the Cebu State College of Science and Technology-College of Fisheries in Moalboal, Cebu filed a complaint against Andres T. Melencion (Melencion) before the Office of the Ombudsman-Visayas. In a resolution dated 9 July 1990, the Graft Investigation Officers^[3] assigned to the case recommended that an information for violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act be filed against Melencion.

In an Information dated 24 November 1995, the Assistant Provincial Prosecutor of Cebu, upon the direction of the Office of the Ombudsman-Visayas, charged Melencion with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act before Branch 60 of the Regional Trial Court of Barili, Cebu (trial court). The Information^[4] against Melencion reads as follows:

That on or about the period comprised from 01 January, 1985 to July 1989 and/or for sometime thereafter, in the Municipality of Moalboal, Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the School Superintendent of the Cebu State College of Science and Technology-College of Fisheries, Moalboal Campus, Cebu, while in the discharge of his official/administrative functions as such public officer, thru evident bad faith or manifest partiality, did then and there willfully, unlawfully and criminally cause undue injury to Olympia Geraldino, Visitacion Gocotano, Elvira Joyohoy, Hideliza Tabanao, Angelito Pableo, Frisco Canumay, Lucia Gako, Vivencia Evelyn Lauron, Zenaida Mantos, Emma T. Pableo, Zosimo Villalino, Primitivo Kimeno and Melecisima de los Angeles, all Secondary school teachers, and [Cirila] Sabanal, Librarian, all of the Cebu State College of Science and Technology-College of Fisheries, Moalboal, Cebu, a government educational institution, by deliberately withholding and failing to inform or furnish said persons copies of their respective appointments duly approved by the College President, Dr. Atanacio Elma effective 01 January 1985 which reflected their promotions

to salary grade of 58 or a P13,824.00 annual salary fixed by Batas Pambansa Blg. 866 thus making the aforesaid complaining witnesses believe that their salary was still that corresponding to grade 56 which they were receiving, and thereafter, accused knowing fully well that complaining witnesses were entitled to salary adjustments, did then and there willfully and intentionally fail to implement the actual salary commensurate to the complaining witnesses' salary range 58 and/or withhold the salary differentials of the teachers from 01 January 1985 to July 1989 in the following amount:

Hideliza Tabanao	
Elvira Joyohoy	
Angelito Pableo	
Lucia Gako	
Zosimo Villalino	
Cirila Sabanal	
Vivencia Evelyn Lauron	
Zenaida Mantos	
Olympia Geraldino and	
Emma Pableo	P 6,978.00 each,
	more or less
or a total of	69,780.00
Primitivo Jimeno	4,336.00 more or less
Visitacion Gocotano	10,424.00
Frisco Canumay	<u>6,834.00</u>
TOTAL	<u>P91,374.00</u>

to the damage and prejudice of the complainant-teachers in the sum of P91,374.00, Philippine Currency.

CONTRARY TO LAW.

During his arraignment on 17 January 1996, Melencion entered a plea of not guilty. Trial followed soon after. On 27 February 1996, Melencion filed a Motion for Inhibition of Presiding Judge Ildefonso B. Suerte (Judge Suerte) because Mrs. Emma T. Pableo (Mrs. Pableo), one of the complainants, is Judge Suerte's niece. Mrs. Pableo's mother is a first degree cousin of Judge Suerte. The next day, Judge Suerte stated in open court that "the motion is admitted by the Court to have been filed but not exactly recognized, this Court, for this moment, would just like to study the motion for inhibition and will issue the order within a short period of time..."^[5]

On 8 July 1998, Judge Suerte found Melencion guilty of violating Section 3(e) of Republic Act No. 3019. The pertinent portions of the decision read as follows:

The elements of the crime punishable by Section 3(e) of R.A. 3019 which are:

1. That the accused is a public officer discharging judicial and administrative or official functions or private persons charged in conspiracy with them;
2. The public officer committed the prohibited act during the performance of his official duty or in relation to his public position;

3. The public officer acted with manifest partiality, evident bad faith or gross or inexcusable negligence, and
4. His action caused undue injury to the government or any private party or gave any party unwarranted benefit, advantage or preference, were sufficiently proved by the prosecution with clear and convincing evidence.

WHEREFORE, premises considered, the Court finds accused, Andres T. Melencion, GUILTY beyond reasonable doubt, for Violation of Section 3, paragraph e of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, in relation to Section 9(a), therefore, and applying Act No. 4103, as amended, otherwise known as the Indeterminate Sentence law, the Court imposes upon accused the penalty of imprisonment ranging from 6 years and one month as minimum to ten years and one day as maximum, to further suffer perpetual disqualification from public office, and to indemnify the complainants: Hideliza Tabanao, Elvira Joyohoy, Angelito Pableo, Lucia Gako, Zosimo Villarino, Cirila Sabanal, Vivencia Evelyn Lauron, Zenaida Mantos, Olympia Gelardino and Emma Pableo the sum of P6,978.00 each; Primitivo Jimeno the sum of P4,336.00; Visitacion Gocotano the sum of P10,424.00 and Frisco Canumay the sum of P6,834.00 or a total of P91,374.00 plus 12% legal interest per annum from January 1985 to July 1989 or in the amount of P49,341.96.

SO ORDERED.^[6]

Melencion filed his Notice of Appeal^[7] on the same day as the promulgation of the trial court's decision. Melencion indicated that he will file an appeal before the Court of Appeals. On 1 April 1999, Melencion filed his Appellant's Brief before the Court of Appeals where the appealed case was docketed as CA-G.R. CR No. 22519.

In a resolution^[8] dated 30 May 2001, the Court of Appeals declared that it had no jurisdiction to act on the appealed case and directed the Office of the Solicitor General (OSG) to submit a comment or a manifestation that the OSG would not object to the transfer of the appeal to the Sandiganbayan. In its comment^[9] dated 16 July 2001, the OSG signified that it had no objection to the transfer. The Court of Appeals issued a resolution^[10] dated 6 August 2001 transferring the records of the case to the Sandiganbayan.

On 2 October 2001, the Sandiganbayan resolved to return the transferred records to the Court of Appeals. The pertinent portions of the minute resolution read as follows:

Further to the referral of the Honorable Court of Appeals in CA G.R. No. CR 22519 for proper exercise of jurisdiction by this Court, the instant matter is respectfully returned to the First Division of the Court of Appeals pursuant to Par. 2, Sec. 2 of Rule 50 of the Revised Rules of Civil Procedure thus:

"An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright."