

SECOND DIVISION

[G.R. Nos. 146368-69, October 23, 2003]

**MADELEINE MENDOZA-ONG, PETITIONER, VS. HON.
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

R E S O L U T I O N

QUISUMBING, J.:

This special civil action for *certiorari* assails *Sandiganbayan* Resolution^[1] dated May 8, 2000, denying petitioner's Motion to Quash^[2] the Information in Criminal Case No. 23848, for violation of Section 3(c) of R.A. No. 3019,^[3] as amended. Petitioner also impugns said court's Resolution^[4] dated November 9, 2000, denying her Motion for Reconsideration.

The facts of the case, as culled from the records, are as follows:

Sometime in February 1993, the *Sangguniang Bayan* of Laoang, Northern Samar, passed Resolution No. 93-132,^[5] authorizing the municipality to borrow heavy equipment from the Philippine Army's 53rd Engineering Battalion, to be utilized in the improvement of Laoang's Bus Terminal. Resolution No. 93-132 likewise mandated the municipal government to shoulder the expenses for fuel, oil, and the subsistence allowances of the heavy equipment operators for the duration of the project.

Allegedly, however, the borrowed Army equipment was diverted by the petitioner, who was then the town mayor^[6] of Laoang, to develop some of her private properties in Rawis, Laoang, Northern Samar. A concerned citizen and ex-member of the *Sangguniang Bayan* of Laoang, Juanito G. Poso, Sr., filed a complaint against petitioner and nine (9) other municipal officers^[7] with the Office of the Ombudsman (OMB), Visayas, for violation of the Anti-Graft and Corrupt Practices Act.

Acting on the complaint, Graft Investigation Officer Alfonso S. Sarmiento of the OMB ordered herein petitioner and her co-accused to submit their respective counter-affidavits and other controverting evidence. Thereafter, in a Resolution^[8] dated August 16, 1995, investigator Sarmiento recommended the filing of the appropriate criminal action against petitioner for violation of Sections 3(c) and (e) of R.A. 3019, as amended.^[9] Despite strenuous opposition and objections by the defense, on August 1, 1997, two informations were filed against her at the *Sandiganbayan* docketed as Criminal Cases Nos. 23847 and 23848, to wit:

(1) Criminal Case No. 23847

That on or about 15 February 1993, or sometime thereafter, in the

Municipality of Laoang, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, accused Madeleine Mendoza-Ong, a public officer, being then the Municipal Mayor of Laoang, committing the crime herein charged in relation to, while in the performance and taking advantage of her official functions, did then and there willfully, unlawfully and criminally, through manifest partiality and evident bad faith, cause undue injury to the Government and give unwarranted benefits, advantage or preference to herself and spouses Mr. and Mrs. Chupo Lao when she, in the discharge of her official or administrative functions, caused the improvement or development of her private land in Barangay Rawis through the use of the equipment and resources of the Philippine Army, to the damage and prejudice of the Government.

CONTRARY TO LAW.^[10]

This, however, was amended on October 27, 1998, so that Criminal Case No. 23847 would read as follows:

That on or about 15 February 1993, or sometime thereafter, in the Municipality of Laoang, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, accused Madeleine Mendoza-Ong, a public officer, being then the Municipal Mayor of Laoang, committing the crime herein charged in relation to, while in the performance and taking advantage of her official functions, did then and there willfully, unlawfully and criminally, through manifest partiality and evident bad faith, cause undue injury to the Government and give unwarranted benefits, advantage or preference to her husband, Hector Ong, herself, and/or her family and to spouses Mr. and Mrs. Chupo Lao when she, in the discharge of her official or administrative functions, caused the improvement or development of a private land owned by her husband, Hector Ong, herself and/or her family in Barangay Rawis through the use of the equipment and resources of the Philippine Army, to the damage and prejudice of the Government.

CONTRARY TO LAW.^[11]

(2) Criminal Case No. 23848

That on or about 15 February 1993, or sometime thereafter, in the Municipality of Laoang, Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, accused Madeleine Mendoza-Ong, a public officer, being then the Municipal Mayor of Laoang, committing the crime herein charged in relation to, while in the performance and taking advantage of her official functions, did then and there willfully, unlawfully and criminally, request or receive, directly or indirectly, a gift, present or other pecuniary or material benefit in the form of five (5) drums of diesel fuel, for herself or for another from the spouses Mr. and Mrs. Chupo Lao, persons for whom accused Mendoza-Ong, in any manner or capacity, has secured or obtained, or will secure or obtain, any Municipal Government permit or license anent the operation of the bus company, JB Lines, owned by the aforementioned spouses, in consideration for the help given or to be given by the accused.

CONTRARY TO LAW.^[12]

On September 15, 1999, petitioner filed a Motion to Quash with the *Sandiganbayan* alleging in the main that: (1) the informations especially in Criminal Case No. 23848, failed to allege facts constituting an offense; (2) that the officer who filed the information has no authority to do so; and (3) that the accused was deprived of her right to due process and to the speedy disposition of cases against her.

On May 8, 2000, the *Sandiganbayan* denied petitioner's Motion to Quash. Petitioner duly moved for reconsideration but this was likewise denied by the *Sandiganbayan* in its order dated November 9, 2000.

Hence, the instant petition with assigned errors faulting respondent court as follows:

- I. RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT FAILED TO DISMISS THE INFORMATIONS FILED AGAINST PETITIONER WHICH CLEARLY DO NOT ALLEGE SUFFICIENT FACTS CONSTITUTING THE OFFENSE HENCE FAILING TO ALLEGE A PRIMA FACIE CASE AGAINST PETITIONER, ACCUSED THEREIN.
- II. RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DENIED PETITIONER'S MOTION TO QUASH THE INFORMATIONS FILED BY AN OFFICER WHO HAS NO AUTHORITY TO DO SO AND DESPITE THE FACT THAT THE HEAD OF THE PROSECUTION DIVISION OF RESPONDENT COURT HAD RECOMMENDED THE DISMISSAL OF SAID CASES.
- III. RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT REFUSED TO DISMISS THE INFORMATIONS AGAINST ACCUSED WHO HAD BEEN DEPRIVED OF DUE PROCESS AND SPEEDY DETERMINATION OF THE CASE IN CLEAR DISREGARD OF THIS HONORABLE COURT'S RULINGS THAT INORDINATE DELAY IN THE CONDUCT OF PRELIMINARY INVESTIGATIONS WOULD WARRANT DISMISSAL OF THE CASE.^[13]

Simply put, we find that the sole issue for resolution now is whether the *Sandiganbayan* gravely erred or gravely abused its discretion in denying the Motion to Quash filed by petitioner, particularly on the ground that the information in Criminal Case No. 23848 does not constitute an offense. The other assigned errors are, in our view, without sufficient merit and deserve no further consideration.

Petitioner claims that in a criminal prosecution for violation of Section 3(c) of R.A. 3019 as amended, the law requires that the gift received should be "manifestly excessive" as defined by Section 2(c) of the same Act. She adds that it is imperative to specify the exact value of the five drums of diesel fuel allegedly received by Mayor Ong as public officer to determine whether such is "manifestly excessive" under the circumstances.^[14]

The fundamental test of the viability of a motion to quash on the ground that the facts averred in the information do not amount to an offense is whether the facts