



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CYNTHIA G. MORENO,
Petitioner,

G.R. No. 256070

Present:

- versus -

CAGUIOA, J., *Chairperson,*
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

SANDIGANBAYAN [FIRST
DIVISION] and PEOPLE OF
THE PHILIPPINES,
Respondents.

Promulgated:

September 19, 2022

X-----~~Misprobat~~-----X

RESOLUTION

INTING, J.:

Before the Court is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court seeking to annul the Resolution² dated December 17, 2020 of the Sandiganbayan, First Division (Sandiganbayan) in Criminal Case No. SB-10-CRM-0236.³ The Sandiganbayan denied the Motion to Serve Sentence Under Home Care/House Arrest⁴ (Motion) filed by Cynthia G. Moreno (petitioner). Likewise assailed is the Sandiganbayan's Resolution⁵ dated March 9, 2021 denying petitioner's Motion for Reconsideration.

The Antecedents

Petitioner used to be the mayor of Aloguinsan, Cebu for twelve

¹ *Rollo*, pp. 3-27.

² *Id.* at 28-37. Penned by Associate Justice Efren N. De La Cruz and concurred in by Associate Justices Geraldine Faith A. Econg and Edgardo M. Caldon.

³ See *id.* at 44, 112.

⁴ *Id.* at 44-53.

⁵ *Id.* at 38-43.

(12) years, and was the incumbent mayor when she was indicted⁶ together with Pepito A. Manguilimotan, Nonela N. Villegas, Marilyn P. Flordeliza, Gertrudes D. Ababon, John D. Lim, Emilia Luz B. Celis, and Orven M. Nengasca for violation of Section 3(e)⁷ of Republic Act No. (RA) 3019, otherwise known as the Anti-Graft and Corrupt Practices Act in Criminal Case No. SB-10-CRM-0236.⁸

On June 5, 2014, all the accused in Criminal Case No. SB-10-CRM-0236, including petitioner, were found guilty of violation of Section 3(e) of RA 3019, and were sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office. Petitioner and her co-accused filed a joint Motion for Reconsideration, but this was denied by the Sandiganbayan on August 28, 2014 for lack of merit.⁹

Petitioner and her co-accused, filed before the Court a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court which was docketed as G.R. No. 214117 and entitled *Cynthia G. Moreno, et al. vs. People of the Philippines*. The Court denied the foregoing Petition in a Resolution dated December 1, 2014. They filed a motion for the reconsideration which was denied with finality in the Resolution dated November 9, 2015.¹⁰

Thereafter, petitioner and her co-accused, filed a Petition for Relief from Judgment in Criminal Case No. SB-10-CRM-0236, but this was denied by the Sandiganbayan in the Resolution dated January 9, 2017. They filed a joint Motion for Reconsideration which was also denied on March 24, 2017 for lack of merit.¹¹

⁶ Id. at 4.

⁷ 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.

⁸ See *rollo*, at 44, 112.

⁹ Id. at 112-113.

¹⁰ Id. at 113.

¹¹ Id. at 114.

Undeterred, petitioner assailed the Sandiganbayan's Resolutions dated January 9, 2017 and March 24, 2017 *via* a Petition for Review on *Certiorari* before the Court docketed as G.R. No. 230823 entitled *Cynthia G. Moreno v. People of the Philippines*. The Court, however, affirmed the assailed Sandiganbayan Resolutions on June 5, 2017.¹²

On June 25, 2019, petitioner's conviction for violation of Section 3(e) of RA 3019 attained finality.¹³

On December 2, 2020, petitioner filed the Motion praying that she be allowed to serve her sentence under home care or house arrest at Lunhaw Farm Resort, *Barangay* Bojo, Municipality of Aloguinsan, Cebu, under the "direct and close monitoring and supervision of the local [Bureau of Jail Management and Penology (BJMP)] officers, or [Probation]¹⁴ Officers of the Department of Justice", together with her counsel by way of recognizance.¹⁵

The Sandiganbayan's Ruling

In the Resolution¹⁶ dated December 17, 2020, the Sandiganbayan denied petitioner's Motion for failure to provide evidence, *i.e.*, medical records or physician's report, to show that she is suffering from such health conditions that thwarted her movement and "usual way of living." As to petitioner's claim that she would be susceptible to pathogens such as COVID-19 in a penal facility, the Sandiganbayan found that her apprehension rests on conjectures and speculations devoid of proof.¹⁷

The Sandiganbayan likewise noted that "home care/house arrest" does not appear in the Rules of Criminal Procedure and that there is no law providing for an alternative mode of confinement based on health considerations for prisoners convicted by final judgment; hence, petitioner should serve her sentence only in the places provided for by

¹² Id. at 115.

¹³ Id. at 45.

¹⁴ "Provision" in some parts of the *rollo*, id. at 52.

¹⁵ Id.

¹⁶ Id. at 28-37.

¹⁷ Id. at 33-34.

law in accordance with Articles 78¹⁸ and 86¹⁹ of the Revised Penal Code (RPC).²⁰

Petitioner moved for reconsideration, but it was denied by the Sandiganbayan in its Resolution²¹ dated March 9, 2021 for being filed out of time. It held that the motion for reconsideration should have been filed within a non-extendible period of five days from receipt of such resolution pursuant to the Revised Guidelines for Continuous Trial of Criminal Cases²² (Continuous Trial Guidelines).

The Sandiganbayan ruled that regardless of the timeliness of the Motion for Reconsideration, its previous grants of house/hospital arrest to former Presidents Gloria Macapagal-Arroyo and Joseph Estrada were not judicial precedents set by the Court. It further ruled that petitioner's circumstances are entirely different from that of the former Presidents.²³

Lastly, it held that petitioner's reliance on *Paderanga v. Court of Appeals*²⁴ (*Paderanga*) is misplaced considering that the phrase "in the custody of the law" discussed in *Paderanga* was in the context of bail application and had nothing to do with the place of incarceration after conviction.²⁵

Hence, this Petition.²⁶

¹⁸ ARTICLE 78. *When and How a Penalty is to Be Executed.* – No penalty shall be executed except by virtue of a final judgment.

A penalty shall not be executed in any other form than that prescribed by law, nor with any other circumstances or incidents than those expressly authorized thereby.

In addition to the provisions of the law, the special regulations prescribed for the government of the institutions in which the penalties are to be suffered shall be observed with regard to the character of the work to be performed, the time of its performance, and other incidents connected therewith, the relations of the convicts among themselves and other persons, the relief which they may receive, and their diet.

The regulations shall make provision for the separation of the sexes in different institutions, or at least into different departments and also for the correction and reform of the convicts.

¹⁹ ARTICLE 86. *Reclusion Perpetua, Reclusion Temporal, Prision Mayor, Prision Correccional and Arresto Mayor.* – The penalties of *reclusion perpetua*, *reclusion temporal*, *prision mayor*, *prision correccional*, and *arresto mayor*, shall be executed and served in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future.

²⁰ *Rollo*, p. 36.

²¹ *Id.* at 44-53.

²² A.M. No. 5-06-10.

²³ *Rollo*, p. 49.

²⁴ 317 Phil. 862 (1995).

²⁵ *Rollo*, pp. 50-52.

²⁶ *Id.* at 3-27.

Petitioner's Arguments

Petitioner contends: (1) that that Motion cannot be considered as a prohibited motion or a meritorious motion under the Continuous Trial Guidelines; (2) that the Continuous Trial Guidelines does not cover post-conviction motions, such as petitioner's Motion, and thus, the 2019 Amendments to the 1997 Rules of Civil Procedure²⁷ (2019 Rules of Court) shall govern; and (3) that the Motion is a litigious motion under Section 5,²⁸ Rule 15 of the 2019 Rules of Court and, thus, should have been set for hearing and resolved based on the evidence adduced thereof.²⁹

Petitioner avers that the framers of the RPC never intended to utilize Articles 78 and 86 as "a death trap for the convicts in case of emergency" in view of the COVID-19 pandemic.³⁰ She argues that Article 78 of the RPC cannot defy and rise higher than the constitutional edict enshrined in Section 15,³¹ Article II of the 1987 Constitution in this time of major health crisis.³²

Respondent's Arguments

In its Comment,³³ respondent People of the Philippines, represented by the Office of the Ombudsman through the Office of the Special Prosecutor, opposes the present Petition on the following grounds: (1) that the penalty imposed on petitioner cannot be modified

²⁷ A.M. No. 19-10-20-SC.

²⁸ Section 5. *Litigious motions*. – (a) Litigious motions include:

- 1) Motion for bill of particulars;
- 2) Motion to dismiss;
- 3) Motion for new trial;
- 4) Motion for reconsideration;
- 5) Motion for execution pending appeal;
- 6) Motion to amend after a responsive pleading has been filed;
- 7) Motion to cancel statutory lien;
- 8) Motion for an order to break in or for a writ of demolition;
- 9) Motion for intervention;
- 10) Motion for judgment on the pleadings;
- 11) Motion for summary judgment;
- 12) Demurrer to evidence;
- 13) Motion to declare defendant in default; and
- 14) Other similar motions.

x x x x

²⁹ *Rollo*, pp. 21-22.

³⁰ *Id.* at 22-23.

³¹ SECTION 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

³² *Rollo*, p. 24.

³³ *Id.* at 113.

or amended due to the finality of her conviction; (2) that the Sandiganbayan did not commit grave abuse of discretion in denying petitioner's Motion even without a hearing as her Motion utterly lacks merit; (3) that there are no constitutional and legal bases for the allowance of the relief sought by petitioner; and (4) that the relief sought by petitioner is a violation of the equal protection clause insofar as other similarly situated prisoners are concerned.³⁴

The Issue

The issue for the Court's resolution is whether the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner's Motion.

The Court's Ruling

The petition is bereft of merit.

Contrary to petitioner's assertion, the Continuous Trial Guidelines likewise governs post-conviction motions such as the Motion in question. The Court finds that petitioner's Motion is an unmeritorious motion which was correctly dismissed outright by the Sandiganbayan pursuant to the last paragraph of Section 2(c), Part III of the Continuous Trial Guidelines, to wit:

III. Procedure

x x x x

2. Motions

x x x x

(c) *Meritorious Motions.* — Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions x x x

x x x x

Motions that do not conform to the above requirements shall be considered unmeritorious and shall be denied outright. (Emphasis supplied)

³⁴ Id. at 119.

As aptly found by the Sandiganbayan, petitioner's Motion was not supported by relevant documents, *i.e.*, medical record or physician's report. Notably, the documents attached by petitioner in her Motion, *i.e.*, the various awards she received, etc., are irrelevant to the ground she cited as basis for her "home care/house arrest," that is, her poor health condition. Thus, the Sandiganbayan correctly denied the Motion outright in the Resolution dated December 17, 2020 without setting it for hearing. Consequently, the denial of petitioner's Motion for Reconsideration of the Resolution dated March 9, 2021 was likewise in order.

Assuming *arguendo* that the Motion is a meritorious motion, petitioner should have filed her Motion for Reconsideration of the Resolution dated December 17, 2020 within a non-extendible period of five calendar days from receipt of such Resolution in accordance with Section 2(c), Part III of the Continuous Trial Guidelines.³⁵ Petitioner's reliance on Section 1, Rule 52 of the 2019 Rules of Court as to the timeliness of her Motion for Reconsideration is misplaced.

Section 1, Rule 52 of the 2019 Rules of Court reads:

SECTION 1. Period for Filing. — A party may file a motion for reconsideration of a *judgment or final resolution* within fifteen (15) days from notice thereof, with proof of service on the adverse party.

The assailed Resolution dated December 17, 2020 is not a judgment or final resolution but an interlocutory order; hence, Section 1, Rule 52 of the 2019 Rules of Court finds no application to the case. Verily, the Sandiganbayan correctly denied petitioner's motion for reconsideration for being filed out of time, that is, beyond five days from receipt.

In any case, the Sandiganbayan aptly found that the laws and judicial precedents cited by petitioner do not support her contention.

³⁵ A.M. No. 15-06-10-SC, or the Revised Guidelines for Continuous Trial of Criminal Cases, provides:

III. Procedure

x x x x

2. Motions

x x x x

(c) *Meritorious Motions.* —

x x x x

The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution x x x.

The relevant provisions of the RPC read:

Article 78. *When and how a penalty is to be executed.* — x x x

In addition to the provisions of the law, the special regulations prescribed for the government of the institutions in which the penalties are to be suffered shall be observed with regard to the character of the work to be performed, the time of its performance, and other incidents connected therewith, the relations of the convicts among themselves and other persons, the relief which they may receive, and their diet.

The regulations shall make provision for the separation of the sexes in different institutions, or at least into different departments and also for the correction and reform of the convicts.

Article 86. *Reclusion perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor.* — The penalties of reclusion perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor, *shall be executed and served in the places and penal establishments* provided by the Administrative Code in force or which may be provided by law in the future.

ART. 88a. *Community Service.*— *The court in its discretion may, in lieu of service in jail, require that the penalties of arresto menor and arresto mayor be served by the defendant by rendering community service in the place where the crime was committed, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which shall be under the supervision of a probation officer: Provided, That the court will prepare an order imposing the community service, specifying the number of hours to be worked and the period within which to complete the service. The order is then referred to the assigned probation officer who shall have responsibility of the defendant. (Emphasis and underscoring supplied)*

Notably, Article 88a of the RPC, as amended by RA 11362,³⁶ did not state that sentence may be served under “home care/house arrest” as prayed for by petitioner in her Motion and in this Petition. Instead, it merely provides that the penalties of *arresto menor* and *arresto mayor* may be served by rendering community service at the discretion of the court.

³⁶ Community Service Act, approved on August 8, 2019.

Here, the duration of the penalty meted to petitioner, *i.e.*, 6 years and one month up to 10 years, is within the duration of *prision mayor*.³⁷ Verily, the Sandiganbayan has no discretion to allow petitioner to serve her sentence by rendering community service, more so, under “home care/house arrest.”

The Sandiganbayan correctly held that petitioner cannot take refuge in *Paderanga* because the issue therein is whether the accused was denied the right to bail. The concept of “constructive custody of the law” in *Paderanga* is limited to allowing the courts to proceed with the bail application hearing even without the physical presence of the accused if his or her absence is due to his or her health condition. By no stretch of the imagination could this case be taken as a judicial precedent allowing a convicted criminal, such as petitioner, to serve his or her sentence outside a penal institution due to poor health conditions.

In the same vein, petitioner cannot likewise be released under recognizance. Section 3 of RA 10389³⁸ defines recognizance as “a mode of securing the release of any person in custody or detention for the commission of an offense *who is unable to post bail* due to abject poverty.” It must be stressed that petitioner’s conviction for the crime charged had long attained finality on June 25, 2019;³⁹ hence, she can no longer be released on bail.⁴⁰

Petitioner’s fear of contracting COVID-19 is understandable; however, petitioner may not be given a different treatment for the law is clear and the Court cannot carve an exception in Articles 78 and 86 of the RPC without violating the proscription against judicial legislation and the equal protection clause enshrined in the Constitution.

In *People v. Napoles*,⁴¹ the Court similarly denied therein petitioner’s prayer that she be provisionally released on humanitarian grounds due to the risk of contracting COVID-19.

³⁷ The Revised Penal Code provides:

ARTICLE 27. x x x

Prision mayor and temporary disqualification. - The duration of the penalties of *prision mayor* and temporary disqualification shall be from *six years and one day to twelve years*, except when the penalty of disqualification is imposed as an accessory penalty, in which case its duration shall be that of the principal penalty. (Emphasis supplied).

³⁸ The Recognizance Act of 2012, approved on March 14, 2013.

³⁹ *Rollo*, p. 45.

⁴⁰ See *People v. Follantes*, 63 Phil. 474 (1936).

⁴¹ G.R. No. 247611 (Resolution), January 13, 2021.

In view of the foregoing, the Court finds that there was nothing capricious, whimsical, or even arbitrary in the Sandiganbayan's denial of petitioner's Motion.

WHEREFORE, the petition is hereby **DISMISSED**. The Resolutions dated December 17, 2020 and March 9, 2021 of the Sandiganbayan, First Division in Criminal Case No. SB-10-CRM-0236 are **AFFIRMED**.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

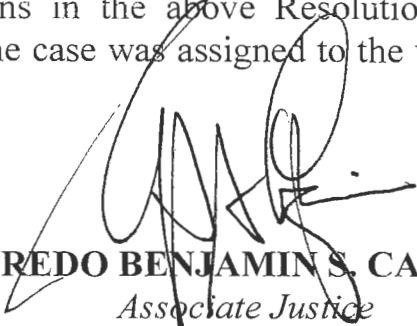


MARIA FILOMENA D. SINGH
Associate Justice

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ATTESTATION


I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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



MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Acting Chief Justice
Per Special Order No. 2914
September 15, 2022