

THIRD DIVISION

[G.R. No. 113908 & 114819, April 18, 1997]

**PABLO G. QUIÑON, PETITIONER, VS. SANDIGANBAYAN AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.
D E C I S I O N**

NARVASA, C.J.:

The special civil actions of *certiorari* and prohibition at bar treat of two (2) criminal actions, both against the same accused, herein petitioner, and both pending in the Sandiganbayan. One is docketed as Criminal Case No. 16279; the other, Criminal Case No. 19561.

Criminal Case No. 16279

On November 5, 1990, an information was filed in the Sandiganbayan against Pablo B. Quiñon, then the Station Commander of Calinog, Iloilo PC/INP, charging him with the felony of "malversation of public properties" under Article 217 of the Revised Penal Code. The information alleged that on or about March 14, 1988, having come into the possession and control in his official capacity of two (2) pistols and their magazines, and one (1) shotgun, with a total value of P15,000.00, and being accountable, by reason of the duties of his office, for public properties coming to his possession and control, he applied and converted the firearms to his personal use and benefit to the damage and prejudice of the government. The case was docketed as Criminal Case No. 16279, and raffled to the Third Division.

On arraignment, Quiñon entered a plea of not guilty, after which the case was set for pre-trial and trial on July 18, and 19, 1991. At the instance of Quiñon and his counsel, Atty. Teodulo Colado, the pre-trial and trial were reset to September 16, and 17, 1992 for the reason that Colada had been appointed Municipal Judge of Cabatuan, Isabela.

On September 16, 1991, Quiñon's new counsel, Atty. Gerardo B. Roldan, Jr., filed a motion to reset the case to November 12, 14 and 15, 1991, pleading other important commitments and his lack of preparation for trial. The Sandiganbayan reset the case to November 14, and 15, 1991.

On November 14, 1991 only Atty. Roldan appeared, alleging he could not get in touch with Quiñon. It appearing that Quiñon had been duly notified of the hearing through personal service of subpoena and through his bondsmen, and on motion of the Public Prosecutor, the Sandiganbayan thereupon ordered Quiñon arrested, his bond confiscated, and the case reset on January 23 and 24, 1992.

On January 8, 1992, Atty. Roldan sought reconsideration of the Order of November 14, 1991. He argued that Quiñon's failure to appear on that date was due to inability to travel on account of hypertension, a medical certificate of a Dr. Renato

Armada, Rural Health Physician of Janiway, Iloilo dated November 8, 1992 being submitted in substantiation. The Court set aside its Order of November 14, 1991 and recalled the warrant for Quiñon's arrest. The setting of January 23 and 24 was maintained.

Quiñon again failed to appear in Court for the hearing of January 23, 1992, the same reason being adduced: essential hypertension. The Sandiganbayan directed the aforementioned Dr. Renato Armada, and the Provincial Health Officer, to examine Quiñon and submit a report of their findings within ten days. The hearing was once more reset to March 25 and 26, 1992, and then, on account of an error in scheduling, to April 7 and 8, 1992.

The hearing was scheduled anew on June 9 and 10, 1992, on Quiñon's averment that he could not appear on April 7 and 8, 1992 because he was suffering dizziness on account of hypertension.

On June 9, 1992, Atty. Geraldo Roldan filed a motion for leave to withdraw as counsel for Quiñon on the ground that having been elected municipal councilor of Mandaluyong, Metro Manila, he (Roldan) was no longer allowed to practice by reason of "the effectivity of the Local Government Code of 1991 (Republic Act No. 7160) on January 1, 1992 **." However, by Order dated June 9, 1992, the Sandiganbayan denied the motion "in the meantime" because it did not bear Quiñon's conformity, and required that notice of the motion be given to Quiñon so that, "if he conforms thereto, he can proceed to retain another counsel to defend him" (Annex C, petition).

Quiñon did not show up on June 9, 1992 although, as shown by the records, subpoena had been duly served on him through both his wife, Leticia L. Quiñon, and his bondsmen (Gregorio Brasileño and Asuncion Armada). Accordingly, the Court issued another Order which, observing that Quiñon had put in an appearance only once, at his arraignment, and had been absent during all the six (6) times that the case had been set for pre-trial and trial, required him to show cause in ten (10) days why he should not be held in contempt for failing to appear; and reset the case for pre-trial and trial on November 5 and 6, 1992 at 8:30 o'clock A.M. The subpoena was served on Quiñon, again through both his wife, Leticia, and his bondsmen.

This time, on November 5, 1992, Quiñon put in an appearance, but without his lawyer. Quiñon advised the Court that his lawyer was down with typhoid fever, and asked that the case be reset. The Sandiganbayan acceded, and transferred the pre-trial and trial to February 23 and 24, 1993. The corresponding subpoena was served on Quiñon and his bondsmen.

Quiñon failed to present himself on February 23, 1993. Instead he caused submission to the Court of an affidavit of his, once more adverting to his "severe dizziness" as evidenced by a medical certificate of Dr. Noel Gigare of the Janiway District Hospital, dated February 19, 1993.

The Sandiganbayan dealt with the affidavit on the day following. It issued an Order dated February 24, 1993, in which it deemed the affidavit to be "in fact ** a request for postponement of the case on account of an alleged illness of the accused;" noted the prosecution's objection thereto; recalled that in prior "settings, accused and counsel had asked for postponement of trial on the same ground;" agreed with the

prosecution's observation that "it takes time, energy and great expense for witnesses to come all the way from Iloilo and so, if they come only to find that the accused has asked for postponement of trial, it engenders disappointment to the prosecution and embarrassment to the Court;" remarked that "the excuses put up by the accused ** were flimsy and obviously designed to delay trial;" considered the accused "to have waived his presence during trial today" and authorized the "prosecution ** (to) proceed to present evidence in accordance with law."

The prosecution thereupon presented its proofs and then rested its case, after which the Sandiganbayan issued another Order to the effect that "the accused Pablo Quiñon may present evidence in his defense on July 22 and 23, 1993, at 8:30 o'clock in the morning."

Neither Quiñon nor his counsel came to the Court on the appointed date, July 22, 1993. After waiting until 11 o'clock that morning, the Sandiganbayan issued an Order in open Court declaring the case submitted for decision, Quiñon's "failure to appear notwithstanding ** that notice was given to him and that he was given the opportunity to present evidence today ** (being) considered a waiver of his right to present evidence;" directing the prosecutor "to present a memorandum for the prosecution within ten (10) days;" and commanding that Quiñon be arrested, his bond confiscated, and his bondsmen required to produce him within thirty (30) days and "show cause in writing why judgment on the bond shall not be rendered under the circumstances." As directed, the prosecution filed on July 28, 1993 a memorandum recommending conviction of Quiñon of the felony charged.

Ten weeks or so afterwards, or on October 8, 1993, Quiñon filed a motion seeking reconsideration of the Sandiganbayan's Orders of February 24, 1993 and July 22, 1993, claiming denial of due process as his lawyer (Atty. Roldan) had not been notified of the hearings of February 23, 1993 and July 22, 1992; that his failure to appear on February 23 and 24, 1993 was justified by illness, as certified by Dr. Gigare's certificate dated February 19, 1993; and that although the subpoena received by him for the hearing of July 22 and 23, 1993 directed him to inform his counsel thereof, his inability to get in touch with the latter made him decide not appear on said dates. The motion was denied by Resolution of the Sandiganbayan dated January 18, 1994 which "consequently deemed (the case) ready for decision." At this time, Quiñon was being represented by still another counsel, Atty. Ramon A. Gonzales.

G.R. No. 13908

Quiñon filed with this Court a petition for certiorari and prohibition, dated February 22, 1994 -- docketed as G.R. No. 13908. The petition (1) alleged (a) that the Sandiganbayan had no jurisdiction to try the case against him; (b) that the facts charged do not constitute an offense; and (c) that the Sandiganbayan was gravely abusing its jurisdiction "in denying petitioner's motion to re-open the case and present evidence after the prosecution ** rested its case; and (2) prayed for annulment, and perpetual proscription of enforcement, of the Orders of February 24, 1993, July 22, 1993, and January 18, 1994 or, alternatively, that Quiñon be allowed "to cross-examine the People's witnesses and adduce evidence in his behalf."

Criminal Case No. 19561

At about the time of the rendition (on February 24, 1993) of the first Order challenged in G.R. No. 13908, another event occurred which has since given rise to another proceeding involving Quiñon. This was the filing in the Office of the Iloilo Provincial Prosecution, on or about February 20, 1993, of another criminal complaint against Quiñon, resulting in the filing by the Office of the Ombudsman, after preliminary investigation, of an information dated August 2, 1993 also charging him with "malversation of public property." The indictment averred that on or about January 7, 1993, there were issued to Quiñon government property consisting of two (2) revolvers and a shotgun with a total value of P16,000.00, and once in possession thereof he did, with abuse of trust and confidence, malverse, misappropriate and convert to his own personal use said firearms to the damage and prejudice of the government. The case was docketed as Criminal Case No. 19561 and raffled to the First Division.

Quiñon filed a motion to quash the information on February 22, 1994 on the ground that:

- 1) the information did not charge an offense as it did not allege that he was an accountable public officer having "custody of subject firearms and in-charge of their safekeeping," and not being an accountable officer, he may not be charged with malversation under Article 217 of the Revised Penal Code;
- 2) the Sandiganbayan had no jurisdiction to try the felony because the complaint was originally filed with the Iloilo prosecution office which consequently acquired jurisdiction over it to the exclusion of the Ombudsman; and
- 3) under Section 4, Rule 112 of the Rules of Court, it was not the Special Prosecutor of the Sandiganbayan, but the Iloilo Provincial Prosecutor that had authority to file the information.

Quiñon thereafter submitted a "Supplemental Motion to Quash" dated March 3, 1994, invoking another ground for dismissal of the case against him: that the Sandiganbayan had no jurisdiction in view of Section 46, R.A. No. 6975 conferring jurisdiction over the crime in question on "*regular courts*," thus excluding the Sandiganbayan which is a "*special court*."

The Sandiganbayan denied both motions, by Resolution dated March 7, 1994. Its ruling pertinently reads:

" ***

"The information does narrate facts which constitute an offense. Both Art. 217 and Art. 220 hold persons who are not 'accountable officers' as such when they are, nonetheless, accountable for specific public property as when they have a duty to return the same or to dispose thereof as provided by law or by lawful regulations or orders of their superiors.

"This Court does have jurisdiction of the case because the alleged conversion by the accused of the firearms earlier issued to him as Police Sergeant constituted an office-related offense over which the Sandiganbayan has jurisdiction (Sec. 4, PD 1606).

"This Court possesses jurisdiction over the case involving a police officer charged in connection with the performance of his duties since it has been the view of this Court that the designation of 'regular courts' in Sec. 46 R.A. No. 6975 is in contradistinction from military courts and not against 'specialized' court such as the Sandiganbayan.

"For the last two reasons, the preliminary investigation herein was properly conducted and the Information filed by the Office of the Ombudsman."

G.R. No. 114819

Subsequently the Sandiganbayan set Quiñon's arraignment on March 25, 1994 but reset it to May 6, 1994 on motion of the latter's lawyer, Atty. Ramon A. Gonzales, it appearing that on April 19, 1994, the latter had filed in the Supreme Court a petition for certiorari and prohibition dated April 14, 1994. In said petition he contended that in denying the motion to quash the Sandiganbayan had acted with grave abuse of discretion amounting to lack or excess of jurisdiction; and he prayed that the Order of March 23, 1994 be annulled. The case was docketed as G.R. No. 114819.

Consolidation of G.R. Nos. 114819 and 113908

Later, on February 13, 1995, G.R. No. 114819 was consolidated with G.R. No. 113908.

The Court's Dispositions

I. Sandiganbayan has Jurisdiction Over Offenses Charged

Petitioner's first contention is that the Sandiganbayan has no jurisdiction over the cases because under the law, R.A. 6975, criminal actions involving members of the Philippine National Police are "within the exclusive jurisdiction of the regular courts;" and since the Sandiganbayan is not a *regular*, but a *special*, court, it follows that it is not competent to take cognizance of the accusations against petitioner, a member of the PNP. The issue has already been dealt with by this Court in *Republic v. Hon. Maximiano Asuncion, et al.*, 231 SCRA 211 (1994). In that case, after analyzing and considering the provisions of R.A. 6975 in relation to the Constitution (Section 6, Article XVI, creating a national police force), and the official transcript of the deliberations of the Bicameral Conference Committee on National Defense, this Court declared (at pp. 213 et seq) that:

"** the terms *civil courts* and *regular courts* were used interchangeably or were considered as synonymous by the Bicameral Committee and then by the Senate and House of Representatives, ** (hence,) the term *regular courts* in Section 46 of R.A. No. 6975 means *civil courts*. There could have been no other meaning intended since the primary purposes of the law is to remove from courts-martial the jurisdiction over criminal cases involving members of the PNP and to vest it in the courts within our judicial system, i.e., the civil courts which, as contradistinguished from courts-martial, are the regular courts. Courts-martial are not courts within the Philippine judicial system; they pertain to the executive department of the government and are simply instrumentalities of the executive power. Otherwise