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MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

AUG 05 2020

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JOSEPHINE ESPINOSA,
Petitioner,

G.R. No. 191834

-versus-

**SANDIGANBAYAN and PEOPLE
OF THE PHILIPPINES,**
Respondents.

X-----X X-----X
FELICISIMO F. LAZARTE, **G.R. No. 191900**
JOSEPHINE C. ANGSIKO, and
VIRILIO C. DACALOS,
Petitioners,

-versus-

**SANDIGANBAYAN and PEOPLE
OF THE PHILIPPINES,**
Respondents.

X-----X X-----X
NOEL A. LOBRIDO, **G.R. No. 191951**
Petitioner,

Present:

-versus-

LEONEN, J., Chairperson,
CARANDANG,
ZALAMEDA,
DELOS SANTOS,* and
GAERLAN, JJ.

* Designated additional Member per Raffle dated February 26, 2020.

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**SANDIGANBAYAN and PEOPLE
OF THE PHILIPPINES,**
Respondents.

Promulgated:
March 4, 2020
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DECISION

LEONEN, J.:

A petition for certiorari assailing the denial of a demurrer to evidence will not resolve the merits of the case in advance of trial. The court tasked with resolving the petition for certiorari may only review whether the lower court denied the demurrer to evidence with grave abuse of discretion.

Filing petitions for certiorari to assail denials of demurrers to evidence is emphatically discouraged. There is clearly a remedy still left to the accused, which is to continue with trial. Filing a petition for certiorari, therefore, borders on contumacious.

For this Court's resolution are consolidated Petitions for Certiorari, filed under Rule 65 of the Rules of Court, assailing the Sandiganbayan Resolutions¹ denying the Demurrers to Evidence and subsequent Motions for Reconsideration of the National Housing Authority officials charged with violation of Section 3(e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act.

The case centers on the alleged giving of unwarranted benefits to a contractor for a housing development project. Before this Court, the accused officials allege that the Sandiganbayan committed grave abuse of discretion when it denied their respective Demurrers to Evidence and instead ordered them to present their evidence.

On May 9, 2001, Robert P. Balao (Balao), Josephine C. Angsico (Angsico), Virgilio V. Dacalos (Dacalos), Felicisimo F. Lazarte, Jr. (Lazarte), Josephine Espinosa (Espinosa), and Noel H. Lobrido (Lobrido), as employees of the National Housing Authority, and Jose M. Cruz (Cruz), as president of Triad Construction and Development Corporation (Triad Construction), were all charged with violating Section 3(e) of Republic Act No. 3019 for the unwarranted benefits given to the contractor, to the government's prejudice, involving the Pahanocoy Sites and Services Project Phase I (Pahanocoy Project).

¹ *Rollo* (G.R. No. 191834), pp. 72-109 and 110-116. The January 29, 2008 and February 18, 2010 Resolutions were penned by Associate Justice Francisco H. Villaruz, Jr. and concurred in by Associate Justices Edilberto G. Sandoval and Samuel R. Martires of the Special Second Division of the Sandiganbayan.

The Information² read in part:

That in or about the month of September, 1992, at Bacolod City, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ROBERT P. BALAO, JOSEPHINE C. ANGSIKO, VIRGILIO V. DACALOS, FELICISIMO F. LAZARTE, JR., JOSEPHINTE T. ESPINOSA and NOEL H. LOBRIDO, Public Officers, being the General Manager, Visayas Mgt. Office, Division Manager (Visayas), Manager, RPD, Project Mgt. Officer A and Supervising Engineer, respectively, of the National Housing Authority, Diliman, Quezon City, in such capacity and committing the offense in relation to office and while in the performance of their official functions, conniving, confederating and mutually helping with each other and with accused JOSE M. CRUZ, a private individual and President of Triad Construction and Development Corporation, with address at Ben-lor Bldg., Quezon Avenue, Quezon City, with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully and feloniously cause to be paid to Triad Construction and Development Corporation public funds in the amount of ONE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED SIXTY FOUR PESOS and TWENTY CENTAVOS (P1,280,964.20) PHILIPPINE CURRENCY, supposedly for the final work accomplishment of Triad Construction on the Pahanocoy Sites and Services Project in Bacolod City despite the fact that the Final Quantification of the Actual Work Accomplishment on the said Project amounted only to THREE HUNDRED THIRTY THOUSAND SEVENTY FIVE PESOS AND SEVENTY SIX CENTAVOS (P330,075.76) as revealed by the Special Audit conducted by the Commission on Audit, thus accused public officials in the performance of their official functions had given unwarranted benefits, advantage and preference to Jose M. Cruz and Triad Construction and Development Corporation and themselves, to the damage and prejudice of the government.

CONTRARY TO LAW.³

Cruz died before his arraignment, warranting his case's dismissal and leaving only the National Housing Authority officials, who all pleaded not guilty.⁴ Trial commenced on June 14, 2004, with the prosecution presenting its witnesses and documentary evidence.⁵

Candido Montesa Fajutag, Jr. (Fajutag) testified that as the then project engineer of the Pahanocoy Project, he was tasked with checking the contractors' personnel and equipment capabilities, monitoring construction activities, checking contractor billings, and evaluating contractor requests for progress payments.⁶

² Id. at 36-39.

³ Id. at 37.

⁴ Id. at 74.

⁵ Id. at 76.

⁶ Id. at 76-77.

Fajutag explained that the Pahanocoy Project was a land development project intended for housing⁷ that involved “earthworks, water and sewerage works, drainage[,] and road construction.”⁸ He was appointed halfway through the project’s expected duration, following two (2) project engineers who had already billed two (2) progress payments to A.C. Cruz Construction, the former contractor. Upon his appointment, Triad Construction was already engaged for the remaining works.⁹

According to Fajutag, he was not given an official project plan upon which to base the fourth progress billing, so he inventoried the contractor’s accomplishments and asked the project engineers to verify their billings.¹⁰ He found that the portion of work Triad Construction completed was not commensurate to the amount it received, which was well over 30% of the contract price.¹¹

Fajutag noted that the project construction was suspended at the time he assumed office and resumed only when Work Variation Order No. 1 was issued upon approval by the general manager.¹² The variation order called for the resumption of “(1) excavation of unsuitable materials, (2) filling up of road fill materials, (3) reinforcement of RC road pipe crossing, and (4) demolition of unwanted structures.”¹³ Because these items were excluded from the original contract, Fajutag stated, they required an additional net cost of over ₱710,000.00.¹⁴

Not only did Fajutag find that some of these items were nonexistent, but that the fourth progress billing covered over 40% work accomplishment when only 32% of the work was completed, discounting those Fajutag found defective or substandard. He reported these irregularities in his Evaluation Report to the project manager and general manager of the National Housing Authority. Since he refused to sign the fourth progress billing request, Fajutag was pulled out of the project.¹⁵

On May 1, 1992, the Pahanocoy Project was completed.¹⁶

Sometime in 1993, Fajutag accompanied the Commission on Audit Special Team sent to investigate the project. He identified the irregularities and substandard construction works surrounding it.¹⁷

⁷ Id. at 77.

⁸ Id.

⁹ Id.

¹⁰ Id. at 77–78.

¹¹ Id. at 78.

¹² Id.

¹³ Id.

¹⁴ Id. at 79.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

Atty. Sheila Uy-Villa (Atty. Villa), a state auditor for the Commission on Audit, testified that she led the team that investigated the Pahanocoy Project from July 5 to 31 1993,¹⁸ upon Fajutag's Complaint against the National Housing Authority officials. Their investigation allegedly revealed irregularities in the project: of the two (2) billings paid to Triad Construction, the second billing covered works that did not exist and those already paid to the previous contractor.¹⁹

Assisted by engineers, the Atty. Villa-led team conducted core drilling and soil testing to see if "activities that were claimed in connection with the excavation of unsuitable materials and the import of road field works"²⁰ were actually conducted in accordance with the variation order.²¹

The results of the tests allegedly indicated that "[t]here were no unsuitable materials removed from the road sites" and that "no imported road materials were filled thereat."²² Likewise, the pavement core samples confirmed Fajutag's concerns that they "fell short of the required thickness."²³ The team also examined the supporting documents of the contracts with the contractors, but noted that some important documents were not provided despite the team's efforts to procure them from the officials concerned.²⁴

Their findings indicated that the grant of remaining works in the Pahanocoy Project to Triad Construction was irregular, that the documents supporting the final billing estimate showed various discrepancies, and that changes in the scope of work were not supported by the necessary contract variation order.²⁵

Atty. Villa pointed out that there were two (2) summaries of payment estimates for Triad Construction's final billing: first, totaling ₱330,075.76; and second, totaling ₱1,280,964.20. The difference was allegedly due to quantity overruns that were not supported by any contract variation order. According to Atty. Villa, such variations should have been covered by a change order pursuant to the Implementing Rules and Regulations of Presidential Decree No. 1594.²⁶

¹⁸ Id. at 81.

¹⁹ Id. at 80.

²⁰ Id. at 82.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id. at 83.

²⁶ Id. at 84.

Moreover, Atty. Villa testified that the project had two (2) Certificates of Completion—the first dated May 1, 1992; the second, March 31, 1992. The latter date was typewritten over the original completion date of May 1, 1992 on the second Certificate of Completion. Likewise, a memorandum labeled Exhibit “I” indicated a project completion date of April 15, 1992.²⁷

In an exit conference on February 4, 1994,²⁸ Atty. Villa’s team received the National Housing Authority representatives’ comments on the draft report, in which they explained that the discrepancies arose when Triad Construction conducted additional works for items that were either inexistent or in need of repair.²⁹ However, the officials failed to provide any documentation for these purported works, which, Atty. Villa noted, should have been standard practice.³⁰

Rosalie Molo Sales (Sales), a state auditor who was part of Atty. Villa’s team, mainly testified on the lack of “factual or documentary basis for the increased contract cost”³¹ paid to Triad Construction.³²

According to Sales, the audit team’s requests for the project’s supporting documents were not fully complied with, and even former project engineer Fajutag could not produce them as these were not provided to him. Instead, Fajutag provided a “built-in-plan” of the project that he prepared on his own.³³

Corroborating Atty. Villa’s testimony, Sales stated that the test results showed the pavement samples did not meet the required thickness, and that only one (1) of 12 samples was a mix of gravel and sand, while “[t]he rest showed that unsuitable materials were not extracted by the contractor.”³⁴

Sales also testified on the Physical Abstract Accomplishment, a Memorandum, and a Final Quantification. The Memorandum, which did not show a specific quantity of particular works defined in the contract, indicated a total project cost of ₱10,024,970.79—different from the project cost shown in the contract, which was ₱9,554,837.32. Meanwhile, the Final Quantification showed a discrepancy in the quantity of unsuitable materials excavated, from the original 2,018.94 cubic meters to 2,018.95 cubic meters. Finally, the Abstract of Physical Accomplishment suggested how farfetched it was that the excavation was done in four (4) days, when the process was significantly more laborious.³⁵

²⁷ Id. at 85.

²⁸ Id. at 83.

²⁹ Id. at 85.

³⁰ Id. at 85–86.

³¹ Id. at 86.

³² Id.

³³ Id. at 87.

³⁴ Id.

³⁵ Id. at 88–89.

The prosecution dispensed with the testimony of their fourth witness, Atty. Jose M. Agustin, because the defense admitted that the photocopies of the checks to be identified were “faithful reproductions of the originals.”³⁶

On March 8, 2006, the prosecution formally offered its evidence, on which the National Housing Authority officials then commented. Nonetheless, the Sandiganbayan admitted the prosecution’s evidence despite the officials’ objections. Thus, they moved for leave to file their respective demurrers to evidence.³⁷

The Sandiganbayan granted the officials’ motion for leave. The officials commonly alleged that the prosecution failed to prove their guilt beyond reasonable doubt because the “Final Quantification”—which, as the Information stated, supposedly indicated a billing of ₱330,075.76—never existed. It was, thus, never presented in court, rendering the complaint baseless and dismissible. Additionally, they argued that the prosecution failed to adequately establish conspiracy on their part.³⁸

In a January 29, 2008 Resolution,³⁹ the Sandiganbayan denied the Demurrers to Evidence, holding that there was sufficient basis to support the charges in the Information. The Sandiganbayan, thus, ordered the accused officials to proceed to trial and establish their respective defenses.⁴⁰

The National Housing Authority officials respectively moved for reconsideration, commonly insisting on the prosecution’s failure to prove its case, but were collectively denied in the Sandiganbayan’s February 18, 2010 Resolution.⁴¹ Thus, except Balao who had since passed away,⁴² they filed three (3) separate Petitions for Certiorari, alleging that the Sandiganbayan gravely abused its discretion when it denied their Demurrers to Evidence.

In G.R. No. 191834, petitioner Espinosa argues that the Sandiganbayan gravely abused its discretion in ordering her to defend herself despite the prosecution’s failure to establish her guilt beyond reasonable doubt.⁴³

She insists that the prosecution could not rely on the June 24, 1992 Memorandum, it being a mere draft that only bore her signature, without the

³⁶ Id. at 89.

³⁷ Id. at 89 and 100–101.

³⁸ Id. at 100–101.

³⁹ Id. at 72–109.

⁴⁰ Id. at 108–109.

⁴¹ Id. at 110–116.

⁴² *Rollo* (G.R. No. 191951), p. 233.

⁴³ *Rollo* (G.R. No. 191834), p. 12.

other signatures needed to accord it finality.⁴⁴ Thus, the alleged first set of billings for ₱330,075.76 could not have existed and be used as basis for comparison with the second set of ₱1,280,964.20.⁴⁵ She also asserts that the prosecution failed to present the supposed Final Quantification, rendering the complaint baseless.⁴⁶ Accordingly, she argues that a variation order was unnecessary.⁴⁷

Petitioner Espinosa further argues that her continued prosecution despite the admitted absence of the Final Quantification violated her substantial right to be informed of the charges against her.⁴⁸ She adds that the prosecution utterly failed to adduce any proof of conspiracy on her part, as her mere signature on a draft memorandum could not suffice on its own.⁴⁹

In G.R. No. 191951, petitioner Lobrido also argues that the absence of the Final Quantification should have been deemed fatal to the prosecution's case. He insists that its very absence was why the first set of billings remained drafts, "set aside and not processed."⁵⁰

In G.R. No. 191900, petitioners Lazarte, Angsico, and Dacalos also adopted this argument, insisting that the criminal case was founded on the Final Quantification; the prosecution's admission of its nonexistence, therefore, contradicted the charges in the Information.⁵¹ Since the draft Memorandum was never forwarded to the National Housing Authority Main Office in Manila, petitioners Lazarte, Angsico, and Dacalos were never made aware of the first set of billings of ₱330,075.76, and never had the chance to act on it. Thus, they concluded that the first set of billings never attained finality and could not be deemed equivalent in weight to the nonexistent "Final Quantification" indicated in the Information. As such, they insist that conspiracy on their part was not proven.⁵²

On June 28, 2010, this Court directed the First Division Clerk of Court to recommend whether the cases may be consolidated.⁵³ Later, upon recommendation from the Division Clerk of Court,⁵⁴ this Court issued its August 2, 2010 Resolution ordering that the cases be consolidated.⁵⁵

⁴⁴ Id. at 15.

⁴⁵ Id. at 17–20.

⁴⁶ Id. at 23–24.

⁴⁷ Id. at 23.

⁴⁸ Id. at 24.

⁴⁹ Id. at 26–27.

⁵⁰ Id. at 15–16.

⁵¹ *Rollo* (G.R. No. 191900), pp. 15–16.

⁵² Id. at 20–23.

⁵³ *Rollo* (G.R. No. 191951), p. 218.

⁵⁴ Id. at 219–222.

⁵⁵ Id. at 223.

Nonetheless, this Court had already ordered the Sandiganbayan, through the Office of the Special Prosecutor and the Office of the Solicitor General, to comment on the Petition in G.R. No. 191834,⁵⁶ which they respectively filed on September 21, 2010⁵⁷ and on August 15, 2011.⁵⁸

In their separate pleadings, the Offices of the Special Prosecutor and the Solicitor General both insist that the Sandiganbayan did not exceed its jurisdiction as its findings were supported by evidence. In any event, they maintain that any error on the court's determination are errors of judgment not errors of jurisdiction.⁵⁹

On December 28, 2010, the Office of the Special Prosecutor filed a Joint Comment⁶⁰ on the now consolidated Petitions in G.R. Nos. 191900 and 191951. It clarifies that the Final Quantification is not a document, but a process by which petitioners adjusted Triad Construction's final billing from ₱330,075.76 to ₱1,280,964.20. Just the same, it maintains that the Sandiganbayan properly appreciated the totality of evidence detailing how petitioners approved an amount triple of that originally billed. It asserts that the Sandiganbayan considered "documentary and testimonial evidence of credible and competent witnesses"⁶¹ before deciding to proceed with trial.⁶²

On October 10, 2011, this Court directed petitioners to file a Reply.⁶³ Petitioner Espinosa filed her Reply on October 13, 2011,⁶⁴ while petitioners Lazarte, Angsico, Dacalos, and Lobrido filed their Consolidated Reply on March 18, 2011.⁶⁵

Petitioner Espinosa reiterates that the allegations of overpayment were based on an incomplete billing, which should not have been given probative weight. She insists that the Sandiganbayan gravely abused its discretion by relying on the other documentary evidence, creating "a variance between the allegation in the Information and proof adduced during trial"⁶⁶ that prejudiced petitioners' substantial rights. Since the prosecution admitted that the Final Quantification mentioned in the Information does not exist, the prosecution fell short of the required proof beyond reasonable doubt.⁶⁷

⁵⁶ *Rollo* (G.R. No. 191834), p. 119.

⁵⁷ *Id.* at 134–147.

⁵⁸ *Id.* at 190–201.

⁵⁹ *Id.* at 142 and 194.

⁶⁰ *Rollo* (G.R. No. 191951), pp. 228–244.

⁶¹ *Id.* at 234.

⁶² *Id.*

⁶³ *Rollo* (G.R. No. 191834), pp. 202–203.

⁶⁴ *Id.* at 204–210.

⁶⁵ *Rollo* (G.R. No. 191951), pp. 246–255.

⁶⁶ *Rollo* (G.R. No. 191834), p. 205.

⁶⁷ *Id.* at 206–207.

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I

The rule is clear: a petition for certiorari may only correct errors of jurisdiction, or such grave abuse of discretion amounting to lack or excess of jurisdiction. It “*does not include* correction of public respondent’s evaluation of the evidence and factual findings thereon.”⁸⁸

Here, petitioners assail public respondent’s order for them to present controverting evidence despite the prosecution’s failure to produce certain documents that would have supposedly established their guilt beyond reasonable doubt. They thus question the sufficiency of the prosecution’s evidence as determined by public respondent, which is beyond the scope of a petition for certiorari.

*People v. Court of Appeals*⁸⁹ likewise distinguished errors reviewable by a petition for certiorari from those reviewable by appeal:

Hence, *where the issue or question involved affects the wisdom or legal soundness of the decision — not the jurisdiction of the court to render said decision — the same is beyond the province of a special civil action for certiorari. The proper recourse of the aggrieved party from a decision of the Court of Appeals is a petition for review on certiorari under Rule 45 of the Revised Rules of Court.*⁹⁰ (Emphasis supplied, citation omitted)

The special civil action for certiorari will not operate to review the sufficiency of the prosecution’s evidence. This rule is echoed in *Joseph v. Villaluz*,⁹¹ where this Court dismissed a petition for certiorari assailing the denial of the accused’s demurrer to evidence:

The Court cannot decide in this special civil action whether or not the evidence adduced by the prosecution has established beyond reasonable doubt the guilt of the petitioners. It is now petitioners’ duty to neutralize the evidence of the State in order to maintain the presumption of their innocence of the crime of which they are charged.

*In the absence of a clear showing that the respondent Judge has committed a grave abuse of discretion or acted in excess of jurisdiction, this Court will not annul an interlocutory order denying a motion to dismiss a criminal case. Appeal is the proper remedy of the petitioners in order to have the findings of fact of the respondent judge reviewed by a superior court.*⁹² (Emphasis supplied, citation omitted)

⁸⁸ *Microsoft Corporation v. Best Deal Computer Center*, 438 Phil. 408, 413 (2002) [Per J. Bellosillo, Second Division].

⁸⁹ 468 Phil. 1 (2004) [Per J. Ynares-Santiago, First Division].

⁹⁰ Id. at 10.

⁹¹ 178 Phil. 255 (1979) [Per J. Fernandez, En Banc].

⁹² Id. at 262–263.

Likewise, in *Cruz v. People*,⁹³ this Court dismissed the petition for certiorari, holding that the sufficiency of the prosecution's evidence cannot be reviewed in such a petition because the merits of the case cannot be decided in advance of trial:

Regarding the denial of the demurrer to evidence, we have likewise ruled that *the question of whether the evidence presented by the prosecution is sufficient to convince the court that the defendant is guilty beyond reasonable doubt rests entirely within the sound discretion of the trial court*. The error, if any, in the denial of the demurrer to evidence *may be corrected only by appeal*. *The appellate court will not review in such special civil action the prosecution's evidence and decide in advance that such evidence has or has not established the guilt of the accused beyond reasonable doubt*. The orderly procedure prescribed by the Revised Rules of Court is for the accused to present his evidence, after which the trial court, on its own assessment of the evidence submitted, will then properly render its judgment of acquittal or conviction. *If judgment is rendered adversely against the accused, he may appeal the judgment and raise the same defenses and objections for review by the appellate court*.⁹⁴ (Emphasis supplied, citations omitted)

That rule applies here. The alleged errors made by public respondent in its appreciation of the prosecution's evidence cannot be reviewed in these proceedings.

II

Notably, however, petitioners allege that public respondent committed grave abuse of discretion when it issued the assailed Resolutions despite the absence of evidence to that effect. According to them, the prosecution admitted that the Final Quantification mentioned in the Information did not exist, which allegedly renders the criminal charges without basis.

This Court disagrees. Public respondent correctly considered the prosecution's other evidence in deciding to proceed with trial.

Degamo v. Office of the Ombudsman,⁹⁵ citing *Joson v. Office of the Ombudsman*,⁹⁶ provides the standard for grave abuse of discretion:

[A]n allegation of grave abuse of discretion must be substantiated before this Court can exercise its power of judicial review. As held in *Tetangco v. Ombudsman*:

⁹³ 363 Phil. 156 (1999) [Per J. Pardo, First Division].

⁹⁴ Id. at 161.

⁹⁵ G.R. No. 212416, December 5, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64805>> [Per J. Leonen, Third Division].

⁹⁶ 816 Phil. 288 (2017) [Per J. Leonen, Third Division].

It is well-settled that the Court will not ordinarily interfere with the Ombudsman's determination of whether or not probable cause exists except when it commits grave abuse of discretion. Grave abuse of discretion exists where a power is exercised in an arbitrary, capricious, whimsical or despotic manner by reason of passion or personal hostility so patent and gross as to amount to evasion of positive duty or virtual refusal to perform a duty enjoined by, or in contemplation of law.⁹⁷ (Emphasis supplied, citations omitted)

*Philippine National Bank v. Gregorio*⁹⁸ also detailed what must be established in claiming relief under the extraordinary writ of certiorari:

As the petition is filed under Rule 65, it *must raise not errors of judgment but the acts and circumstances showing grave abuse of discretion amounting to lack or excess of jurisdiction*. Grave abuse of discretion is defined as “an act too patent and gross as to amount to an evasion of a duty, or to a virtual refusal to perform the duty enjoined or act in contemplation of law” or that the tribunal, board or officer with judicial or quasi-judicial powers “exercised its power in an arbitrary and despotic manner by reason of passion or personal hostility.”⁹⁹ (Emphasis supplied, citations omitted)

However, petitioners insist on the indispensability of the “Final Quantification.” For petitioners Angsico, Dacalos, and Lazarte, it is “the very foundation of the criminal case”¹⁰⁰ that cannot be substituted by any other document, it being alleged in the Information.¹⁰¹ For petitioner Lobrido, it is the “best evidence to prove the fact in issue”;¹⁰² its absence should have cast reasonable doubt on their liability.¹⁰³ For petitioner Espinosa, its absence was “fatal to the prosecution’s cause.”¹⁰⁴ According to her, public respondent exceeded its jurisdiction when it considered evidence other than the Final Quantification because this created a material “variance between the allegation in the Information and proof adduced during trial”¹⁰⁵ and prejudiced petitioners’ substantive rights.

Petitioners’ insistence on a particular document as the only viable proof of their liability is inconsistent with *People v. Pentecostes*:¹⁰⁶

⁹⁷ G.R. No. 212416, December 5, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64805>> [Per J. Leonen, Third Division].

⁹⁸ 818 Phil. 321 (2017) [Per J. Jardeleza, First Division].

⁹⁹ Id. at 337.

¹⁰⁰ *Rollo* (G.R. No. 191900), p. 213.

¹⁰¹ Id. at 220.

¹⁰² *Rollo* (G.R. No. 191951), p. 273.

¹⁰³ Id. at 277.

¹⁰⁴ *Rollo* (G.R. No. 191834), pp. 276–277.

¹⁰⁵ Id. at 277.

¹⁰⁶ G.R. No. 226158, November 8, 2017, 844 SCRA 610 [Per J. Caguioa, Second Division].

Direct evidence of the commission of a crime is not indispensable to criminal prosecutions; a contrary rule would render convictions virtually impossible given that most crimes, by their very nature, are purposely committed in seclusion and away from eyewitnesses. Thus, our rules on evidence and jurisprudence allow the conviction of an accused through circumstantial evidence alone, provided that the following requisites concur:

- (i) there is more than one circumstance;
- (ii) the facts from which the inferences are derived are proven; and
- (iii) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Simply put, an accused may be convicted when the circumstances established form an unbroken chain leading to one fair reasonable conclusion and pointing to the accused — to the exclusion of all others — as the guilty person.¹⁰⁷ (Emphasis supplied, citations omitted)

In the earlier case of *Zabala v. People*,¹⁰⁸ this Court disposed of a similar issue regarding the evidence that may be considered in determining the accused's criminal liability:

It is a settled rule that circumstantial evidence is sufficient to support a conviction, and that direct evidence is not always necessary. This is but a recognition of the reality that in certain instances, due to the inherent attempt to conceal a crime, it is not always possible to obtain direct evidence. In Bacolod v. People, this Court had the occasion to say:

The lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt, because circumstantial evidence, if sufficient, can supplant the absence of direct evidence. The crime charged may also be proved by circumstantial evidence, sometimes referred to as indirect or presumptive evidence. Circumstantial evidence has been defined as that which "goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue."¹⁰⁹ (Emphasis supplied, citation omitted)

Thus, public respondent did not exceed its jurisdiction by giving due consideration to the other pieces of evidence presented by the prosecution.

¹⁰⁷ Id. at 619–620.

¹⁰⁸ 752 Phil. 59 (2015) [Per J. Velasco, Jr., Third Division].

¹⁰⁹ Id. at 67.

Indeed, the “Final Quantification” could have proven that Triad Construction was only due ₱330,075.76 and, thus, received unwarranted benefit from the subsequent release of ₱1,280,964.20 in its favor. However, nothing precludes the prosecution from adducing other proof to establish this fact. It still sought to prove the same matters alleged in the Information—that Triad Construction was only due ₱330,075.76 for the Pahanocoy Project, but was actually paid ₱1,280,964.20. Whether such other evidence was sufficient to prove these allegations is a matter of defense that must be controverted during trial or raised on appeal.

*Romualdez v. People*¹¹⁰ provides an additional perspective in determining the sufficiency of the allegations in an information:

To restate the rule, *an Information only needs to state the ultimate facts constituting the offense, not the finer details of why and how the illegal acts alleged amounted to undue injury or damage* — matters that are appropriate for the trial. Specifically, *how the two positions of Romualdez were incompatible with each other and whether or not he can legally receive compensation* for his two incompatible positions *are matters of detail* that the prosecution should adduce at the trial to flesh out the ultimate facts alleged in the Information. Whether or not compensation has been earned through proper and commensurate service is a matter *in excess of the ultimate facts* the Information requires and is one that Romualdez, not the Information, should invoke or introduce into the case as a matter of defense.¹¹¹ (Emphasis supplied)

Here, petitioners were charged with giving “unwarranted benefits, advantage[,] and preference” to Triad Construction, its president Cruz, and themselves, to the government’s damage and prejudice¹¹² by causing Triad Construction to be paid ₱1,280,964.20, well above the ₱330,075.76 it was due. How the company was given unwarranted benefits, and to what extent the government was prejudiced by this, were subject to proof during trial. Thus, the prosecution forwarded documents allegedly establishing Triad Construction’s entitlement to only ₱330,075.76.

There is, therefore, no merit to petitioners’ contention that there had been a material and prejudicial “variance between the allegation in the Information and proof adduced during trial[.]”¹¹³ The prosecution’s additional evidence, which public respondent duly considered, pertained to the same allegation that Triad Construction was only due ₱330,075.76.

Public respondent clearly acted within its jurisdiction when it determined the sufficiency of evidence based on documents other than the “Final Quantification” mentioned in the Information. Only after considering

¹¹⁰ 581 Phil. 462 (2008) [Per J. Brion, En Banc].

¹¹¹ Id. at 484–485.

¹¹² *Rollo* (G.R. No. 191834), p. 37.

¹¹³ Id. at 277.

the evidence on record, and exercising its jurisdiction to accord appropriate weight to such evidence, did public respondent order petitioners to present their defenses.

Nonetheless, as discussed, these proceedings on the present Petitions do not delve into the sufficiency of the prosecution's evidence. Public respondent's findings are matters addressed to its judgment—reviewable by an appeal, not a petition for certiorari.

WHEREFORE, the consolidated Petitions for Certiorari are **DISMISSED**, there being no grave abuse of discretion amounting to lack of excess of jurisdiction on the part of public respondent Sandiganbayan. The January 29, 2008 and February 18, 2010 Resolutions of the Sandiganbayan, which denied the demurrers to evidence and subsequent motions for reconsideration of petitioners Josephine Espinosa, Noel A. Lobrido, Felicisimo F. Lazarte, Josephine C. Angsico, and Virgilio C. Dacalos are **AFFIRMED**. The case shall proceed to trial.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



ROSMARI D. CARANDANG
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

I attest 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.

**MARVIC M.V.F. LEONEN**Associate Justice
Chairperson**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

CERTIFIED TRUE COPY*MisaelDCBatt***MISAELO DOMINGO C. BATTUNG III**Division Clerk of Court
Third Division

AUG 05 2020