

FIRST DIVISION

[G.R. No. 116463, June 10, 2003]

**REPUBLIC OF THE PHILIPPINES THRU THE DEPARTMENT OF
PUBLIC WORKS AND HIGHWAYS (DPWH), PETITIONER, VS.
COURT OF APPEALS, HON. AMANDA VALERA-CABIGAO IN HER
CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL
COURT, BRANCH 73, MALABON, METRO MANILA, AND NAVOTAS
INDUSTRIAL CORPORATION, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

Before this Court is a Petition for Review of the Decision^[1] of the Court of Appeals dated 18 July 1994, in CA-G.R. CV No. 33094.^[2] The Court of Appeals affirmed the Order of the Regional Trial Court of Malabon ("Malabon trial court") which denied the motion of petitioner to consolidate Civil Case No. 1153-MN pending before it with Criminal Cases Nos. 16889-16900 filed with the Sandiganbayan. This petition seeks to restrain permanently the Malabon trial court from further hearing Civil Case No. 1153-MN and to dismiss the case.

The Antecedent Facts

Private respondent Navotas Industrial Corporation ("NIC") is a corporation engaged in dredging operations throughout the Philippines. On 27 November 1985, then Public Works and Highways Minister Jesus Hipolito requested former President Ferdinand E. Marcos to release P800 million to finance the immediate implementation of dredging, flood control and related projects in Metro Manila, Bulacan, Pampanga and Leyte. Of the total funds approved for release, P615 million went to the National Capital Region of the Ministry^[3] of Public Works and Highways ("DPWH").

The DPWH allocated the P615 million to several projects covered by twenty-one contracts. The DPWH awarded one of the contractors, NIC, P194,454,000.00 worth of dredging work in four contracts for completion within 350 calendar days.

NIC alleges that the dredging work proceeded pursuant to specific work schedules and plan approved by DPWH. NIC contends that it accomplished 95.06 percent of the required total volume of work or P184,847,970.00 worth of services based on an alleged evaluation by DPWH. However, NIC maintains that DPWH paid only 79.22 percent of the accomplished work, leaving a balance of P30,799,676.00.

On 20 September 1988, NIC filed a complaint for sum of money with the Malabon

trial court against the Republic of the Philippines, thru the DPWH. The case, docketed as Civil Case No. 1153-MN, was raffled to Branch 73 of the court, presided by Judge Amanda Valera-Cabigao.

In its Answer, petitioner contends that NIC is not entitled to the amount claimed. Soon after the February 1986 Revolution, DPWH created a fact-finding committee to audit the flood control projects in the National Capital Region, Bulacan, Pampanga and Leyte. Then DPWH Minister Rogaciano Mercado, who replaced Minister Jesus Hipolito, ordered the suspension of all projects funded by special budget released or issued before the snap elections on February 1986, pending inventory and evaluation of these projects.

Petitioner contends that upon verification and investigation, the DPWH fact-finding committee discovered that the dredging contracts of NIC with DPWH were null and void. Petitioner claims that NIC worked on the project five or six months before the award of the dredging contracts to NIC. The contracts of NIC were awarded without any public bidding. Moreover, DPWH discovered that NIC, through its corporate officers, connived with some DPWH officials in falsifying certain public documents to make it appear that NIC had completed a major portion of the project, when no dredging work was actually performed. The scheme enabled NIC to collect from DPWH P146,962,072.47 as payment for work allegedly accomplished. Petitioner thus filed a counterclaim for the return of the P146,962,072.47 plus interest and exemplary damages of P100 million.

On 14 July 1986, the DPWH fact-finding committee filed with the Office of the Tanodbayan^[4] a case for estafa thru falsification of public documents and for violation of Republic Act No. 3019 against former Minister Hipolito. Other DPWH officials^[5] involved in awarding the dredging contracts to NIC, as well as Cipriano Bautista,^[6] president of NIC, were also named respondents. The charges^[7] were for four counts corresponding to the four contracts that DPWH entered into with NIC. The case was docketed as TBP Case No. 86-01163.

However, it was only on 17 June 1991 that former Ombudsman Conrado Vasquez approved the resolution of the Office of the Special Prosecutor finding probable cause for estafa thru falsification of public documents and for violation of Section 3 (e) and (g)^[8] of RA No. 3019. Subsequently, the Ombudsman filed the corresponding Informations with the First Division of the Sandiganbayan against all the respondents in TBP Case No. 86-01163. The cases were docketed as Criminal Cases Nos. 16889-16900.

On 14 April 1993, petitioner filed before the Malabon trial court a Motion to Consolidate Civil Case No. 1153-MN with Criminal Cases Nos. 16889-16900 in the Sandiganbayan. Petitioner argued that the civil case for collection and the criminal cases arose from the same incidents and involve the same facts. Thus, these cases should be consolidated as mandated by Section 4(b) of Presidential Decree No. 1606, as amended.

On 18 June 1993, the Malabon trial court issued a Resolution denying petitioner's Motion for Consolidation. Thereafter, petitioner filed a Motion for Reconsideration which the Malabon trial court denied on 7 November 1993.

On 19 January 1994, petitioner filed a Petition for Certiorari, Prohibition and Mandamus with the Court of Appeals docketed as CA-G.R. CV No. 33094. In a Decision dated 18 July 1994, the Court of Appeals dismissed the petition. On 12 September 1994, petitioner filed with the Court this petition for review.

On 26 September 1994, the Court resolved to issue the temporary restraining order prayed for by petitioner. Consequently, the Malabon trial court desisted from hearing further Civil Case No. 1153-MN.

The Ruling of the Court of Appeals

In dismissing the petition for Certiorari, Prohibition and Mandamus filed by petitioner, the Court of Appeals ruled as follows:

It is clear that in the same manner that the RTC would have no jurisdiction relative to violations of Republic Act Nos. 3019, as amended, and 1379, neither could the Sandiganbayan acquire jurisdiction over collection of sum of money, the latter not involving recovery of civil liability arising from the offense charged. More specifically, the said Sandiganbayan would have no power whatsoever to order the defendant in the civil case (the Republic of the Philippines thru the DPWH) to pay the private respondent the amount of P30,799,676.00 claimed by the latter. One of the averred purposes then of consolidation (to avoid multiplicity of suits) could not be realized. A civil action would still have to be instituted by the private respondent to recover the amount allegedly due.

The Issues

I.

WHETHER THE PETITION WAS FILED ON TIME.

II.

WHETHER THE COURT OF APPEALS ERRED IN NOT ORDERING THE CONSOLIDATION OF CIVIL CASE NO. 1153-MN WITH CRIMINAL CASES NOS. 16889-16900 WITH THE SANDIGANBAYAN AS REQUIRED BY SECTION 4(B) OF P.D. 1606.^[9]

The Ruling of the Court

The petition is devoid of merit.

First Issue: Timeliness of the filing of the petition

We first resolve a minor issue raised by NIC regarding the timeliness of the filing of this petition.

In its Comment, NIC seeks the dismissal of the petition on the ground that it was not served on time. Petitioner admittedly filed two motions for extension of time, each for fifteen days. The last day for filing the second motion for extension was on 11 September 1994. NIC, however, asserts that a copy of the petition was sent by

registered mail to its counsel only on 12 September 1994 or a day after the last day for filing.

NIC, believing that this petition was filed out of time, now asks the Court to consider the instant petition as not having been filed, making the Resolution of the Court of Appeals final and executory.

We do not agree.

NIC harps on the fact that the petition was sent by registered mail only on 12 September 1994, when the last day for filing was on 11 September 1994. NIC, however, overlooked one significant fact. The last day for filing, 11 September 1994, fell on a Sunday.

Based on Section 1,^[10] Rule 22 of the Rules of Court, and as applied in several cases,^[11] "where the last day for doing any act required or permitted by law falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day." Thus, petitioner filed on time its petition on 12 September 1994, the next working day, following the last day for filing which fell on a Sunday.

Second Issue: Consolidation of the Cases

The main issue before us is whether Civil Case No. 1153-MN pending with the Malabon trial court should be consolidated with Criminal Cases Nos. 16889-16900 filed with the Sandiganbayan.

Petitioner argues that the civil case for collection of sum of money and the criminal cases for estafa thru falsification of public documents and for violation of RA No. 3019 arose from the same transaction and involve similar questions of fact and law. Petitioner claims that all these cases pertain to only one issue, that is, whether NIC performed dredging work. Petitioner argues that a determination in the civil case that NIC performed dredging work will entitle NIC to the balance of the contract price. Similarly, petitioner claims that the criminal cases also involve the same issue since petitioner charges that the accused connived in falsifying documents and in fraudulently collecting payments for non-existing dredging work. In sum, petitioner asserts that since the issues in all these cases are the same, the parties will have to present the same evidence. Therefore, the consolidation of these cases is in order.

We do not agree.

Consolidation is a matter of discretion with the court. Consolidation becomes a matter of right only when the cases sought to be consolidated involve similar questions of fact and law, provided certain requirements are met. The purpose of consolidation is to avoid multiplicity of suits, prevent delay, clear congested dockets, simplify the work of the trial court, and save unnecessary expense.^[12]

We cannot order the consolidation of the civil case for collection with the criminal cases for two reasons. First, the Sandiganbayan has no jurisdiction over the collection case. Second, the Rules of Court do not allow the filing of a counterclaim or a third-party complaint in a criminal case.

First, the Sandiganbayan was created as a special court to hear graft cases against government officials of a particular salary grade for violations of specific laws.^[13] Presidential Decree No. 1606,^[14] as amended by Republic

Act No. 8249,^[15] outlines the Sandiganbayan's jurisdiction as follows:

Sec. 4. Jurisdiction. — The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

x x x

B. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

C. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or order of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

x x x

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts