



Republic of the Philippines
Supreme Court
Manila

EN BANC

RE: COMPLAINT OF A.M. OCA IPI No. 10-25-SB-J
LEONARDO A. VELASCO
AGAINST ASSOCIATE
JUSTICES FRANCISCO H.
VILLARUZ, JR., ALEX L.
QUIROZ, AND SAMUEL R.
MARTIRES OF THE
SANDIGANBAYAN.

Present:
SERENO, *CJ.*
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,**
BRION,*
PERALTA,**
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

Promulgated:

JANUARY 15, 2013

X-----X

DECISION

PERLAS-BERNABE, *J.*:

Before the Court is an administrative complaint filed by Leonardo A. Velasco against the respondents, Honorable Associate Justices Francisco H. Villaruz, Jr. (Justice Villaruz, Jr.), Alex L. Quiroz (Justice Quiroz), and Samuel R. Martires (Justice Martires) of the Third Division of the

* On leave.

** No part.

Sandiganbayan for grave misconduct and violation of the Code of Judicial Conduct.

The Facts

On December 10, 2008, the Third Division of the Sandiganbayan, then composed of respondent Justice Villaruz, Jr. as Chairman and Associate Justices Efren N. Dela Cruz and Norberto Y. Geraldez as Members, rendered a Decision¹ convicting accused Pacifico C. Velasco² (accused Velasco) in Criminal Case No. 27564 for violation of Section 3(e) of Republic Act (RA) No. 3019.³ The *fallo* of the Decision reads:

WHEREFORE, this court finds MAYOR PACIFICO C. VELASCO **GUILTY**, beyond reasonable doubt, for violation of Section 3 (e) of R.A. 3019, and is hereby sentenced to suffer the penalty of:

(I.) Imprisonment of, after applying the Indeterminate Sentence Law, six (6) years and one (1) month as minimum, up to eight (8) years, as maximum; and,

(II.) Perpetual Disqualification from Public Office.

SO ORDERED.

Accused Velasco sought its reconsideration, which the Sandiganbayan denied in its March 13, 2009 Resolution.⁴ He, then, elevated the case before the Court *via* a petition for review on *certiorari*, docketed as G.R. No. 187277, which was denied in a minute resolution⁵ dated June 3, 2009. His motion for reconsideration was also denied in the Resolution dated August 17, 2009 which further contained a directive that no further pleadings shall be entertained and that entry of judgment be made in due course.

¹ *Rollo*, pp. 47-56.

² Former Municipal Mayor of Bacarra, Ilocos Norte.

³ Otherwise known as the Anti-Graft and Corrupt Practices Act.

⁴ *Rollo*, pp. 57-59.

⁵ *Id.* at 60.

Subsequently, accused Velasco filed a motion for leave to file and to admit a second motion for reconsideration of the Court's June 3, 2009 Resolution, which the Court merely noted without action in its January 11, 2010 Resolution.⁶ The Court's June 3, 2009 Resolution became final and executory on September 25, 2009.⁷

Notwithstanding, however, the finality of accused Velasco's conviction, the execution of his sentence did not immediately take place due to the numerous motions and pleadings he subsequently filed.

On May 26, 2010,⁸ in the hearing for the execution of accused Velasco's sentence before the Sandiganbayan, his counsel manifested that he was confined at the San Juan De Dios Hospital in Pasay City and was due for surgery. The hearing was reset to June 9, 2010 upon agreement of the parties, with a directive to accused Velasco's attending physician to submit a medical bulletin relative to his physical fitness. Nonetheless, a warrant of arrest was issued, but as agreed by the parties, accused Velasco shall remain in the hospital until further order by the Sandiganbayan. By this time, the Third Division of the Sandiganbayan was already composed of respondents Justice Villaruz, Jr., Justice Quiroz and Justice Martires (Sandiganbayan Justices).

Thereafter or on June 9, 2010, accused Velasco filed an Urgent Motion to Recall Warrant of Arrest,⁹ invoking humanitarian consideration, having allegedly just undergone a rigid and serious surgical operation. However, the Sandiganbayan Justices, on June 17, 2010, instead issued an

⁶ Id. at 61-62.

⁷ Id. at 63.

⁸ Id. at 64.

⁹ Id. at 70-72.

Order of Arrest¹⁰ which they eventually recalled¹¹ on June 25, 2010, conditioned on the posting of a bail bond in the amount of ₱30,000.00.

On September 30, 2010, the Sandiganbayan Justices set aside¹² their earlier order *recalling* the warrant of arrest and issued anew an Order of Arrest¹³ for failure of accused Velasco to attend the hearing of even date.

Subsequently, or on November 15, 2010, accused Velasco filed a Motion to Defer Promulgation of Sentence, to Suspend Proceedings and/or Recall Warrant of Arrest¹⁴ claiming, once again, that he had just undergone a major operation necessitating hospitalization and post-operation treatment. He also averred that he had filed, on even date, a petition for *certiorari*, prohibition and mandamus before the Court, docketed as G.R. No. 194263, to restrain the execution of judgment, and prayed that his motion be granted pending action on his petition.

On January 17, 2011, during the rescheduled hearing for the execution of the judgment, the Sandiganbayan Justices ordered¹⁵ the issuance of a warrant of arrest for failure of accused Velasco to appear despite due notice and the forfeiture of his cash bond.

On March 9, 2011, the Court dismissed the petition filed by accused Velasco in G.R. No. 194263¹⁶ and on March 30, 2011, noted without action his second supplement to petition and urgent motion to resolve his petition

¹⁰ Id. at 65.

¹¹ Id.

¹² Id. at 68.

¹³ Id. at 69.

¹⁴ Id. at 73-75.

¹⁵ Id. at 77.

¹⁶ Id. at 89.

for *certiorari*.¹⁷ Accused Velasco filed a motion for reconsideration and the prosecution was given until February 6, 2012 to file its comment.¹⁸

Meanwhile, in another hearing before the Sandiganbayan Justices on January 18, 2012, accused Velasco was directed to post a new cash bail bond in the amount of ₱70,000.00 on the verbal motion of his counsel, and the hearing was reset once more to March 19, 2012.¹⁹

Hence, the instant administrative complaint²⁰ for grave misconduct and violation of the Code of Judicial Conduct filed by Leonardo A. Velasco (complainant Velasco) against the Sandiganbayan Justices. In his verified complaint, complainant Velasco asserts that, the conviction of accused Velasco having attained finality on September 25, 2009, the Sandiganbayan Justices should have merely performed the ministerial duty of executing his final sentence of conviction and not entertained his motions or pleadings that forestalled its execution. In doing so, they have shown evident partiality, bias and impropriety in favor of accused Velasco.

In their Comment,²¹ the Sandiganbayan Justices claimed that the repeated resetting of the hearings for the execution of judgment against accused Velasco was mainly due to medical reasons and the pendency of incidents before the Court. Vehemently denying that their questioned orders were issued to unduly favor accused Velasco, they insisted that these were prompted by circumstances which were not at their instance and that the instant complaint consists of unfounded allegations and suspicions of partiality. They also argued that since accused Velasco had already been

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 39-46.

²¹ Id. at 113-123.

committed to the national penitentiary on May 10, 2012, this case is now moot and academic and therefore, should be dismissed.

Issue Before The Court

The sole issue to be determined by the Court is whether the respondent Sandiganbayan Justices may be held administratively liable for their actions which unduly delayed the execution of the final sentence of conviction of accused Velasco.

The Court's Ruling

After a judicious review of the records, the Court finds no grave misconduct or violation of a specific provision of the Code of Judicial Conduct to have been committed by the Sandiganbayan Justices.

“Misconduct means intentional wrongdoing or deliberate violation of a rule of law or a standard of behavior.²² To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions of a public officer.²³ In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of an established rule must be established.”²⁴

²² *Salazar v. Barriga*, A.M. No. P-05-2016, April 19, 2007, 521 SCRA 449, 453.

²³ *Civil Service Commission v. Belagan*, 483 Phil. 601, 623 (2004).

²⁴ *Narvasa v. Sanchez, Jr.*, G.R. No. 169449, March 26, 2010, 616 SCRA 586, 591, citing *Civil Service Commission v. Lucas*, 361 Phil. 486, 490-491 (1999).

In this case, the actions of the Sandiganbayan Justices respecting the execution of the final judgment against accused Velasco were shown to be in respectful deference to the Court's action on the various petitions filed by the former, who apparently exhausted what he perceived were valid available remedies under the law. Records are bereft of evidence showing any trace of corruption, clear intent to violate the law or flagrant disregard of the rules as to hold them administratively liable for grave misconduct.

However, the becoming modesty that the Sandiganbayan Justices have exhibited in this case cannot detract from the fact that the judgment of conviction of accused Velasco should have been immediately executed, absent any restraining order from the Court, in violation of the Court's directive in A.M. Circular No. 07-7-12-SC,²⁵ adopting amendments to Rule 65 of the Rules of Court, *inter alia*. Thus, Section 7 of Rule 65 now states:

SEC. 7. *Expediting proceedings; injunctive relief.* – The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case, unless a temporary restraining order or a writ of preliminary injunction has been issued, enjoining the public respondent from further proceeding with the case.

The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, *absent a temporary restraining order or a preliminary injunction*, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge. (Emphasis supplied)

Thus, judicial courtesy may no longer be invoked by the Sandiganbayan Justices in the execution of the final judgment against


²⁵ Amendments to Rules 41, 45, 58 and 65 of the Rules of Court (2007).

accused Velasco. This lapse in judgment on the part of the Sandiganbayan Justices deserves admonition.

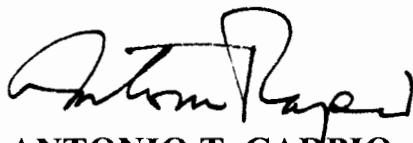
WHEREFORE, Honorable Associate Justices Francisco H. Villaruz, Jr., Alex L. Quiroz, and Samuel R. Martires of the Third Division of the Sandiganbayan are hereby **ADMONISHED** to be more circumspect and prudent in observing the proper rules and procedures for the execution of judgments of conviction in the absence of restraining orders or injunctive writs from the Court. They are **STERNLY WARNED** that repetition of the same or similar acts will be dealt with more severely.


Let a copy of this Decision be attached to respondents Justices' records with this Court.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice

*No part as two respondents are my former
callejeros in the Sandiganbayan
Luisa Leonardo de Castro*
TERESITA J. LEONARDO-DE CASTRO

Associate Justice

*No part previously inhibited in
the main case in the Sandiganbayan*

Diosdado M. Peralta
DIOSDADO M. PERALTA

Associate Justice

On leave
ARTURO D. BRION

Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN

Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO

Associate Justice

Roberto A. Abad
ROBERTO A. ABAD

Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.

Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ

Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA

Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES

Associate Justice

Marvic Mario Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN

Associate Justice