

SECOND DIVISION

[G.R. No. 133289, December 23, 1999]

LICERIO A. ANTIPORDA, JR., ELITERIO RUBIACO, VICTOR GASCON AND CAESAR TALIA PETITIONERS, VS. HON. FRANCIS E. GARCHITORENA, HON. EDILBERTO G. SANDOVAL, HON. CATALINO CASTAÑEDA, JR. IN THEIR CAPACITY AS PRESIDIN JUSTICE AND ASSOCIATE JUSTICES OF THE SANDIGANBAYAN RESPONDENTS.

DECISION

BUENA, J.:

This is a Petition for Certiorari and Prohibition with Preliminary Injunction and/or Temporary Restraining Order to restrain the respondent Justices of the First Division of the Sandiganbayan from further proceeding with Crim. Case No. 24339 and from enforcing the warrants for the arrest of the accused named therein (herein petitioners) or to maintain the status quo until further orders from this Court.

The antecedent facts of the case are as follows:

Accused Licerio A. Antiporda, Jr., Eliterio Rubiaco, Victor Gascon, and Caesar Talla were charged with the crime of kidnapping one Elmer Ramos in an Information dated September 18, 1997. It was filed with the First Division of the Sandiganbayan comprised of the Honorable Francis E. Garchitorena, Edilberto E. Sandoval, and Catalino Castañeda, Jr. The Information reads as follows:

"That on or about September 1, 1995, in the Municipality of Sanchez Mira, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused Eliterio Rubiaco, Caesar Talla, Vicente Gascon and Licerio Antiporda, Jr., armed with guns, conspiring together and helping one another, by means of force, violence and intimidation and without legal grounds or any authority of law, did then and there willfully, unlawfully and feloniously kidnap and carry away one Elmer Ramos from his residence in Marzan, Sanchez Mira, Cagayan against his will with the use of a Maroon Tamaraw FX motor vehicle.

CONTRARY TO LAW"^[1]

On November 10, 1997, the Court issued an order giving the prosecution represented by Prosecutor Evelyn T. Lucero Agcaoili thirty (30) days within which to submit the amendment to the Information. The said order is quoted in full as follows:

"O R D E R

"This morning, the prosecution represented by Prosecutor Evelyn T.

Lucero Agcaoili appeared in response to this Court's Order of clarification on the propriety of proceeding with the Information as it stands.

"On her own, Prosecutor Agcaoili informed the Court that there were inadequacies in the allegations in the Information for which reason she would beg leave to amend the same. The Court for its part expressed anxiety as to the Court's jurisdiction over the case considering that it was not clear whether or not the subject matter of the accusation was office related.

"For this purpose, Prosecutor Agcaoili is given thirty (30) days within which to submit the amendment embodying whatever changes she believes are appropriate or necessary in order for the Information to effectively describe the offense herein charged. Within the same period, Prosecutor Agcaoili shall submit an expansion of the recommendation to file the instant Information against the accused before this Court indicating thereon the office related character of the accusation herein so that the Court might effectively exercise its jurisdiction over the same.

"SO ORDERED."^[2]

The prosecution on even date complied with the said order and filed an Amended Information, which was admitted by the Sandiganbayan in a resolution dated November 24, 1997.^[3] The Amended Information thus reads:

"That on or about September 10, 1997, at Sanchez Mira, Cagayan and within the jurisdiction of this Honorable Court, the accused Licerio Antiporda, Jr., being the Municipal Mayor of Buguey, Cagayan in the exercise of his official duties as such and taking advantage of his position, ordered, confederated and conspired with Juan Gallardo, Barangay Captain of San Lorenzo, Buguey, Cagayan (now deceased) and accused Eliterio Rubiaco, barangay councilman of San Lorenzo, Buguey, Cagayan, Vicente Gascon and Caesar Talla with the use of firearms, force, violence and intimidation, did then and there willfully, unlawfully and feloniously kidnap and abduct the victim Elmer Ramos without any authority of law from his residence at Marzan, Sanchez Mira, Cagayan against his will, with the use of a Maroon Tamaraw FX motor vehicle and subsequently bring and detain him illegally at the residence of accused Mayor Licerio Antiporda, Jr. for more than five (5) days.

"CONTRARY TO LAW."^[4]

Accused then filed an Urgent Omnibus Motion dated November 16, 1997 praying that a reinvestigation of the case be conducted and the issuance of warrants of arrest be deferred.^[5]

An order dated November 26, 1997 was penned by Prosecutor Evelyn T. Lucero-Agcaoili recommending the denial of the accused's Urgent Omnibus Motion^[6] was approved by Ombudsman Aniano A. Desierto on January 9, 1998.^[7]

The accused thereafter filed on March 5, 1998 a Motion for New Preliminary Investigation and to Hold in Abeyance and/or Recall Warrant of Arrest Issued.^[8] The same was denied in an order given in open court dated March 12, 1998 "on the ground that there was nothing in the Amended Information that was added to the original Information so that the accused could not claim a right to be heard separately in an investigation in the Amended Information. Additionally, the Court ruled that 'since none of the accused have submitted themselves to the jurisdiction of the Court, the accused are not in a position to be heard on this matter at this time' (p. 245, Record)."^[9]

Subsequently, the accused filed on March 24, 1998 a Motion to Quash the Amended Information for lack of jurisdiction over the offense charged.^[10]

On March 27, 1998, the Sandiganbayan issued an Order, to wit:

"The Motion to Quash filed in behalf of the accused by Atty. Orlando B. Consigna is ignored, it appearing that the accused have continually refused or otherwise failed to submit themselves to the jurisdiction of this Court. At all events there is an Amended Information here which makes an adequate description of the position of the accused thus vesting this Court with the office related character of the offense of the accused.

"SO ORDERED."^[11]

A motion for reconsideration was filed on April 3, 1998 by the accused wherein it was alleged that the filing of the Motion to Quash and the appearance of their counsel during the scheduled hearing thereof amounted to their voluntary appearance and invested the court with jurisdiction over their persons.^[12]

The Sandiganbayan denied the motion for reconsideration filed by the accused in its resolution dated April 24, 1998.^[13]

Hence, this petition filed by Licerio A. Antiporda, Jr., Eliterio Rubiaco, Victor Gascon, and Caesar Talla.

The petitioners pose the following questions for the resolution of this Court.

a) CAN THE SANDIGANBAYAN, WHICH HAS NO JURISDICTION OVER THE OFFENSE CHARGED IN THE ORIGINAL INFORMATION, SUBSEQUENTLY ACQUIRE SUCH JURISDICTION BY THE SIMPLE EXPEDIENT OF AMENDING THE INFORMATION TO SUPPLY, FOR THE FIRST TIME, JURISDICTIONAL FACTS NOT PREVIOUSLY AVERRED IN THE ORIGINAL INFORMATION? and

b) COROLLARILY, CAN THE AMENDED INFORMATION BE ALLOWED WITHOUT CONDUCTING ANEW A PRELIMINARY INVESTIGATION FOR THE GRAVER OFFENSE CHARGED THEREIN?

The petition is devoid of merit.

Jurisdiction is the power with which courts are invested for administering justice, that is, for hearing and deciding cases. In order for the court to have authority to

dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties.^[14]

Section 4, paragraph (a) of P.D. No. 1606, as amended by P.D. No. 1861 provides for the jurisdiction of the Sandiganbayan:

"Sec. 4. *Jurisdiction.* -- The Sandiganbayan shall exercise:

"(a) Exclusive original jurisdiction in all cases involving:

x x x

"(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prision correccional or imprisonment for six (6) years, or a fine of P6,000.00. Provided, however, That offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correccional or imprisonment for six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court."

The Sandiganbayan exercises not only civil but also criminal jurisdiction. Criminal jurisdiction, as defined in the case of *People vs. Mariano*^[15], is necessarily the authority to hear and try a particular offense and impose the punishment for it.

The case of *Arula vs. Espino*^[16] enumerates the requirements wherein a court acquires jurisdiction to try a criminal case, to wit:

"To paraphrase: beyond the pale of disagreement is the legal tenet that a court acquires jurisdiction to try a criminal case only when the following requisites concur: (1) the offense is one which the court is by law authorized to take cognizance of, (2) the offense must have been committed within its territorial jurisdiction, and (3) the person charged with the offense must have been brought in to its forum for trial, forcibly by warrant of arrest or upon his voluntary submission to the court."

The petitioners argue that the Sandiganbayan had no jurisdiction to take cognizance of the case because the original information did not allege that one of the petitioners, Licerio A. Antiporda, Jr., took advantage of his position as mayor of Buguey, Cagayan to order the kidnapping of Elmer Ramos. They likewise assert that lacking jurisdiction a court can not order the amendment of the information. In the same breath, they contend however that the Sandiganbayan had jurisdiction over the persons of the accused.

They question the assumption of jurisdiction by the Sandiganbayan over their case yet they insist that said court acquired jurisdiction over their motion to quash. The petitioner can not have their cake and eat it too.