

FIRST DIVISION

[G.R. No. 126413, August 20, 1999]

ANTONIO C. MARTINEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND THE SANDIGANBAYAN, RESPONDENTS.

D E C I S I O N

PARDO, J.:

The petition before the Court for certiorari and prohibition seeks to annul respondent Sandiganbayan's resolution denying petitioner's motion to quash the informations filed against him for malversation. Petitioner likewise prayed for temporary restraining order to restrain the Sandiganbayan from further hearing the cases.

We deny the petition.

The facts are as follows:

From December, 1986 to January 1988, petitioner was the Officer-in-Charge and Acting City Mayor of Caloocan City. As such, he received cash advances from the city government which were earmarked for specific projects. Specifically, petitioner received on or about December 24, 1986, cash advance of P100,000.00, under Disbursement Voucher No. 32734; on or about January 27, 1987, cash advance of P145,000.00, under Disbursement Voucher No. 201; on or about January 29, 1987, cash advance of P300,000.00, under Disbursement Voucher No. 223; and on or about July 23, 1987, cash advance of P200,000.00, under Disbursement Voucher No. 1877.

For failing to liquidate the cash advances despite demands by the City Treasurer, on June 1, 1995, Special Prosecution Officer Francisco L. Ilustre, Jr., filed with the Sandiganbayan four (4) separate informations^[1] for malversation of public funds against petitioner. The informations were similarly worded except for the dates, voucher number, amount involved and specific projects. The information in Criminal Case No. 22791 reads as follows:

"That on or about December 24, 1986, and for sometime subsequent thereto, in Caloocan City, Philippines and within the jurisdiction of this Honorable Court, accused Antonio Martinez, a public officer being then the OIC-Acting Mayor of Caloocan City, who having received cash advance under Disbursement Voucher No. 3273 in the amount of P100,000.00 from the city government of Caloocan to defray expenses in connection with special activities entailing civic and political organizations and as such making him an accountable officer, did then and there wilfully, unlawfully and feloniously, misappropriate and convert for his personal use and benefits the aforesaid amount of P100,000.00, and despite demand made by Norberto E. Azarcon, OIC, Office of the

Treasurer, directing him to settle and/or liquidate the same, thereby causing damage and prejudice to the Philippine Government in the aforementioned amount.

"CONTRARY TO LAW."^[2]

On March 25, 1996, petitioner filed with the Sandiganbayan a motion to quash the informations alleging that the facts charged do not constitute an offense under Article 217, Revised Penal Code and that there was no *prima facie* evidence against him.

On April 18, 1996, the Ombudsman filed an opposition to the motion to quash maintaining that the law presumed that failure on the part of a public officer to liquidate the cash advance he received after demand therefor by a duly authorized officer constitutes malversation of public fund and hence, there existed probable cause for the filing of the informations.

On May 27, 1996, petitioner filed a reply to the opposition trying to refute the arguments of the Ombudsman.

On June 10, 1996, the Sandiganbayan issued a resolution^[3] denying the motion to quash "for obvious lack of merit."

On July 26, 1996, petitioner was arraigned before the Sandiganbayan, and he entered a plea of not guilty.

On September 26, 1996, petitioner filed the present recourse.

On October 21, 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, and to deny the issuance of a writ of preliminary injunction or a temporary restraining order.

On January 30, 1997, respondent People of the Philippines, through the Special Prosecutor, filed its comment. On March 19, 1997, the Court resolved to require petitioner to file a reply to the comment of the Special Prosecutor. On June 19, 1997, petitioner filed his reply in which he reiterated that the prosecution had not established a *prima facie* case and consequently, respondent Sandiganbayan committed a grave abuse of discretion in not quashing the informations.

On August 27, 1997, the Court required respondents to file a rejoinder, which the respondent People of the Philippines filed on October 16, 1997.

As stated at the outset, we deny the petition.

The issue is whether the Sandiganbayan acted with grave abuse of discretion in denying petitioner's motion to quash the informations filed against him on the ground that the informations do not charge an offense and that there was no *prima facie* case.

It is an admitted fact that as acting mayor of Caloocan City in 1986 to 1988, petitioner received cash advances from the city government in the amounts of