

FIRST DIVISION

[G.R. No. 120011, September 07, 1999]

**LT. COL. LINO A. SANCHEZ AND MAJOR VICENTE S. MANAGAY,
PETITIONERS, VS. THE SANDIGANBAYAN, THE OMBUDSMAN
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 for certiorari with preliminary injunction assailing the resolutions of the Sandiganbayan, Second Division,^[1] that denied petitioners' joint motion to dismiss Criminal Case No. 20461 against petitioners and Gaudencio Romualdez, on the ground of lack of jurisdiction over the offense charged, as they were previously charged before the court martial with violation of Article 95, Com. Act No. 408, as amended (Articles of War) involving the same facts as the charge of violation of R. A. No. 3019, Section 3 (e) before the Sandiganbayan.

We grant the petition.

The facts may be related as follows:

Petitioners are officers of the Philippine Army (PA). Lt. Col. Lino A. Sanchez at times material hereto was Commanding Officer, 9th Post Engineer Detachment, Headquarters and Headquarters Support Group (HHSG), Philippine Army. Major Vicente S. Managay was G-4, HHSG, Philippine Army.

On February 4, 1993, Col. Celedonio Ancheta, pre-trial investigating officer, submitted a report to the Commanding General, Philippine Army, stating that there was a prima facie case against petitioners for violation of Article 95 of the Articles of War for causing the wrongful release of P599,547.00 for payment of repair/renovation of G-10 Office, Philippine Army, equivalent to 88.55% completion of the work when in truth and in fact, only 25% of the work had been completed, to the damage and prejudice of the government.

On the basis of the report, on June 16, 1993, the Judge Advocate, Philippine Army, initiated court martial proceedings against petitioners before the Philippine Army Permanent General Court Martial No. 2. In addition, he referred the findings to the Provincial Prosecutor of Rizal, recommending the filing of an information with the Sandiganbayan against petitioners and Gaudencio Romualdez for violation of R. A. No. 3019.

On December 15, 1993, the Provincial Prosecutor of Rizal endorsed the records to the Ombudsman.