

FIRST DIVISION

[G.R. Nos. 124680-81, February 28, 2000]

**IMELDA R. MARCOS, PETITIONER, VS. THE SANDIGANBAYAN
(FIRST DIVISION) AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The case before the Court is a special civil action of *certiorari* and prohibition with preliminary injunction and temporary restraining order assailing the resolution of the Sandiganbayan, First Division,^[1] that denied petitioner's motion to quash two informations charging her and others with malversation of public funds totalling about P97,954,000.00.

The facts are as follows:

On April 7, 1994, Special Prosecution Officer I Rodolfo T. Espinosa filed with the Sandiganbayan two informations against petitioner and other accused, charging them with malversation of public funds, one information involving the amount of P57.954 million^[2] and the second information involving the amount of P40 million.^[3]

On August 12, 1994, petitioner filed with the Sandiganbayan a motion to quash/dismiss the two informations, raising the following grounds, namely: (a) the informations are fatally defective for failure to adequately inform the accused of the charge against her in violation of due process guaranteed by the Constitution; (b) the informations state no offense; and (c) the court has no jurisdiction over the cases because the accused are protected by immunity from suit.^[4]

On August 15, 1994, the Sandiganbayan issued an order that virtually denied the motion to quash even before the scheduled date of hearing thereof, ruling that the informations actually state a valid accusation; that immunity from suit was applicable only to acts upon orders of the President which are legitimate, and that a motion to quash at that stage was not proper.^[5]

On August 31, 1994, petitioner filed a motion for reconsideration insisting on the same grounds raised in the motion to quash which was still proper at that stage.^[6]

On January 16, 1996, one year and four and a half months from its filing, the Sandiganbayan issued a minute resolution denying petitioner's motion for reconsideration, ruling that the motion had become moot since the original motion to quash had been filed on August 12, 1994, after the accused had been arraigned

and trial actually commenced. The minute resolution was acted upon by the Sandiganbayan, First Division, in this wise:

"Minutes of the proceeding held on January 16, 1996.

x x x

"The following resolution was adopted:

"Criminal Case Nos. 20345-20346 – *Peo. vs. Imelda R. Marcos, et al.*,

The "MOTION FOR RECONSIDERATION", dated August 31, 1994, of accused Imelda R. Marcos, is Denied.

x x x

"APPROVED:

"GARCHITORENA, PJ. (Sgd) 1/17/1996.

"BALAJADIA, J. (Sgd.) 1-18

"CHICO-NAZARIO, J. (Sgd.) 1/18/96".

indicating that the justices did not deliberate on the case, but individually acted thereon on different dates.^[7]

Hence, this petition.^[8]

On September 23, 1996, the Court resolved to require respondents to comment on the petition, not to file a motion to dismiss, within ten (10) days from notice.^[9]

On November 8, 1996, the Office of the Special Prosecutor (Ombudsman), representing the People of the Philippines, filed its comment.^[10]

On December 13, 1999, we gave due course to the petition.^[11]

At issue is whether or not the Sandiganbayan acted with grave abuse of discretion in denying petitioner's motion to quash the informations filed after she had pleaded thereto.

Rule 117, Section 8 of the 1985 Rules on Criminal Procedure, as amended, provides that:

"Sec. 8. Failure to move to quash or to allege any ground therefor.--The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of the grounds of a motion to quash, except the grounds of no offense charged, lack of jurisdiction over the offense