

FIRST DIVISION

[G.R. No. 166606, November 29, 2005]

**GUILLERMO T. DOMONDON AND VAN D. LUSPO, PETITIONERS,
VS. HON. FIRST DIVISION, SANDIGANBAYAN, RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court seeking to nullify the September 13, 2004 Resolution^[1] of the Sandiganbayan denying petitioners' motion to dismiss and its January 11, 2005 Resolution^[2] denying the motion for reconsideration.

The case arose from the investigation initiated by a letter-complaint of then Police Sr. Superintendent Romeo M. Acop to the Ombudsman where it appears that payrolls of 2,000 enlisted men of the Cordillera Regional Command (CRECOM), who were allegedly recipients of the P20,000,000 appropriated for combat, clothing, and individual equipment (CCIE) allowance, were falsified.

Subsequent investigations determined that petitioners Philippine National Police (PNP) Director for Comptrollership Guillermo Domondon, and Sr. Superintendent Van Luspo, together with other PNP officers, namely: Cesar Nazareno, Armand Agbayani, Joven Brizuela, Juan Luna and Danilo Garcia, conspired with one another in approving without budgetary basis, the release of Advice Allotment SN No. 4363 dated August 11, 1992 for P5,000,000 and Advice Allotment SN No. 4400 dated August 18, 1992 for P15,000,000, for the procurement of CCIE for the use of PNP personnel of the CRECOM, causing to be issued checks with an aggregate amount of P20,000,000 for payment of ghost purchases of the aforesaid CCIE items.

On May 4, 1994, an information was filed before the Sandiganbayan charging petitioners Domondon and Luspo, and the above-named accused, with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act.

Their arraignment was reset for several times, hence, petitioners filed on December 3, 2003 a motion to dismiss claiming that the failure to arraign them within the period set under Republic Act (RA) No. 8493 or the Speedy Trial Act of 1998 have resulted in denial of their rights to speedy trial.

On September 13, 2004, the Sandiganbayan denied petitioners' motion to dismiss and on January 11, 2005, dismissed petitioners' motion for reconsideration.

Hence, the instant petition raising the sole issue of whether the Sandiganbayan acted with grave abuse of discretion in denying petitioners' motion to dismiss.

The procedural history of the case may be outlined as follows:

May 12, 1994 – Domondon moved for the consolidation of Crim. Case No. 20574 with Crim. Case Nos. 20185, 20191, 20192 and 20576.

May 17, 1994 – the Sandiganbayan issued an Order requiring the prosecution to demonstrate the probable complicity of petitioners Domondon and Luspo, and accused Cesar Nazareno in the transaction described in the Information.

May 25, 1994 – Accused Rodrigo F. Licudine filed a motion for reconsideration.

June 8, 1994 – Sandiganbayan ordered prosecution to re-examine evidence and re-investigate.

June 13, 1994 – Luspo filed his motion to defer arraignment and motion for reinvestigation with Sandiganbayan.

November 8, 1994 – Prosecutor Erdulfo Q. Querubin issued Order resolving review and reinvestigation recommending that prosecution proceed against petitioners duly approved by Ombudsman Conrado Vasquez.

May 17, 1995 – Domondon filed his motion for reconsideration of the Order dated November 8, 1994 and for consolidation.

November 29, 1995 – Prosecutor Joselito R. Ferrer issued Order acting on the motion for reconsideration and consolidation of petitioner Domondon recommending, inter alia, that petitioners be exonerated.

September 2, 1996 – Then Overall Deputy Ombudsman (ODO) Francisco A. Villa issued memorandum recommending disapproval of recommendation of Prosecutor Ferrer.

February 19, 1997 – Ombudsman Aniano A. Desierto disapproved the reconsideration of Prosecutor Ferrer to exonerate petitioners as recommended by ODO Villa.

July 28, 1997 – Amended Information was issued by Prosecutor Ferrer dropping accused Prospero Noble, Nicasio Radovan, Jr., Rodrigo Licudine, Amparo Cabigas, and Juan Refe II from the instant charge in accordance with the approval by Ombudsman Desierto of his Memorandum dated July 29, 1997.

August 26, 1997 – Prosecutor Ferrer filed prosecution's Motion to Admit Amended Information.

September 5, 1997 – Hearing on the foregoing motion to admit Amended Information wherein the Sandiganbayan gave complaining witnesses fifteen (15) days from receipt of its Order within which to file their comments and/or opposition to the motion with the prosecution a like period from receipt thereof within which to file reply.

October 6, 1997 – Domondon filed his motion asking for additional period until November 7, 1997 within which to submit his comments and/or objections to the motion to Admit Amended Information.

November 26, 1997 – Sandiganbayan issued a Resolution deferring action on prosecution's motion to admit Amended Information while the petition for certiorari and prohibition of petitioner Domondon before the Supreme Court seeking to prevent the filing of the Amended Information is still pending.

October 23, 2000 – Sandiganbayan issued a Resolution granting prosecution's motion to admit Amended Information and setting the arraignment for, among others, petitioners on November 23, 2000 in the light of the finality of the judgment of the Supreme Court denying the aforementioned petition of petitioner Domondon.

November 17, 2000 – Domondon filed his Omnibus Motion seeking deferment of arraignment until resolution of the motion for dismissal for lack of due process, undue delay, violation of the right to speedy trial, and if the motion for dismissal is denied, to consolidate the instant case with Criminal Case No. 20191 pending before the Fifth Division of the Sandiganbayan.

November 23, 2000 – During the scheduled arraignment, Sandiganbayan again required prosecution to "show why the senior officers particularly Gen. Guillermo T. Domondon and General Cesar Nazareno should be included herein" thereby resetting the arraignment to January 5, 2001; during the same proceeding, petitioner Luspo failed to appear for which reason the Sandiganbayan issued a show-cause order.

January 5, 2001 – Arraignment did not proceed.

February 6, 2001 – The Sandiganbayan issued its Resolution requiring Domondon to furnish copies of his Manifestation (which was actually a motion to dismiss but was not set for hearing) to prosecution, which was given five (5) days from receipt to comment thereon.

February 27, 2001 – Accused Juan Luna filed his Motion to Quash.

February 15, 2002 – Arraignment again cancelled due to pendency of motion to dismiss of accused Danilo Garcia.

June 5, 2002 – Arraignment cancelled.

September 19, 2002 – Accused Joven Brizuela filed his Motion for Bill of Particulars.

September 30, 2000 – Arraignment cancelled; prosecution was given by the Sandiganbayan fifteen (15) days within which to file opposition to accused Brizuela's motion for bill of particulars.

October 9, 2002 – Prosecution filed its Opposition to accused Brizuela's

motion for bill of particulars.

October 14, 2002 – Date of Domondon's motion for arraignment and pre-trial separate from that of their co-accused.

October 18, 2002 – Date of urgent motion for extension of time to file reply filed by accused Brizuela.

October 28, 2002 – Date of Reply to Opposition filed by accused Brizuela.

November 4, 2002 – Domondon filed his Motion for Separate Trial and to withdraw the October 14, 2002 motion and required prosecution to comment on the motion for separate trial filed by petitioner Domondon; the arraignment was again cancelled.

December 9, 2002 – The Sandiganbayan granted the Urgent Motion for Extension of Time to File Reply filed by accused Brizuela.

December 20, 2002 – Prosecution filed its Comment/Opposition to the Motion for Separate Trial and to Set Arraignment.

December 3, 2003 – Domondon filed Motion to Dismiss setting the same for hearing on December 15, 2003 until the end of the year due to Yuletide season.

January 22, 2004 – Domondon filed his Motion to Dismiss at bar.

February 3, 2004 – The Sandiganbayan heard the said motion to dismiss and gave prosecution fifteen (15) days within which to file its comment/opposition thereto.

February 10, 2004 – The prosecution filed its opposition to Motion to dismiss of petitioners.

March 3, 2004 – Petitioners filed their Comment to Opposition.

April 28, 2004 – Accused Danilo Garcia filed his leave to file comment regarding Motion to Dismiss.

May 13, 2004 – Accused Garcia filed his opposition to prosecution's motion for leave to file comment regarding Motion to Dismiss.

May 18, 2004 – Sandiganbayan admitted prosecution's opposition to accused Garcia's motion to dismiss.

August 31, 2004 – Prosecution filed its motion to resolve praying that the motion for bill of particulars of accused Brizuela, the motion for separate trial of petitioners herein, and the motion to dismiss of accused Garcia be resolved.

September 13, 2004 – The Sandiganbayan promulgated its Resolution denying the motion to dismiss of petitioners herein and of accused