

## FIRST DIVISION

[ G.R. No. 134307, December 21, 1998 ]

**EDUARDO M. COJUANGCO, JR., PETITIONER VS.  
SANDIGANBAYAN (FIRST DIVISION) AND PEOPLE OF THE  
PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**QUISUMBING, J.:**

This petition for prohibition under Section 2 of Rule 65 of the Rules of Court seeks to dismiss Criminal Case No. 22018 entitled "*People of the Philippines vs. Eduardo M. Cojuangco, Jr., et al.*", now pending before respondent Sandiganbayan (First Division), and to prohibit said court from further proceeding with the case. Petitioner invokes his constitutional right to due process, a speedy trial, and a speedy determination of his cases before all judicial, quasi-judicial and administrative bodies. Further, he prays for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction enjoining respondent Sandiganbayan (First Division) from further enforcing and/or implementing its order dated February 20, 1995 which bans petitioner from leaving the country except upon prior approval by said court.<sup>[1]</sup>

Criminal Case No. 22018 is an offshoot of a complaint filed on January 12, 1990, by the Office of the Solicitor General before the Presidential Commission on Good Government (PCGG), docketed as I.S. No. 74, against the former Administrator of the Philippine Coconut Authority (PCA) and the former members of the PCA Governing Board, petitioner among them, for violation of Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act, as amended. In said complaint, the respondents were charged "for having conspired and confederated together and taking undue advantage of their public positions and/or using their powers, authority, influence, connections or relationship with the former President Ferdinand E. Marcos and former First Lady, Imelda Romualdez-Marcos without authority granted a donation in the amount of Two Million Pesos (P2,000,000.00) to the Philippine Coconut Producers Federation (COCOFED), a private entity, using PCA special fund, thereby giving COCOFED unwarranted benefits, advantage and preference through manifest partiality, evident bad faith and gross inexcusable negligence to the grave (sic) and prejudice of the Filipino people and to the Republic of the Philippines."<sup>[2]</sup>

Subsequently, however, this Court ruled that all proceedings in the preliminary investigation conducted by the PCGG were null and void and the PCGG was directed to transmit the complaints and records of the case to the Office of the Ombudsman for appropriate action.<sup>[3]</sup>

In a Resolution dated June 2, 1992, the panel of investigators recommended the filing of an Information for violation of Section 3(e) of R.A. No. 3019, as amended, against herein petitioner and five other respondents.

As set out in the Memorandum of the Office of the Special Prosecutor, subsequently, the following relevant incidents took place:

"The above Resolution dated June 2, 1992 was referred by Assistant Ombudsman Abelardo L. Aportadera, Jr. to the Office of the Special Prosecutor for review and if warranted, for the preparation of the criminal information.

In a Memorandum dated July 15, 1992 the Office of the Special Prosecutor affirmed the recommendation as contained in the Resolution dated June 2, 1992.

However, on August 19, 1992 then Ombudsman Conrado M. Vasquez ordered the panel of investigators to discuss the merits of the prejudicial question posed by respondent Lobregat.

In a Memorandum dated November 18, 1992, the panel of investigators found that Civil Case No. 0033 does not pose a prejudicial question which will warrant the suspension of the filing of the criminal case.

The aforesaid Memorandum was received by Assistant Ombudsman Abelardo L. Aportadera on December 1, 1992 who submitted his comment thereto on December 16, 1992 to then Ombudsman Vasquez.

On December 23, 1992, then Ombudsman Vasquez ordered the panel of investigators to go to the specifics and not the general averments on issue of prejudicial question.

In a Memorandum dated December 1, 1993 the panel of investigators recommended that the motion to suspend proceedings be granted.

On December 3, 1993 then Ombudsman Vasquez referred for comment to the Office of the Special Prosecutor the Memorandum dated December 1, 1993 of the panel of investigators on the issue of the existence of prejudicial question.

In a Memorandum dated January 16, 1995, Special Prosecution Officer Daniel B. Jovacon, Jr. resolved that no prejudicial question exists to warrant the suspension of the criminal proceedings which recommendation was approved by then Ombudsman Vasquez on January 26, 1995. The Information, together with the case record of OMB-0-90-2806, was forwarded to the Office of the Ombudsman on February 10, 1995.

On February 16, 1995 Criminal Case No. 22018 was filed with the Sandiganbayan and thereafter raffled to the First Division.

On February 17, 1995, an order for the arrest of petitioner was issued by the respondent Sandiganbayan.

On February 19, 1995 petitioner filed with respondent court an

Opposition to Issuance of Warrant of Arrest with Motion For Leave To File Motion For Reconsideration of Ombudsman Resolutions. In his Opposition, petitioner alleged that since the only documents attached to the Information and submitted to respondent Sandiganbayan were the Resolution dated June 2, 1992 of the panel of investigators and the Memorandum dated January 16, 1995 of the Office of the Special Prosecutor, the same were not adequate for the determination of probable cause for the issuance of a warrant of arrest by respondent Sandiganbayan. Hence, petitioner claims the respondent Sandiganbayan should recall the warrant of arrest already issued or desist from issuing a warrant of arrest. Petitioner, avers, furthermore that the filing of the Information was premature considering that he was not furnished a copy of the Ombudsman's Resolution in violation of Section 27 of R.A. No. 6770 and prays that he be given leave to file a motion for reconsideration of the Ombudsman's Resolution dated June 2, 1992 and the Office of the Special Prosecutor's Memorandum dated January 16, 1995.

On February 22, 1995, petitioner posted bail. On the same day he likewise filed, through counsel, a Manifestation stating that he was posting bail without prejudice to the Opposition To Issuance of Warrant of Arrest with Motion For Leave To File a Motion For Reconsideration of the Ombudsman's Resolution which he filed.

In a Resolution dated February 20, 1995, the respondent Sandiganbayan barred petitioner from leaving the country except upon approval of the court.

In an Order dated February 22, 1995, the respondent Sandiganbayan gave petitioner and the other accused twenty (20) days to file their respective motions for reconsideration of the Ombudsman's Resolution with the Office of the Ombudsman. PCGG was likewise given a similar period within which to file its comment to the motions for reconsideration. Furthermore, the respondent Sandiganbayan ordered petitioner to supplement or amplify his existing motion on the issue of the propriety of the issuance of an Order of Arrest based merely on the resolution of the Ombudsman in support of the filing of the Information, among others.

On March 9, 1995, petitioner filed a Memorandum in Amplification of Opposition To Issuance of Warrant of Arrest.

In a Resolution dated March 14, 1995, petitioner was granted additional fifteen (15) days or until March 29, 1995 within which to file his motion for reconsideration with the Office of the Ombudsman.

Petitioner filed his motion for reconsideration on March 28, 1995.

In a Resolution dated April 3, 1995, the respondent Sandiganbayan denied petitioner's motion seeking the recall of the issuance of the warrant for his arrest.

On April 7, 1995, petitioner filed a motion for reconsideration of the

Resolution dated April 3, 1995 of the respondent Sandiganbayan.

On May 25, 1995, petitioner was conditionally arraigned pleading not guilty to the Information. The arraignment was undertaken solely to accommodate the petitioner in his request to travel pending the determination of probable cause against him at the reinvestigation stage. The conditional arraignment is subject to the condition that if petitioner is exonerated at the preliminary investigation, the arraignment is set aside. On the other hand, should there be cause against the petitioner either as already charged or a separate charge which might be related to the case pending, the arraignment will not serve as basis for the invocation of the right against double jeopardy.

In the meantime, in a Memorandum dated October 22, 1995, Special Prosecution Officer Victorio U. Tabanguil found no probable cause to warrant the filing against petitioner and the other accused in Criminal Case No. 22018 and recommended the dismissal of the case. The recommendation for dismissal was approved by the Honorable Ombudsman on November 15, 1996.

On December 6, 1996, Special Prosecutor Officer Victorio U. Tabanguil filed a Manifestation attaching a copy of the Memorandum dated October 22, 1995 with the respondent Sandiganbayan for its consideration.

On December 13, 1996 petitioner filed an Urgent Motion To Dismiss alleging that with the reversal of the earlier findings of the Ombudsman of probable cause, there was therefore nothing on record before the respondent Sandiganbayan which would warrant the issuance of a warrant of arrest and the assumption of jurisdiction over the instant case.

On December 23, 1996 the Office of the Solicitor General, in representation of the PCGG, filed with the Office of the Special Prosecutor a motion for reconsideration of the Memorandum dated October 22, 1996 recommending the dismissal of the case against petitioner and the other accused in Criminal Case No. 22018.

In an Order dated January 6, 1997, Special Prosecution Officer Victorio U. Tabanguil merely noted the motion for reconsideration dated December 23, 1996 of the Office of the Solicitor General.

On January 13, 1997, petitioner filed a Motion To Strike Out Alternatively, Opposition To Complainant's Motion For Reconsideration dated December 23, 1996 alleging that the motion was filed out of time.

In an Order dated January 9, 1997, the respondent Sandiganbayan ordered the prosecution to justify the relationship that may be established with respect to the COCOFED on one hand and the Philippine Coconut Authority on the other, as a basis for justifying the position of the prosecution in this case. Furthermore, upon information provided by Prosecutor Tabanguil that the Office of the Solicitor General has sought a reconsideration on the desire of the prosecution to withdraw the information, the Office of the Solicitor General was given fifteen (15)

days to submit its comment to the Motion to Withdraw Information. The petitioner and the other accused were given the same period to reply to the comment if they so desire. After which the matter will be deemed submitted for resolution.

On January 17, 1997, the prosecution filed its compliance to the Order dated January 9, 1997. On the other hand, the Office of the Solicitor General filed its comment on January 24, 1997.

In an Order dated February 4, 1997, the respondent Sandiganbayan ordered the PCGG lawyers to 'present themselves before the respondent court and respond to the claim of the OSG that the exhibits necessary are with the PCGG so that the Republic might effectively substantiate its position that probable cause exists. Furthermore, it is as much the function of the court to determine the existence of probable cause and the propriety of the withdrawal of the Information to be assured that the evidence for the complainant has been properly presented or the accused is properly protected at preliminary investigation.'

In an Order dated February 17, 1997, the respondent Sandiganbayan, with the agreement of the parties, gave the Office of the Solicitor General ten (10) days within which to submit some form of cataloging and explanation of the documents on record to the prosecution. On the other hand, the prosecution was given fifteen (15) days from receipt of the submission within which to review the matter once more and to respond thereat.

On June 13, 1997, the PCGG filed its Entry of Appearance dated June 3, 1997.

On June 19, 1997, petitioner filed a Second Motion To Resolve the Urgent Motion To Dismiss dated December 12, 1996.

On July 3, 1997, petitioner filed a Motion to Strike Out (Re: PCGG's Entry of Appearance) dated June 30, 1997.

On July 16, 1997, the PCGG filed an Opposition to the Motion To Strike Out (Re: PCGG's Entry of Appearance).

On July 18, 1997, petitioner filed a Reply to the Opposition to Strike Out.

On July 31, 1997, the PCGG filed a Rejoinder to the Reply of petitioner.

On January 23, 1998, petitioner filed a Third Motion To Resolve the Urgent Motion To Dismiss dated December 12, 1996.

In an Order dated January 26, 1998, respondent Sandiganbayan duly noted petitioner's Motion to Dismiss." [4]

Hence, the present petition.

On July 22, 1998, the Court issued a resolution requiring respondents to file their