



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Petitioner,

**G.R. Nos. 190728-29**

-versus-

Present:

**HON. SANDIGANBAYAN (THIRD  
 DIVISION), ENRIQUE T. GARCIA,  
 JR., BENJAMIN M. ALONZO,  
 EDGARDO P. CALIMBAS,  
 FERNANDO C. AUSTRIA,  
 EDUARD G. FLORENDO,  
 EDWARD C. ROMAN, RODOLFO  
 S. SALANDANAN, ORLANDO S.  
 MIRANDA, RODOLFO S. IZON,  
 DANTE R. MANALAYSAY, and  
 MANUEL N. BELTRAN,**

**PERALTA, C.J., Chairperson,  
 CAGUIOA,  
 CARANDANG,\*  
 ZALAMEDA, and  
 GAERLAN, JJ.**

Respondents.

Promulgated:

**NOV 18 2020**

X-----X

**DECISION**

**CAGUIOA, J.:**

At bench is a petition for *certiorari*<sup>1</sup> (Petition) under Rule 65 seeking the reversal of the Sandiganbayan, Third Division (Sandiganbayan) Resolution<sup>2</sup> dated August 7, 2009 and Resolution<sup>3</sup> dated November 12, 2009. The Sandiganbayan's Resolution dated August 7, 2009, among others, dismissed the Informations filed by the Office of the Ombudsman (Ombudsman) in Criminal Cases Nos. SB-08-CRM-0410 and SB-08-CRM-0411 against Enrique T. Garcia, Jr., Benjamin M. Alonzo, Edgardo P. Calimbas, Fernando C. Austria, Eduard G. Florendo, Edward C. Roman, Rodolfo S. Salandanan, Orlando S. Miranda, Rodolfo S. Izon, Dante R. Manalaysay and Manuel N. Beltran (collectively, private respondents), while

\* On official leave.

<sup>1</sup> *Rollo*, pp. 2-43.

<sup>2</sup> *Id.* at 45-60. Penned by Associate Justice Francisco H. Villaruz, Jr. and concurred in by Associate Justices Efren N. De La Cruz and Alex L. Quiroz (with Separate Concurring Opinion, *id.* at 60).

<sup>3</sup> *Id.* at 61-66.

the Resolution dated November 12, 2009 denied a motion to reconsider said dismissal.

The present petition arose from an earlier dispute which reached this Court in 2002 and was disposed of with all parties therein withdrawing their respective petitions after having reached a compromise agreement. The nature and effect of said agreement lies at the heart of the present controversy. A full appreciation of the issue at bar thus necessitates a recollection of the earlier cases out of which the present petition arose.

### *The Facts*

#### *Antecedent Cases*

This controversy stems from the 1986 sequestration by the Presidential Commission on Good Government (PCGG) of the properties of Bataan Shipyard and Engineering Company, Inc., and its subsidiaries Philippine Dockyard Corporation and BASECO Drydock & Construction Co., Inc. (collectively, BASECO).<sup>4</sup> Among the sequestered properties were nine parcels of land with a total area of 3,005,104 square meters (subject properties),<sup>5</sup> and registered with the Registry of Deeds of Bataan (RD Bataan).<sup>6</sup>

On February 12, 1988, the Province of Bataan sold the subject properties *via* a tax delinquency sale through a public auction for the non-payment of real property taxes on the said properties. The Province of Bataan was the only bidder and the subject properties were sold to it. After the lapse of the one-year redemption period with neither PCGG nor BASECO redeeming the subject properties, the Province of Bataan filed a petition with the Regional Trial Court of Balanga, Bataan Branch 4 (RTC Balanga) docketed as LRC No. 005-ML for the consolidation of its ownership over the subject properties.<sup>7</sup> With no opposition recorded, RTC Balanga, in its Order dated June 22, 1989, granted the petition for consolidation and ordered the cancellation of the pertinent Transfer Certificates of Title (TCTs) issued under BASECO's name, and directed the RD Bataan to issue new certificates of title over the subject properties in the name of the Province of Bataan.<sup>8</sup> Pursuant

<sup>4</sup> Id. at 9.

<sup>5</sup> Id. at 10. The details of the subject properties are as follows:

TCT Nos.	Registered Owner	Area
T-59628	Bataan Shipyard & Engineering Co., Inc.	180,000 sq. mts.
T-59629	Bataan Shipyard & Engineering Co., Inc.	501,031 sq. mts.
T-59631	Bataan Shipyard & Engineering Co., Inc.	489,028 sq. mts.
T-78745	Philippine Dockyard Corporation	86,294 sq. mts.
T-78746	Philippine Dockyard Corporation	98,700 sq. mts.
T-78747	Philippine Dockyard Corporation	200,800 sq. mts.
T-96945	Philippine Drydock & Const., Co., Inc.	934,313 sq. mts.
T-96946	Philippine Drydock & Const., Co., Inc.	408,202 sq. mts.
T-96947	Philippine Drydock & Const., Co., Inc.	106,736 sq. mts.

<sup>6</sup> Id. at 9.

<sup>7</sup> Id. at 10-11.

<sup>8</sup> Id. at 87-88.

to said Order, the RD Bataan cancelled the TCTs under BASECO's name and issued new certificates in favor of the Province of Bataan.<sup>9</sup>

The Province of Bataan thereafter leased the subject properties to R-Port Services, and the latter, in turn, ceded 10 hectares of the subject properties to Marina Port Services, which entered into another lease contract for the said portion with the Province of Bataan.<sup>10</sup>

Nearly four years after the RTC Balanga ordered the consolidation of ownership over the subject properties to the Province of Bataan, or on May 14, 1993, the PCGG filed a complaint docketed as Civil Case No. 212-ML for the annulment of the tax delinquency sale of the subject properties with the RTC Balanga,<sup>11</sup> alleging that said sale was invalid since there was no showing that the notice of sale was published in accordance with law, or that said notice was otherwise sent to the PCGG or BASECO.<sup>12</sup> In this complaint, the PCGG further alleged that the subject properties sold were included in the sequestered properties subject of the complaint for Reconveyance, Reversion, Accounting, Restitution and Damages docketed as Civil Case No. 0010, which was then pending with the Sandiganbayan, First Division.<sup>13</sup>

Four years after the PCGG filed its complaint for the annulment of the tax sale, it filed a Motion for Summary Judgment.<sup>14</sup> However, when the same also remained unacted upon, the PCGG requested for a transfer of venue, and the same was granted, thereby transferring Civil Case No. 212-ML to RTC Makati, Branch 147 (RTC Makati).<sup>15</sup>

The RTC Makati granted the PCGG's Motion for Summary Judgment in its Decision<sup>16</sup> dated July 23, 2001 and declared the tax delinquency sale of the subject properties null and void. Consequently, the RTC Makati ordered the RD Bataan to cancel the certificates of title issued to the Province of Bataan, and reinstate the certificates of title in the name of BASECO.<sup>17</sup> However, Enrique T. Garcia, Jr. (private respondent Garcia), then in his capacity as Representative of the Second District of Bataan, and the Province of Bataan, both filed motions for reconsideration of the RTC Makati's July 23, 2001 Decision. The RTC Makati heeded these motions and through its Order dated December 18, 2001<sup>18</sup> recalled and set aside its earlier Decision, and further ordered the reception of evidence for the PCGG.<sup>19</sup>

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<sup>9</sup> Id. at 11.

<sup>10</sup> Id.

<sup>11</sup> Id. at 12.

<sup>12</sup> Id. at 19.

<sup>13</sup> Id.

<sup>14</sup> Id. at 12.

<sup>15</sup> Id. at 12-13.

<sup>16</sup> Id. at 89-93.

<sup>17</sup> Id. at 93.

<sup>18</sup> Id. at 118-131.

<sup>19</sup> Id. at 13.



At this point in the long dispute, both private respondent Garcia, on behalf of the Province of Bataan, and the PCGG, went to this Court with their petitions for review. Private respondent Garcia filed a Petition for Review<sup>20</sup> dated January 17, 2002 before this Court docketed as G.R. No. 151237, which prayed, among others, for the dismissal of Civil Case No. 212-ML.<sup>21</sup> The PCGG, for its part, filed a Petition for *Certiorari* docketed as G.R. No. 159199 which prayed for the reinstatement of the RTC Makati's Decision which annulled the tax delinquency sale.<sup>22</sup>

In this Court's Resolution dated June 22, 2005, both parties were required to explore the possibility of a compromise agreement. Pursuant to this, the *Sangguniang Panlalawigan* of Bataan (SP of Bataan), through its Resolution No. 71<sup>23</sup> dated June 6, 2005, authorized private respondent Garcia to negotiate and enter into a compromise agreement with the PCGG and BASECO involving the subject properties. On January 5, 2006, the PCGG, BASECO, and private respondent Garcia, on behalf of the Province of Bataan, entered into a Compromise Agreement.<sup>24</sup> With the Provincial Government of Bataan as the "First Party", the PCGG as the "Second Party" and BASECO as the "Third Party", said Agreement mainly provides for the creation of a corporation comprised of all three parties, and was set on the following terms:

1. The BASECO properties covered by the aforementioned Transfer Certificates of Title, acquired by the FIRST PARTY and disputed by the SECOND PARTY and the THIRD PARTY shall be transferred, conveyed and delivered to a corporation to be incorporated by the FIRST PARTY and the THIRD PARTY herein, within sixty (60) days from the Court approval of this Agreement. The subject properties shall thereafter form part of the corporate assets of the new corporation;
2. The FIRST PARTY shall own Fifty-One Percent (51%) of the shares of the new corporation, while the THIRD PARTY shall own Forty-Nine Percent (49%).
3. The SECOND PARTY shall continue to exercise all powers and prerogatives under the original writ of sequestration over the shares of the THIRD PARTY, **subject to the final disposition of Civil Case No. 0010, entitled *Republic of the Philippines vs. Alfredo (Bejo) Romualdez, et al., pending before the Sandiganbayan.*** As such, the SECOND PARTY shall exercise powers and prerogatives not limited to the following:
  - 3.1. Appointment of a COMPTROLLER who shall be empowered to exercise any act/s necessary to prevent the destruction, disposal and dissipation of the shares of the THIRD PARTY in the new corporation.

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<sup>20</sup> Id. at 136-156.

<sup>21</sup> Id. at 156.

<sup>22</sup> Id. at 14.

<sup>23</sup> Id. at 159-160.

<sup>24</sup> Id. at 80-84; 53.



3.2. Representation of the SECOND PARTY in the new corporation's Board of Directors equivalent to its representation in the THIRD PARTY's Board;

4. The SECOND PARTY shall continue to exercise its duty as conservator over the shares of the THIRD PARTY in the new corporation through its designated Comptroller **until final disposition of Civil Case No. 0010, entitled *Republic of the Philippines vs. Alfredo (Bejo) Romualdez, et al. pending before the Sandiganbayan***;

All parties hereto agree to withdraw the amount held in escrow by the Regional Trial Court in Civil Case No. 212-ML in the amount of Two Hundred Eight Million Pesos ([P]208,000,000.00), more or less, to be shared by the parties herein as follows: One Hundred Forty Million Pesos ([P]140,000,000.00) shall, upon approval of this Compromise Agreement by the Supreme Court, go to the FIRST PARTY and the balance thereof, which in no case shall be less than Sixty Million Pesos ([P]60,000,000.00) shall go [to] the THIRD PARTY; PROVIDED [t]hat the share of the FIRST PARTY may be reduced accordingly to complete the share of the THIRD PARTY in case the amount under escrow is not sufficient to cover the aforesaid amount of Sixty Million Pesos ([P]60,000,000.00). After the approval of this Compromise Agreement, but prior to the transfer of the aforesaid BASECO properties to the new corporation, all the rental payments and fruits thereof shall be divided between the FIRST PARTY, who shall receive Fifty-One Percent (51%) and the SECOND PARTY, in trust for the THIRD PARTY, who shall receive Forty-Nine Percent (49%).

x x x x.<sup>25</sup>

This Compromise Agreement was ratified by the SP of Bataan through its Resolution No. 38<sup>26</sup> dated March 6, 2006 and approved by the RTC Makati through its Judgment<sup>27</sup> dated September 27, 2006, after finding that the same was "not contrary to law, morals, public order and public policy".<sup>28</sup>

By virtue of having settled their dispute amicably, both private respondent Garcia and the PCGG filed a Joint Motion<sup>29</sup> dated July 17, 2006 praying that their respective petitions before the Court in G.R. No. 151237 and G.R. No. 159199 be withdrawn, and that both cases be considered closed and terminated.<sup>30</sup> This Joint Motion was granted by the Court in its Resolution dated August 14, 2006.<sup>31</sup>

The Province of Bataan later moved for the early release of the partial amount representing the proceeds from the lease of the subject properties held in escrow by the RTC Balanga, and the latter granted the release of the amount

<sup>25</sup> Id. at 168-169. Emphasis supplied.

<sup>26</sup> Id. at 161-162.

<sup>27</sup> Id. at 166-170. Penned by Presiding Judge Maria Cristina J. Cornejo.

<sup>28</sup> Id. at 170.

<sup>29</sup> Id. at 171-175.

<sup>30</sup> Id. at 173.

<sup>31</sup> Id. at 16.

of ₱140,000,000.00.<sup>32</sup> The PCGG and BASECO also filed a Joint Motion to release the remaining funds in escrow in the amount of ₱60,000,000.00 and the same was likewise granted.<sup>33</sup>

### *Present Controversy*

The facts took a turn towards the case at bar when, on March 27, 2007, Oscar de los Reyes, a former mayor of the Municipality of Mariveles, Bataan, initiated a complaint before the Ombudsman against private respondent Garcia and the rest of the private respondents, as members of the SP of Bataan. The complaint anchored itself on the undue injury allegedly suffered by the Province of Bataan as a result of the grossly disadvantageous terms of the Compromise Agreement it entered into with the PCGG and BASECO.

On August 30, 2008, after preliminary investigation, the Ombudsman filed two Informations<sup>34</sup> against all private respondents for violation of Section 3(e) and (g) of Republic Act No. (R.A.) 3019,<sup>35</sup> docketed as Criminal Cases Nos. SB-08-CRM-0410 and SB-08-CRM-0411, the accusatory portions of which provide:

In SB-08-CRM-0410, for Section 3(e), R.A. 3019:

That on or about 05 January 2006, or sometime prior or subsequent thereto, in Mandaluyong City and in Balanga, Bataan Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Enrique T. Garcia, Jr., Salary Grade 30, Governor of Bataan, Benjamin M. Alonzo, Salary Grade 28, the then Vice-Governor of Bataan, Edgardo P. Calimbas, Salary Grade 27, Board Member of Bataan, Fernando C. Austria, Salary Grade 27, Former Board Member of Bataan, Eduard G. Florendo, Salary Grade 27, Board Member, Rodolfo S. Salandanan, Salary Grade 27, Former Board Member of Bataan, Orlando S. Miranda, Salary Grade 27, Board Member of Bataan, Rodolfo SD. Izon, Salary Grade 27, Board Member of Bataan, Dante R. Manalaysay, Salary Grade 27, City Councilor of Bataan, Manuel M. Beltran, Salary Grade 27, Board Member of Bataan, all public officers committing the offense in the discharge of their official functions, and in grave abuse thereof, conspiring and confederating with one another through their separate but concerted acts, **with evident bad faith and gross inexcusable negligence, did then [,] and there willfully, unlawfully and criminally cause undue injury to the Provincial Government of Bataan by entering into a contract on behalf of the Provincial Government of Bataan with the Presidential Commission on Good Government (PCGG) and BASECO, Philippine Dockyard Corporation and the BASECO Drydock and Construction Co., Inc.:** accused members of the Sangguniang Panlalawigan, Benjamin M. Alonzo, Edgardo P. Calimbas, Fernando C. Austria, Eduard G. Florendo, Edward C. Roman, Rodolfo S. Salandanan, Orlando S. Miranda, Rodolfo SD. Izon, Dante R. Manalaysay, and Manuel N. Beltran passed Resolution [N]o. 71

<sup>32</sup> Id. at 17.

<sup>33</sup> Id. at 18.

<sup>34</sup> Id. at 177-181; 183-187.

<sup>35</sup> Otherwise known as the ANTI-GRAFT AND CORRUPT PRACTICES ACT.



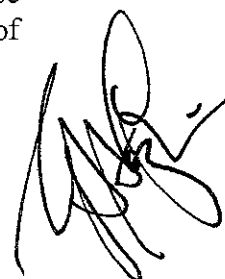
dated 06 June 2005 authorizing Enrique T. Garcia, Jr. to enter into a Compromise Agreement and Resolution No. 38 dated 06 March 2006 ratifying the Compromise Agreement as Enrique T. Garcia, Jr. in fact entered into a Compromise Agreement dated 05 January 2006 which provides that 1) eight parcels of land registered in the name of the Province of Bataan under TCT Nos. 128452, 128453, 128454, 128455, 128456, 128457, 128459, 128460 of the Register of Deeds of Bataan shall be transferred and conveyed to a corporation to be incorporated by the Province of Bataan and BASECO where fifty-one (51%) of the shares shall be owned by the Province of Bataan while forty-nine percent (49%) shall be owned by BASECO, thereby effectively reducing the ownership of the Province of Bataan over the said properties by as much as forty-nine percent (49%);] 2) the part of proceeds of the said properties owned by the Province of Bataan from rentals held in escrow by the court in the amount of not less than Sixty Million Pesos ([P]60,000,000.00) be transferred to BASECO[;] and 3) all succeeding rentals or fruits derived from the said properties be divided by the Province of Bataan which shall receive fifty-one percent (51%) and the PCGG in trust for BASECO which shall receive forty-nine percent (49%) to the damage and prejudice of the Province of Bataan.

**CONTRARY TO LAW.<sup>36</sup>**

In SB-08-CRM-0411, for Section 3(g), R.A. 3019:

That on or about 05 January 2006, or sometime prior or subsequent thereto, in Mandaluyong City and in Balanga, Bataan Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Enrique T. Garcia, Jr., Salary Grade 30, Governor of Bataan, Benjamin M. Alonzo, Salary Grade 28, the then Vice-Governor of Bataan, Edgardo P. Calimbas, Salary Grade 27, Board Member of Bataan, Fernando C. Austria, Salary Grade 27, Former Board Member of Bataan, Eduard G. Florendo, Salary Grade 27, Board Member, Rodolfo S. Salandanan, Salary Grade 27, Former Board Member of Bataan, Orlando S. Miranda, Salary Grade 27, Board Member of Bataan, Rodolfo SD. Izon, Salary Grade 27, Board Member of Bataan, Dante R. Manalaysay, Salary Grade 27, City Councilor of Bataan, Manuel M. Beltran, Salary Grade 27, Board Member of Bataan, all public officers conspiring, and confederating with one another through their separate but concerted acts, committing the crime in the discharge of their official functions, and in grave abuse thereof, did then[,] and there willfully, unlawfully and **criminally enter on behalf of the Provincial Government of Bataan into a contract with the Presidential Commission on Good Government (PCGG) and BASECO, Philippine Dockyard Corporation and the BASECO Drydock and Construction Co., Inc. which was manifestly and grossly disadvantageous to the Provincial Government of Bataan:** accused members of the Sangguniang Panlalawigan, Benjamin M. Alonzo, Edgardo P. Calimbas, Fernando C. Austria, Eduard G. Florendo, Edward C. Roman, Rodolfo S. Salandanan, Orlando S. Miranda, Rodolfo SD. Izon, Dante R. Manalaysay, and Manuel N. Beltran passed Resolution [N]o. 71 dated 06 June 2005 authorizing Enrique T. Garcia, Jr. to enter into a Compromise Agreement and Resolution No. 38 dated 06 March 2006 ratifying the Compromise Agreement as Enrique T. Garcia, Jr. in fact entered into a Compromise Agreement dated 05 January 2006 which provides that 1) eight parcels of

<sup>36</sup> Id. at 177-180. Emphasis supplied.



land registered in the name of the Province of Bataan under TCT Nos. 128452, 128453, 128454, 128455, 128456, 128457, 128459, 128460 of the Register of Deeds of Bataan shall be transferred and conveyed to a corporation to be incorporated by the Province of Bataan and BASECO where fifty-one (51%) of the shares shall be owned by the Province of Bataan while forty-nine percent (49%) shall be owned by BASECO, thereby effectively reducing the ownership of the Province of Bataan over the said properties by as much as forty-nine percent (49%);] 2) the part of proceeds of the said properties owned by the Province of Bataan from rentals held in escrow by the court in the amount of not less than Sixty Million Pesos ([P]60,000,000.00) be transferred to BASECO[;] and 3) all succeeding rentals or fruits derived from the said properties be divided by the Province of Bataan which shall receive fifty-one percent (51%) and the PCGG in trust for BASECO which shall receive forty-nine percent (49%) to the damage and prejudice of the Province of Bataan.

**CONTRARY TO LAW.<sup>37</sup>**

Private respondents filed a Manifestation with Motion before the Sandiganbayan, asking the latter to resolve the judicial determination of probable cause, and that the same be dismissed for lack of merit.<sup>38</sup> They averred that the subject Compromise Agreement was not grossly disadvantageous to the Province of Bataan and did not cause the latter undue injury, and that the same was approved by the RTC Makati, which affirmed that it was not contrary to law, morals, public order, and public policy.<sup>39</sup> They likewise claimed that the Informations did not include all the persons who appear to be responsible for the offense charged as mandated under Section 2, Rule 110 of the Revised Rules on Criminal Procedure.<sup>40</sup>

In petitioner's Comment,<sup>41</sup> petitioner countered that by private respondents' act of entering into the Compromise Agreement, the Province of Bataan suffered a reduction of its ownership over the properties.<sup>42</sup> Petitioner likewise submitted that notwithstanding the RTC Makati's approval of the Compromise Agreement, the same did not preclude the Ombudsman from exercising its powers of investigation and prosecution, since it is the one empowered by the Constitution to investigate, on its own, or upon a complaint, any act or omission of any public official, employee, office or agency, when the same appears to be illegal, unjust, improper or inefficient. Petitioner also argued that this Court, in its order regarding the exploration of the possibility of a compromise agreement, did not require the parties to actually enter into one which is manifestly disadvantageous to the government.<sup>43</sup>

<sup>37</sup> Id. at 184-186. Emphasis supplied.

<sup>38</sup> Id. at 46.

<sup>39</sup> Id.

<sup>40</sup> Section 2, Rule 110 of the RULES OF COURT provides:

**SEC. 2. *The Complaint or information.*** — The complaint or information shall be in writing, in the name of the People of the Philippines and against all persons who appear to be responsible for the offense involved. (2a)

<sup>41</sup> *Rollo*, pp. 224-248.

<sup>42</sup> Id.

<sup>43</sup> Id. at 47.



In their Reply,<sup>44</sup> private respondents added that the Informations were capricious and whimsical with the exclusion of other provincial Board Members of Bataan who also signed the two Resolutions in question.<sup>45</sup>

In petitioner's Rejoinder, petitioner submits that prior to the Compromise Agreement, the Province of Bataan had a vested right and ownership over the subject properties. Petitioner further reasoned that the exclusion of other provincial Board Members were due to the fact that they were not included in those charged before it, and therefore could not be covered by the preliminary investigation.<sup>46</sup>

### *Ruling of the Sandiganbayan*

After trial on the merits, the Sandiganbayan, Third Division in its Resolution<sup>47</sup> dated August 7, 2009, found no probable cause to issue warrants of arrest against private respondents, and likewise dismissed the Informations filed against them. The dispositive portion of said Resolution reads:

Accordingly, the Informations in Crim. Case No. 08-CRM 0410 for violation of Sec. 3(e) of RA 3019 and 08-CRM 0411 for violation of Sec. 3(g) of RA 3019 are ordered DISMISSED. The conditional arraignment and pleas of not guilty entered by Accused Enrique Tuason Garcia, Jr. and Manuel Naval Beltran in connection with their Motion to Travel are hereby set aside.

**SO ORDERED.**<sup>48</sup>

In considering as the core issue whether or not the Province of Bataan had acquired a vested right over the subject properties ahead of the Compromise Agreement, which would determine whether said Agreement was in fact grossly disadvantageous to the interests of the Province of Bataan, the Sandiganbayan found that the Province of Bataan had no vested right over the subject properties at the time the Compromise Agreement was entered into, and therefore the Province of Bataan could not be said to have been prejudiced thereby.<sup>49</sup>

In finding that the Province of Bataan had no vested rights over the subject properties, the Sandiganbayan observed that the Republic's petition to annul the tax delinquency sale (Civil Case No. 212-ML), from which the Province of Bataan's alleged right over the properties could arise, had yet to be decided with finality.<sup>50</sup> In the same manner, the Sandiganbayan also noted that the case filed against Alberto Romualdez (Civil Case No. 0010), where the Republic sought the reconveyance of the subject properties in its favor,

<sup>44</sup> Id. at 262-276.

<sup>45</sup> Id.

<sup>46</sup> Id. at 48.

<sup>47</sup> Id. at 45-60.

<sup>48</sup> Id. at 58. Emphasis in the original.

<sup>49</sup> Id. at 54-55.

<sup>50</sup> Id. at 55.



also remains pending in the Sandiganbayan. The Sandiganbayan cited the Ombudsman's own admission during the hearing for determination of probable cause that the right of the Province of Bataan had not yet vested:

JUSTICE VILLARUZ, JR.

But you cannot just admit that the right of Bataan to the property has not yet been vested?

PROSECUTOR RAFAEL:

By virtue of the civil case, Your Honor. Yes, it is not yet definite.<sup>51</sup>

The Sandiganbayan held that considering that the rights of the Province of Bataan as owner of the subject properties had not been vested, the Ombudsman could not maintain that the Province of Bataan's ownership was 100%, that the same had been "reduced" by 49% by virtue of the Compromise Agreement, and that it could claim injury as a result of said reduction.<sup>52</sup> The Sandiganbayan further opined that it is even possible that the Province of Bataan could later be adjudged to have no entitlement over the subject properties in the pending case for annulment of the tax delinquency sale. In which event, by entering into the Compromise Agreement, the Province of Bataan would have, in effect, benefited therefrom. It added that a Compromise Agreement, when made as basis of a Judgment on Compromise by the courts, is accorded utmost respect, and has the force of *res judicata* between the parties therein.<sup>53</sup>

Proceeding from the above findings, the Sandiganbayan held that there was no probable cause for the issuance of the warrants of arrest against private respondents.<sup>54</sup>

Petitioner filed a Motion for Reconsideration,<sup>55</sup> and maintained that the Province of Bataan had already acquired vested rights to the subject properties,<sup>56</sup> and that the pendency of Civil Case No. 212-ML did not divest the Province of Bataan of said vested rights.<sup>57</sup>

The Sandiganbayan, in its Resolution<sup>58</sup> dated November 12, 2009, denied the Motion for Reconsideration for lack of merit.<sup>59</sup> It ruled that the subject properties were already involved in doubt or controversy even before the Province of Bataan allegedly acquired the right over the same. Particularly, it held that in 1986, the PCGG sequestered the subject properties,

<sup>51</sup> Id., citing Transcript of Stenographic Notes (TSN) dated December 8, 2008.

<sup>52</sup> Id. at 57.

<sup>53</sup> Id. at 57-58.

<sup>54</sup> Id. at 58.

<sup>55</sup> Id. at 68-79.

<sup>56</sup> Id. at 69.

<sup>57</sup> Id. at 70-71.

<sup>58</sup> Id. at 61-66.

<sup>59</sup> Id. at 62.



and to date, these same properties were the subject of pending proceedings before this Court for reconveyance to the Government.<sup>60</sup> In further negating the presence of vested rights in favor of the Province of Bataan, the Sandiganbayan reasoned:

It is undisputed that in Civil Case No. 212-ML, the RTC nullified and voided the tax sale of the BASECO properties as well as the Order cancelling the titled of the original owners and the issuance of new titles to the Province of Bataan. The RTC likewise ordered the cancellation of the TCTs in favor of the Province of Bataan and the reinstatement of the TCTs of the original owners. While the Decision of the RTC was subject of a Motion for Reconsideration which was granted, the latter Court called for further hearings for the reception of evidence. Subsequently, both the Government and the Province of Bataan elevated the case to the Supreme Court which required the parties to explore the possibility of a compromise agreement.

The TCTs issued to the Province of Bataan having been cancelled, albeit the Motion for Reconsideration has remained unresolved, Prosecution's reliance on the TCTs as being source of vested rights must fail.<sup>61</sup>

It further rejected petitioner's reliance on the existence of TCTs, elaborating instead that TCTs do not, by themselves, vest ownership, but merely evidence the same.<sup>62</sup> It likewise ruled that the existence of the TCTs did not preclude a dispute as to ownership.<sup>63</sup>

Hence, the instant Petition.

Petitioner now seeks a reversal of the Sandiganbayan Resolutions dated August 7, 2009 and November 12, 2009, and the revival of Criminal Cases Nos. SB-08-CRM-0410 and SB-08-CRM-0411<sup>64</sup> on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Sandiganbayan when: (1) it found no probable cause in the issuance of warrants of arrest against private respondents despite the fact that the latter ceded forty-nine percent (49%) of the properties of the Province of Bataan in favor of BASECO; (2) it failed to consider the temporary nature of the sequestration of the PCGG over the subject properties; and (3) it interfered with petitioner's exercise of discretion.<sup>65</sup>

Petitioner here once more argues that before the execution of the Compromise Agreement, the Province of Bataan enjoyed full ownership over the subject properties,<sup>66</sup> but that to its disadvantage, private respondents not only ceded 49% of the subject properties to BASECO, but that it likewise

<sup>60</sup> Id. at 63.

<sup>61</sup> Id. at 64.

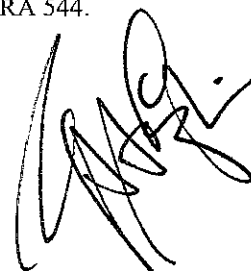
<sup>62</sup> Id. at 65, citing *Lee Tek Sheng v. Court of Appeals*, G.R. No. 115402, July 15, 1998, 292 SCRA 544.

<sup>63</sup> Id. at 66.

<sup>64</sup> Id. at 37.

<sup>65</sup> Id. at 22.

<sup>66</sup> Id. at 26.



surrendered ₱60,000,000.00 representing a substantial portion of the lease proceeds from said properties.<sup>67</sup> Petitioner also avers that the pendency of Civil Case No. 212-ML and Civil Case No. 0010 should not have been taken into consideration as they are immaterial in the Anti-Graft cases that were filed against private respondents.<sup>68</sup> Petitioner submits that private respondents acted in evident bad faith in entering into the Compromise Agreement since neither the PCGG nor BASECO had any valid claim against the subject properties.<sup>69</sup>

On the second ground of the Sandiganbayan's alleged failure to appreciate the temporary nature of sequestration proceedings, petitioner argues that should the sequestration order be determined as void in Civil Case No. 0010, or that otherwise the sequestered properties be determined to be not ill-gotten, then the Compromise Agreement effectively amounts to the ceding of the Province of Bataan's ownership over the subject properties.<sup>70</sup>

On the third and final ground of the Sandiganbayan's interference with petitioner's exercise of investigatory and prosecutorial power and discretion, petitioner maintains that a wide latitude is enjoyed by the Ombudsman, and the discretion to prosecute or dismiss a complaint filed before it is lodged with itself alone.<sup>71</sup>

In their Comment<sup>72</sup> dated April 12, 2010, private respondents, among others, counter that the present petition ought to be dismissed outright for being the wrong remedy to appeal a final order of the Sandiganbayan which dismissed the criminal cases against them.<sup>73</sup> They submit that the present petition was only resorted to because petitioner failed to seasonably interpose an appeal under Rule 45, and that an action for *certiorari* could not be used as a substitute for an appeal already lost.<sup>74</sup> They also argue that the Sandiganbayan did not commit grave abuse of discretion since it clearly provided the basis for its dismissal of the Informations — that there was no probable cause to issue warrants of arrest against them since the Compromise Agreement was, in fact, not grossly disadvantageous nor injurious to the interests of the Province of Bataan.<sup>75</sup> They also maintain that the prosecutorial power of the Ombudsman was correctly interfered with by the Sandiganbayan in this case since said power was used more for persecution than prosecution.<sup>76</sup> Finally, they reiterate that the Compromise Agreement was not disadvantageous to the Province of Bataan, since the latter enjoyed no vested rights.<sup>77</sup>

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<sup>67</sup> Id. at 25.

<sup>68</sup> Id. at 26-29.

<sup>69</sup> Id. at 29.

<sup>70</sup> Id. at 34-35.

<sup>71</sup> Id. at 35.

<sup>72</sup> Id. at 224-248.

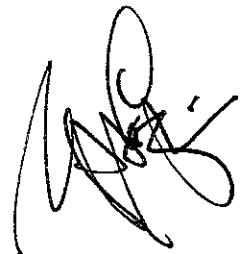
<sup>73</sup> Id. at 225.

<sup>74</sup> Id. at 230-231.

<sup>75</sup> Id. at 233-234.

<sup>76</sup> Id. at 237-238.

<sup>77</sup> Id. at 241-242.



In petitioner's Reply<sup>78</sup> dated December 20, 2010, petitioner adds that the petition for *certiorari* under Rule 65 was the proper remedy in this case, since the appeal under Rule 45 was insufficient to correct errors of jurisdiction.<sup>79</sup> Petitioner likewise maintains that the Province of Bataan enjoyed vested rights which were injured by the terms of the Compromise Agreement.<sup>80</sup>

### *Issue*

The sole issue for the Court's resolution is whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding no probable cause for the issuance of warrants of arrest against private respondents, and dismissing the Informations against the latter in Criminal Cases Nos. SB-08-CRM-0410 and SB-08-CRM-0411.

### *The Court's Ruling*

The petition lacks merit and the Court sustains the Sandiganbayan.

First, the Court agrees with private respondents' submission that petitioner availed of the wrong remedy with the filing of the instant petition for *certiorari* under Rule 65 of the Rules of Court. Considering that the Resolution of the Sandiganbayan which dismissed the Informations against private respondents was a final order<sup>81</sup> that finally disposed of the case, the proper remedy therefrom is a petition for review under Rule 45 of the Rules of Court, Section 1 of which provides:

**SECTION 1. *Filing of petition with Supreme Court.*** — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth. (1a, 2a)

In addition, Section 2 of the same Rule provides for the period within which to file the appeal:

<sup>78</sup> Id. at 262-276.

<sup>79</sup> Id. at 264.

<sup>80</sup> Id. at 269.

<sup>81</sup> Sec. 7 of Presidential Decree No. (P.D.) 1606, as amended by Sec. 3 of R.A. 7975, states:

**Section 7. *Form, Finality and Enforcement of Decisions.*** —

x x x x

Decisions and final orders of the *Sandiganbayan* shall be appealable to the Supreme Court by petition for review on *certiorari* raising pure questions of law in accordance with Rule 45 of the Rules of Court. Whenever, in any case decided by the *Sandiganbayan*, the penalty of *reclusion perpetua*, life imprisonment or death is imposed, the decision shall be appealable to the Supreme Court in the manner prescribed in the Rules of Court.

x x x x.

**SEC. 2. Time for filing; extension.** — The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition. (1a, 5a)

In the case at bar, it appears that petitioner resorted to the special civil action of *certiorari* because petitioner failed to seasonably interpose an appeal. To note, the Sandiganbayan issued its Resolution on August 7, 2009. Petitioner filed a motion for reconsideration thereof on August 28, 2009, but the same was denied *via* the Sandiganbayan's Resolution dated November 12, 2009, a copy of which was received by petitioner on November 16, 2009.

Petitioner's remedy at that point should have been to file a petition for review on *certiorari* under Rule 45 before this Court, and, reckoning the 15-day period to file the same from receipt of the Resolution, petitioner had until December 1, 2009 to file said petition for *certiorari* before this Court. Instead, petitioner filed the instant petition for *certiorari* under Rule 65 on January 19, 2010 or 48 days after the lapse of the reglementary period within which to file an appeal *via* petition for review on *certiorari*. Petitioner resorted to the instant special civil action after failing to appeal within the 15-day reglementary period, and the same may not be allowed for, as the Court has held before, the special civil action of *certiorari* cannot be used as a substitute for an appeal which petitioner already lost.<sup>82</sup>

A special civil action for *certiorari* under Rule 65 lies only when there is no appeal nor plain, speedy, and adequate remedy in the ordinary course of law and the same may not be entertained when a party to a case fails to appeal a judgment or final order despite the availability of that remedy. The remedies of appeal and *certiorari* are mutually exclusive and not alternative or successive.<sup>83</sup>

In this case, petitioner failed to demonstrate that the issue being raised in the present petition, *i.e.*, whether or not the Sandiganbayan committed grave abuse of discretion in dismissing the Informations in Criminal Cases

<sup>82</sup> See *The President, Philippine Deposit Insurance Corporation v. Court of Appeals*, G.R. No. 151280, June 10, 2004, 431 SCRA 682, 688; *Leynes v. Former Tenth Division of the Court of Appeals*, G.R. No. 154462, January 19, 2011, 640 SCRA 25, 42; *Active Realty and Development Corporation v. Fernandez*, G.R. No. 157186, October 19, 2007, 537 SCRA 116, 130; *Icdang v. Sandiganbayan (Second Division)*, G.R. No. 185960, January 25, 2012, 664 SCRA 253, 264; *International Exchange Bank v. Court of Appeals*, G.R. No. 165403, February 27, 2006, 483 SCRA 373, 380.

<sup>83</sup> See *Agus Dwikarna v. Domingo*, G.R. No. 153454, July 4, 2004, 433 SCRA 748, 754; *Marawi Marantao General Hospital, Inc. v. Court of Appeals*, G.R. No. 141008, January 16, 2001, 349 SCRA 321, 323-333; *Heirs of Pedro Atega v. Garilao*, G.R. No. 133806, April 20, 2001, 357 SCRA 203, 206; *Zarate, Jr. v. Olegario*, G.R. No. 90655, October 7, 1996, 263 SCRA 1, 9; *Solis v. National Labor Relations Commission*, G.R. No. 116175, October 28, 1996, 263 SCRA 629, 633-634; *People v. Sandiganbayan*, G.R. No. 156394, January 21, 2005, 449 SCRA 205, 216.

Nos. SB-08-CRM-0410 and SB-08-CRM-0411, could not have been raised on appeal.

Finally on this point, although the Court has, in some instances, treated petitions for *certiorari* under Rule 65 as having been filed under Rule 45 in the interest of justice,<sup>84</sup> the same may not be afforded petitioner in this case since the instant petition was filed after the lapse of the period for the filing of a petition for review.<sup>85</sup>

Second, even on the ground invoked by petitioner, *i.e.*, that the Sandiganbayan committed grave abuse of discretion in dismissing the Informations filed against private respondents, the present petition must still be denied.

Private respondents here were charged before the Sandiganbayan with violations of Section 3(e) and (g) of R.A. 3019 which provides:

**Section 3. Corrupt practices of public officers.** — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

x x x x

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

x x x x

The sole issue of contention here is whether the Sandiganbayan committed grave abuse of discretion in holding that, given the protracted factual history of the present controversy, there was no probable cause to hold private respondents guilty of unlawful acts under Section 3(e) and (g) of R.A. 3019. The precursor of this question goes into the very nature and effect of the Compromise Agreement which private respondents entered into on behalf

<sup>84</sup> *Republic v. Court of Appeals*, G.R. No. 129846, January 18, 2000, 322 SCRA 81, 87; *Delsan Transport Lines, Inc. v. Court of Appeals*, G.R. No. 112288, February 20, 1997, 268 SCRA 597, 605; *People v. Sandiganbayan*, G.R. No. 156394, January 21, 2005, 449 SCRA 205, 217.

<sup>85</sup> *Heirs of Lourdes Potenciano Padilla v. Court of Appeals*, G.R. No. 147205, March 10, 2004, 425 SCRA 236, 242.

of the Province of Bataan. This query, in turn, traces its roots back to the original issue of whether the Province of Bataan did, in fact and in law, enjoy vested rights over the subject properties as petitioner here claims.

There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be equivalent to lack of jurisdiction.<sup>86</sup> The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.<sup>87</sup>

After a thoughtful and circumspect evaluation of the entire records of the case at bar, the Court finds that the Sandiganbayan did not commit grave abuse of discretion in dismissing the Informations against private respondents. In finding no grave abuse, the Court finds: (1) that at the time private respondents entered into the Compromise Agreement, the Province of Bataan did not enjoy any vested right over the subject properties, and therefore, private respondents could not have injured a right or interest that did not exist; and (2) that private respondents' decision to negotiate and enter into the Compromise Agreement with the PCGG and BASECO is their collective judgment call pursuant to the corporate powers of the local government unit, and may not be interfered with absent competent proof showing any ill motive on the part of private respondents.

*Province of Bataan without a vested right over the subject properties*

The absence of a vested right over the subject properties in favor of the Province of Bataan rises on two levels of pendency of issues and inconclusiveness of rights, given the pendency of Civil Case No. 212-ML (annulment of tax sale) and Civil Case No. 0010 (sequestration case).

*First*, the validity of the tax delinquency sale which transferred the title over the subject properties from BASECO to the Province of Bataan remains in question, as the PCGG's petition for annulment of said tax sale is still pending with the RTC Makati in Civil Case No. 212-ML. To date and as far as the records show, the last resolution made in this case is the RTC Makati recalling its Summary Judgment and ordering further reception of evidence

<sup>86</sup> *People v. Court of Appeals*, G.R. No. 144332, June 10, 2004, 431 SCRA 610, 616; *Rodson Philippines, Inc. v. Court of Appeals*, G.R. No. 141857, June 9, 2004, 431 SCRA 469, 480; *Matugas v. Commission on Elections*, G.R. No. 151944, January 20, 2004, 420 SCRA 365, 378; *Tomas Claudio Memorial College, Inc. v. Court of Appeals*, G.R. No. 152568, February 16, 2004, 423 SCRA 122, 133; *Condo Suite Club Travel, Inc. v. NLRC*, G.R. No. 125671, January 28, 2000, 323 SCRA 679, 686-687.

<sup>87</sup> *Batabor v. Commission on Elections*, G.R. No. 160428, July 21, 2004, 434 SCRA 630, 634; *Duero v. Court of Appeals*, G.R. No. 131282, January 4, 2002, 373 SCRA 11, 17; *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, August 11, 2004, 436 SCRA 123, 133, citing *Cuison v. Court of Appeals*, 351 Phil. 1089, 1102 (1998); *Lalican v. Vergara*, 342 Phil. 485, 495 (1997); *Pure Foods Corporation v. National Labor Relations Commission*, G.R. No. 78591, March 21, 1989, 171 SCRA 415, 426; *Palma v. Q & S Inc.*, 123 Phil. 958, 960 (1966).



for the PCGG. There is therefore, as yet no final determination of whether the transfer of the subject properties to the Province of Bataan was valid, to begin with. It is also important to note that from the RTC Makati's Order for reception of evidence for the PCGG, both the Province of Bataan and the PCGG resorted to this Court and, upon the Court's instruction, eventually entered into the Compromise Agreement.

Contrary to petitioner's submission, therefore, the right of the Province of Bataan over the subject properties is far from vested. Instead, said right over the subject properties has always been in dispute.

*Second*, even if a finding of a vested right in favor of the Province of Bataan is obtained in Civil Case No. 212-ML, such right nevertheless remains subject to the pendency and resolution of the 1986 sequestration case in Civil Case No. 0010, which covers BASECO properties including the subject properties in the case at bar. With the sequestration order annotated in the memorandum of encumbrances in the TCTs issued in favor of BASECO, the final resolution of the sequestration case therefore remains a legal caveat to all parties who may deal with the subject properties.

In *Philippine Overseas Telecommunications Corporation (POTC) v. Sandiganbayan (3rd Division)*,<sup>88</sup> the Court explained the necessary as well as provisional nature of sequestration, *viz.*:

To effectively recover all ill-gotten wealth amassed by former President Marcos and his cronies, the President granted the PCGG, among others, power and authority to sequester, provisionally take over or freeze suspected ill-gotten wealth. The subject of the present case is the extent of PCGG's power to sequester.

Sequestration is the means to place or cause to be placed under the PCGG's possession or control properties, building or office, including business enterprises and entities, for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving the same until it can be determined through appropriate judicial proceedings, whether the property was in truth "ill-gotten."

However, the power of the PCGG to sequester is merely provisional. None other than Executive Order No. 1, Section 3(c) expressly provides for the provisional nature of sequestration, to wit:

c) To **provisionally** take over in the public interest or to prevent its disposal or dissipation, business enterprises and properties taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos, until the transactions leading to such acquisition by the latter can be disposed of by the appropriate authorities.<sup>89</sup>

<sup>88</sup> G.R. No. 174462, February 10, 2016, 783 SCRA 425.

<sup>89</sup> Id. at 441-442. Emphasis supplied.



In the case of *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government*,<sup>90</sup> the Court elucidated on the effect of the sequestration proceedings over the properties sequestered:

x x x Nor may it be gainsaid that pending the institution of the suits for the recovery of such “ill-gotten wealth” as the evidence at hand may reveal, there is an obvious and imperative need for preliminary, provisional measures to prevent the concealment, disappearance, destruction, dissipation, or loss of the assets and properties subject of the suits, or to restrain or foil acts that may render moot and academic, or effectively hamper, delay, or negate efforts to recover the same.

7. *Provisional Remedies Prescribed by Law*

To answer this need, the law has prescribed three (3) provisional remedies. These are: (1) sequestration; (2) freeze orders; and (3) provisional takeover.

Sequestration and freezing are remedies applicable generally to unearthed instances of “ill-gotten wealth.” The remedy of “provisional takeover” is peculiar to cases where “business enterprises and properties (were) taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos.”

a. *Sequestration*

By the clear terms of the law, the power of the PCGG *to sequester property* claimed to be “ill-gotten” means to place or cause to be placed under its possession or control said property, or any building or office wherein any such property and any records pertaining thereto may be found, including “business enterprises and entities,” — for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving, the same — until it can be determined, through appropriate judicial proceedings, whether the property was in truth “ill-gotten,” [*i.e.*], acquired through or as a result of improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection or influence, resulting in unjust enrichment of the ostensible owner and grave damage and prejudice to the State. And this, too, is the sense in which the term is commonly understood in other jurisdictions.<sup>91</sup>

In the case at bar, the Province of Bataan’s ownership over the subject properties, apart from it being disputed in Civil Case No. 212-ML, is likewise still subject to the resolution of the sequestration case in Civil Case No. 0010.

Given these two tiers of pendency of determination of rights which cover the subject properties, the Province of Bataan cannot be deemed to have enjoyed vested rights over the same. Contrary to petitioner’s reasoning, Civil Case No. 212-ML and Civil Case No. 0010 are *not* immaterial to the validity

<sup>90</sup> G.R. No. 75885, May 27, 1987, 150 SCRA 181.

<sup>91</sup> *Id.* at 208-209. Italics in the original.



and propriety of the Compromise Agreement, as they are tightly interwoven with the issue at hand.

More so, the Province of Bataan may not be considered to have enjoyed vested rights so certain that a reduction of the same could support a criminal prosecution, as in this case. Once more, since the Province of Bataan did not have a right *in esse* over the subject properties, its interest could not be said to have been so permanent that the concessions made by it in the Compromise Agreement were grossly disadvantageous to its interests as to merit the criminal prosecution of private respondents for violation of Section 3(e) and (g) of R.A. 3019. The Sandiganbayan, therefore, ruled well within its jurisdiction when it determined lack of probable cause in the issuance of warrants of arrest against private respondents, and dismissed the Informations in the face of apparent absence of legal ground to stand on.

Lastly, the issue of propriety and good faith in private respondents' act of entering into the Compromise Agreement was not an isolated incident that only took into consideration the duties of their public office *vis-à-vis* the property interests of their province. Contrarily, said question found itself within a farsighted and complex context of other simultaneous legal disputes that included the validity of a tax sale and the more penultimate dispute of sequestration and recovery of suspected ill-gotten wealth.

Since the propriety of the terms of the Compromise Agreement rise and fall on the nature of the right that the Province of Bataan enjoyed over the subject properties, and since said right has been adjudged as questionable or otherwise in dispute, the criminal prosecution of herein private respondents stand on shifting factual grounds, and was therefore correctly dismissed.

*Entering into the Compromise Agreement is within the corporate powers of the local government unit represented by private respondents*

Private respondents' act of authorizing, entering into and ratifying the Compromise Agreement are well within their authorities under R.A. 7160.<sup>92</sup> Contrary to the evident bad faith or gross negligence that Section 3(e) requires, the records reveal that private respondents considered entering into the Compromise Agreement in order to settle the longstanding case once and for all, and secure for the province a majority interest over the subject properties that, otherwise, would have remained in legal limbo. The whereas clause of the *Sangguniang Panlalawigan's* Resolution No. 38, which authorized private respondent Garcia to negotiate the said Compromise Agreement, provides for private respondents' purpose, to wit:

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<sup>92</sup> Otherwise known as the LOCAL GOVERNMENT CODE.



“WHEREAS, the Province of Bataan acquired the sequestered BASECO properties located in Mariveles, Bataan, covered by T.C.T. Nos. T-128452, T-128453, T-128454, T-128455, T-128456, T-128457, T-128458, T-128459 and T-128460, through a tax auction sale on February 12, 1988 for non-payment of real property tax;

WHEREAS, the PCGG and BASECO contested the said auction sale and filed Civil Case No. 212-ML;

WHEREAS, the incidents in the said Civil Case were raised to the Supreme Court through petitions for [*certiorari*] in G.R. Nos. 151237 and 159199;

**WHEREAS, the foregoing case has been pending for more than TWELVE (12) YEARS now without any indication of resolution in the near future;**

**WHEREAS, the Supreme Court in its Order dated 22 June 2005 in G.R. Nos. 151237 and 159199, required the parties therein to explore the possibility of a compromise settlement;**

**WHEREAS, an equitable conclusion of the claims of the parties involved will serve both the interests of the Province of Bataan and its constituents, and that of the nation as a whole;**

x x x x.<sup>93</sup>

As can be discerned in the above whereas clauses, the impetus of private respondents in authorizing private respondent Garcia to enter into the Compromise Agreement is the farsighted view of what may predictably be a long-drawn litigation over the subject properties, without any assurance that the interest of the province would prevail. Conceivably, therefore, what becomes more evident is that private respondents entered into the Compromise Agreement in order to secure and guarantee the province's interest, against the prospect of protracted uncertainty. Without showing any evil motive on the part of private respondents, this act appears to be in full consonance with their sworn duties and authority.

Specifically, Section 468(a) of R.A. 7160 authorizes the *Sangguniang Panlalawigan* to pass resolutions and ordinances for the welfare of the province, *viz.*:

SECTION 468. *Powers, Duties, Functions and Compensation.* – (a) The [*Sangguniang Panlalawigan*], as the legislative body of the province, shall enact ordinances, **approve resolutions** and appropriate funds **for the general welfare of the province and its inhabitants** pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code x x x. (Emphasis supplied)

Demonstrably, private respondents' objective of securing on behalf of the Province of Bataan majority interest over the subject properties falls

<sup>93</sup> *Rollo*, pp. 161-162. Emphasis supplied.

squarely within the definition of protecting the “general welfare” of their constituents, as defined under Section 16 of R.A. 7160:

SECTION 16. *General Welfare.* – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Still more, private respondents’ act of entering into the Compromise Agreement with the purpose of ensuring the general welfare of the province by guaranteeing the province’s proprietary interest over the subject properties is most consistent with the authorities granted to their offices under Sections 18 and 22 of R.A. 7160, on generating and applying resources and their corporate powers, respectively, to wit:

SECTION 18. *Power to Generate and Apply Resources.* – Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of any further action; to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits; **to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions** and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals. (Emphasis supplied)

SECTION 22. *Corporate Powers.* – (a) Every local government unit, as a corporation, shall have the following powers:

- (1) To have continuous succession in its corporate name;
- (2) To sue and be sued;
- (3) To have and use a corporate seal;
- (4) To acquire and convey real or personal property;
- (5) To enter into contracts; and



**(6) To exercise such other powers as are granted to corporations, subject to the limitations provided in this Code and other laws.**

(b) Local government units may continue using, modify, or change their existing corporate seals: *Provided*, That newly established local government units or those without corporate seals may create their own corporate seals which shall be registered with the Department of the Interior and Local Government: *Provided, further*, That any change of corporate seal shall also be registered as provided hereon.

**(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the [Sanggunian] concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.**

**(d) Local government units shall enjoy full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises, subject to the limitations provided in this Code and other applicable laws. (Emphasis supplied)**

In order to challenge and interfere with this corporate prerogative of the local government unit, ill motive must be shown. To be sure, such ill motive was not shown, much less alleged, in petitioner's submissions. What's more, the Court finds that the records of the case at bar are bereft of any showing of ill motive that may have underpinned private respondents' act of negotiating and entering into the Compromise Agreement. Absent a showing of such, the *Sangguniang Panlalawigan's* exercise of its discretion in authorizing private respondent Garcia, as the local chief executive, to negotiate and enter into the Compromise Agreement may not be made a basis for criminal prosecution.

The importance of affording local government units with a wide latitude through a liberal interpretation of the "general welfare" clause under Section 16 of R.A. 7160, was iterated in *Ferrer, Jr. v. Bautista*:<sup>94</sup>

The general welfare clause is the delegation in statutory form of the police power of the State to LGUs. **The provisions related thereto are liberally interpreted to give more powers to LGUs in accelerating economic development and upgrading the quality of life for the people in the community. Wide discretion is vested on the legislative authority to determine not only what the interests of the public require but also what measures are necessary for the protection of such interests since the Sanggunian is in the best position to determine the needs of its constituents.**<sup>95</sup>

<sup>94</sup> G.R. No. 210551, June 30, 2015, 760 SCRA 652.

<sup>95</sup> Id. at 713. Emphasis supplied.

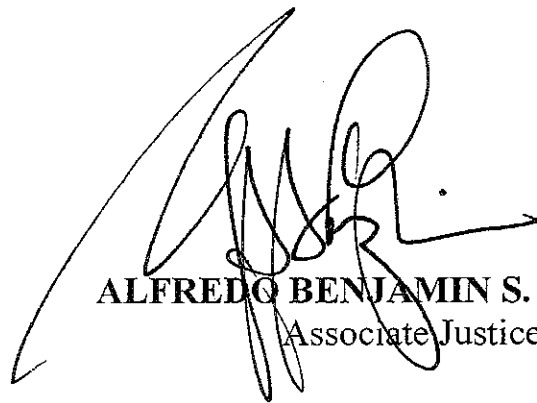


Stated differently, local chief executives and local legislative bodies are necessarily given enough elbow room to navigate and respond to the different community-based needs and challenges that vary per constituency. The crucial flexibility of these offices, designed no less by R.A. 7160, is defeated when each decision that they make on behalf of their constituency pursuant to their corporate powers are constantly threatened by prospects of criminal backlash after the fact.

Absolutely, public office being a public trust, elected officials must be made to account for any failure, irregularity or corruption in the discharge of the duties of their office. However, absent clear proof of ill motive, these criminal prosecutions achieve no more than paralyze locally elected officials into inaction, shortchange the people, and straitjacket public service. This could not be farther from what R.A. 7160 intended. Absent proof of nefarious motives, local elective officials must, as was intended, be given the space they need to capably step into the shoes of the public offices they have been elected to, without the constant fear of a Damocles sword hanging over their heads.

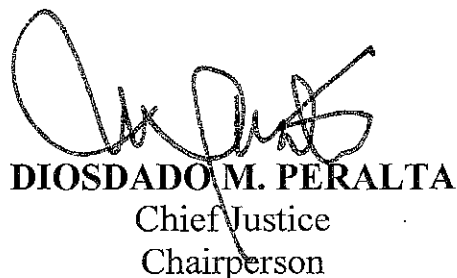
**WHEREFORE**, the instant Petition is **DISMISSED**. The Sandiganbayan, Third Division Resolutions dated August 7, 2009 and November 12, 2009 in Criminal Cases Nos. SB-08-CRM-0410 and SB-08-CRM-0411 are hereby **AFFIRMED**.

**SO ORDERED.**



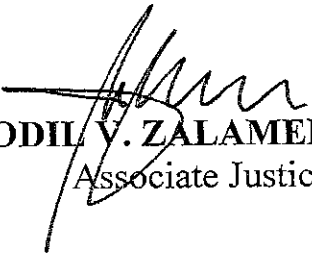
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:




**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson

(On official leave)  
**ROSMARI D. CARANDANG**  
Associate Justice



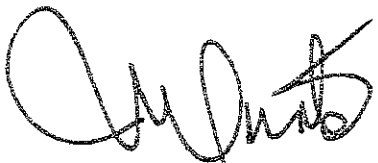
**RODIL V. ZALAMEDA**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice

