

THIRD DIVISION

[G.R. No. 149495, August 21, 2003]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE
HONORABLE SANDIGANBAYAN (FIRST DIVISION) AND JOSE
JAIME POLICARPIO JR., RESPONDENTS.**

DECISION

PANGANIBAN, J.:

The consolidation of cases is addressed to the sound discretion of judges. Unless the exercise of such discretion has been gravely abused, an appellate court will not disturb their findings and conclusions thereon.

The Case

Before us is a Petition for Certiorari^[1] under Rule 65 of the Rules of Court, seeking to nullify the Order^[2] of the First Division of the Sandiganbayan (SBN) dated June 28, 2001 in Criminal Case No. 26566. The assailed Order denied petitioner's Motion to Consolidate the said criminal case for indirect bribery with Criminal Case No. 26558 for plunder, filed against former President Joseph Ejercito Estrada. The SBN disposed as follows:

"In view hereof, the Court is constrained to deny, as it hereby denies, the motion to consolidate the instant matter with Crim. Case No. 26558, the plunder case in the Third Division. x x x."^[3]

The Antecedents

On April 4, 2001, the Office of the Ombudsman (OMB) filed three separate cases before the SBN: 1) Criminal Case No. 26558 for plunder^[4] against former President Estrada and others; 2) Criminal Case No. 26565 for illegal use of alias^[5] against Estrada; and 3) Criminal Case No. 26566 for indirect bribery^[6] against herein private respondent. The cases were raffled to the Third, the Fifth and the First Divisions of the SBN, respectively.

Thereafter, petitioner filed separate Motions to consolidate Criminal Case Nos. 26565 and 26566 with Criminal Case No. 26558, which bears the lowest docket number among the three cases.

The Fifth Division, in a Resolution^[7] promulgated on May 25, 2001, granted the Motion to consolidate Criminal Case No. 26565 with Criminal Case No. 26558. However, in an Order^[8] dated June 28, 2001, the First Division denied the Motion to consolidate Criminal Case No. 26566 with Criminal Case No. 26558.

Hence, this Petition.^[9]

Issues

Petitioner submits the following issues for the Court's consideration:

"I

Respondent Court gravely abused its discretion amounting to lack or excess of jurisdiction when it denied petitioner's Motion to Consolidate the trials of Criminal Case No. 26566 (indirect bribery case) and Criminal Case No. 26558 (plunder case) despite clear showing that the consolidation will promote the public interests of economical and speedy trial.

"II

Respondent Court gravely abused its discretion when it denied petitioner's Motion for Consolidation despite clear showing that consolidation will preclude conflicting factual findings on identical factual issues between its First and Third Divisions."^[10]

Respondent, on the other hand, asks for the dismissal of the Petition, because grave abuse of discretion on the part of the SBN had not been demonstrated, and because petitioner had resorted to forum shopping.

Supervening Events

While this case was pending completion -- the period during which the parties were preparing and filing their respective pleadings before this Court -- the parties brought to our attention certain events that had transpired in the SBN.

Firstly, petitioner and private respondent filed on November 15, 2001, a Joint Motion for Provisional Dismissal^[11] of Criminal Case No. 26566, pursuant to Section 8 of Rule 117 of the Revised Rules on Criminal Procedure. This Motion was, however, denied by the First Division.

Secondly, petitioner filed before the SBN another Urgent Motion for Consolidation^[12] dated July 10, 2002, praying anew for the consolidation of the indirect bribery case with the plunder case pending before the Special Division of the anti-graft court.^[13] The purpose of this Motion was supposedly to allow the testimony of Luis "Chavit" Singson in the latter case to be taken as testimonial evidence for the former.

Thirdly, Respondent Policarpio filed on August 6, 2002 a Manifestation with Motion, praying that petitioner be found guilty of willful and deliberate forum-shopping.^[14]

Lastly, the Special Division trying the plunder case had already heard the testimonies of Carmencita Itchon, Emma Lim and Singson -- the same witnesses the prosecution would have presented in the indirect bribery case.^[15]

The Court's Ruling

The Petition has no merit; the SBN did not commit grave abuse of discretion in issuing the assailed Order.

Main Issue: **Consolidation of Trial**

The consolidation of criminal cases is a matter of judicial discretion, according to Section 22 of Rule 119 of the Rules of Court, which we quote:

"Sec. 22. *Consolidation of trials of related offenses* - Charges of offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the discretion of the Court."

Similarly, Section 2 of Rule XII of the SBN Revised Internal Rules^[16] reads:

"Section 2. *Consolidation of Cases.* - Cases arising from the same incident or series of incidents, or involving common questions of fact and law, may be consolidated in the Division to which the case bearing the lowest docket number is raffled.

x x x x x x x x x."

The counterpart rule for civil cases is found in Section 1 of Rule 31^[17] of the Rules of Court.

Similarly, jurisprudence has laid down the requisites for the consolidation of cases. As held in *Caños v. Peralta*,^[18] joint trial is permissible "x x x where the [actions] arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence, provided that the court has jurisdiction over the cases to be consolidated and that a joint trial will not give one party an undue advantage or prejudice the substantial rights of any of the parties. x x x."^[19]

Querubin v. Palanca^[20] has ruled that consolidation is proper in the following instances:

"x x x where the offenses charged are similar, related or connected, or are of the same or similar character or class, or involve or arose out of the same or related or connected acts, occurrences, transactions, series of events, or chain of circumstances, or are based on acts or transactions constituting parts of a common scheme or plan, or are of the same pattern and committed in the same manner, or where there is a common element of substantial importance in their commission, or where the same, or much the same, evidence will be competent and admissible or required in their reproduction of substantially the same testimony will be required on each trial." ^[21] (Italics supplied)

Expediency was the reason for the consolidation of the criminal cases against the accused in *Querubin*. As there was only one accused (who himself moved for consolidation) and one offended party, and the 22 separate cases of estafa were