



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Petitioner,

**G.R. No. 171222**

— versus —

**LTSG. DOMINADOR BAYABOS,**  
**LTJG. MANNY G. FERRER, LTJG.**  
**RONALD G. MAGSINO, LTJG.**  
**GERRY P. DOCTOR, ENS.**  
**DOMINADOR B. OPERIO, JR., and**  
**THE HON. SANDIGANBAYAN,**  
Respondents.

x ----- x

**PEOPLE OF THE PHILIPPINES,**  
Petitioner,

**G.R. No. 174786**

— versus —

**RADM VIRGINIO R. ARIS, LTJG.**  
**KRUZALDO G. MABBORANG, ENS.**  
**DENNIS S. VELASCO, and the HON.**  
**SANDIGANBAYAN,**  
Respondents.

Present:

SERENO, *CJ*, Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PEREZ, and  
PERLAS-BERNABE, *JJ*.

Promulgated:

**FEB 18 2015**

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**DECISION**

**SERENO, *CJ*:**

While this Court has recently faced questions on the criminal liability of fraternity members for hazing, this case presents novel questions on the extent of liability of schools and school authorities under Republic Act No. 8049, or the Anti-Hazing Law.

The responsibility given to an academic institution for the welfare of its students has been characterized by law and judicial doctrine as a form of special parental authority and responsibility.<sup>1</sup> This responsibility has been amplified by the enactment of the Anti-Hazing Law, in that the failure by school authorities to take any action to prevent the offenses as provided by the law exposes them to criminal liability as accomplices in the criminal acts. Thus, the institution and its officers cannot stand idly by in the face of patently criminal acts committed within their sphere of responsibility. They bear the commensurate duty to ensure that the crimes covered by the Anti-Hazing Law are not committed.

It was within this legal framework that the school authorities of the Philippine Merchant Marine Academy (PMMA) were criminally charged before the Sandiganbayan as accomplices to hazing under the Anti-Hazing Law. Before they were arraigned, the Sandiganbayan quashed<sup>2</sup> the Information against them on the basis of the dismissal of the criminal case against the principal accused and, the failure to include in the Information the material averments required by the Anti-Hazing Law.

Consequently, this Petition was filed before this Court questioning the Sandiganbayan's quashal of the Information.

### THE CASE BACKGROUND

Fernando C. Balidoy, Jr. (Balidoy) was admitted as a probationary midshipman at the PMMA.<sup>3</sup> In order to reach active status, all new entrants were required to successfully complete the mandatory "Indoctrination and Orientation Period,"<sup>4</sup> which was set from 2 May to 1 June 2001.<sup>5</sup> Balidoy died on 3 May 2001.<sup>6</sup>

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<sup>1</sup> See generally CIVIL CODE, Arts. 352, 2180 and FAMILY CODE, Arts. 218-221, 223 in relation to R.A. 8049 (ANTI-HAZING LAW), Secs. 3-4; *St. Joseph's College v. Miranda*, G.R. No. 182353, 29 June 2010, 622 SCRA 253; *Amadora v. Court of Appeals*, 243 Phil. 268 (1988); *Palisoc v. Brillantes*, 148-B Phil. 1029 (1971).

<sup>2</sup> *People v. Aris*, Criminal Case No. 28339 (Sandiganbayan, 27 January 2006), slip op., *rollo* (G.R. No. 171222), pp. 13-22 (hereinafter SB Resolution I); *People v. Aris*, Criminal Case No. 28339 (Sandiganbayan, 3 August 2006), slip op., *rollo* (G.R. No. 174786), p. 57 (hereinafter SB Resolution II). Both Resolutions were penned by Sandiganbayan Associate Justice Godofredo L. Legaspi and concurred in by Associate Justices Efren N. de la Cruz and Norberto Y. Geraldez.

<sup>3</sup> Petition of the Special Prosecutor (filed on 13 March 2006), p. 15, *rollo* (G.R. No. 171222), p. 46; Comment of Bayabos *et al.* (filed on 30 June 2006), p. 8, *rollo* (G.R. No. 171222), p. 103; Motion to Quash of Velasco (*People v. Aris*, Criminal Case No. 28339, Sandiganbayan, decided on 3 August 2006), p. 4, Sandiganbayan *rollo*, p. 261.

<sup>4</sup> Urgent Motion for the Determination of Probable Cause and for the Deferment of Action for the Issuance of Warrants of Arrests filed by Bayabos *et al.* (filed on 22 September 2005), p. 6, Sandiganbayan *rollo*, p. 68 (hereinafter Motion for the Determination of Probable Cause of Bayabos *et al.*).

<sup>5</sup> Directive issued by PMMA's Department of Midshipmen's Affairs entitled "Indoctrination and Orientation Period," Annex E of the Motion for the Determination of Probable Cause of Bayabos *et al.*, Sandiganbayan *rollo*, pp. 93-94 (hereinafter Indoctrination and Orientation Directive); See Certification of Bayabos *et al.*, Alvarez *et al.*, and Velasco entitled "Chronology of Events Leading to the Death of P/Midn. Balidoy, Fernando Jr. C." Annex H of the Motion for the Determination of Probable Cause of Bayabos *et al.*, Sandiganbayan *rollo*, p. 101 (hereinafter Certification on the Chronology of Events).

<sup>6</sup> Petition of the Special Prosecutor, p. 15, *rollo* (G.R. No. 171222), p. 46; Motion for the Determination of Probable Cause of Bayabos *et al.*, pp. 6-7, Sandiganbayan *rollo*, pp. 68-69; Certification on the Chronology of Events, *supra*.

The National Bureau of Investigation (NBI) probed the death of Balidoy. After months of investigation, it forwarded its findings<sup>7</sup> to the provincial prosecutor of Zambales for the preliminary investigation and possible criminal prosecution of those involved in the orientation and indoctrination of the PMMA Class of 2005.<sup>8</sup> Subsequently, the Assistant Provincial Prosecutor of Zambales issued a Resolution<sup>9</sup> finding probable cause to charge the following as principals to the crime of hazing: Aldwin Alvarez (Alvarez), Leotharius C. Montez (Montez), Rudence G. Reyes (Reyes), and Jed Nicholas S. Simpás (Simpás) – collectively, Alvarez *et al.* A criminal case against Alvarez *et al.* was then filed with the Regional Trial Court of Iba, Zambales (RTC–Zambales).

The Assistant Provincial Prosecutor also endorsed to the Deputy Ombudsman for the Military the finding of probable cause to charge the following school authorities as accomplices to hazing: Rear Admiral (RADM) Virginio R. Aris (Aris), Lieutenant Senior Grade (LTSG.) Dominador D. Bayabos (Bayabos), Lieutenant Junior Grade (LTJG.) Gerry P. Doctor (Doctor), LTJG. Manny Ferrer (Ferrer), LTJG. Kruzaldo Maborang (Maborang), LTJG. Ronald G. Magsino (Magsino), Ensign (ENS.) Dennis Velasco (Velasco), and ENS. Dominador Operio (Operio) – collectively, respondents. The Ombudsman Investigator agreed with the findings of the Assistant Provincial Prosecutor. The matter was thus ordered re-docketed for the purpose of conducting the proper administrative proceedings against respondents for grave misconduct and abuse of authority.<sup>10</sup> The Office of the Special Prosecutor eventually filed with the Sandiganbayan a criminal case charging respondents as accomplices to the crime of hazing.<sup>11</sup>

Meanwhile, the RTC–Zambales issued an Order dismissing the Information against the *principal* accused, Alvarez *et al.*<sup>12</sup> The Order was later entered in the Book of Entries of Judgment.

Bayabos, Ferrer, Magsino, Doctor, and Operio (collectively, Bayabos *et al.*) filed a Motion to Quash the Information.<sup>13</sup> They argued that the Information did not contain all the essential elements of the offense. They also pointed out that there was no allegation that the purported act had been made a prerequisite for admission to the PMMA, especially considering that the victim had already been accepted in the academy. Moreover, they stressed that there was no averment in the Information that the PMMA was a fraternity, a sorority, or an organization. Also underscored was the absence

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<sup>7</sup> Findings of the Special Action Unit (dated 22 January 2002), Sandiganbayan *rollo*, pp. 27-29.

<sup>8</sup> Petition of the Special Prosecutor, pp. 8-10, *rollo* (G.R. No. 171222), pp. 39-41.

<sup>9</sup> Resolution of Asst. Provincial Prosecutor (dated 5 July 2002), Sandiganbayan *rollo*, pp. 10-14.

<sup>10</sup> Review and Recommendation (dated 27 February 2003), Sandiganbayan *rollo*, pp. 5-9.

<sup>11</sup> Petition of the Special Prosecutor, pp. 10-14, *rollo* (G.R. No. 171222), pp. 41-45.

<sup>12</sup> See *People v. Alvarez*, Crim Case No. RTC-3502-I (Iba, Zambales RTC Br. 71, 21 June 2005) (Entry of Judgment), Sandiganbayan *rollo*, p. 133.

<sup>13</sup> Motion to Quash of Bayabos *et al.*, (*People v. Aris*, Criminal Case No. 28339, SB, decided on 27 January 2006), Sandiganbayan *rollo*, pp. 113-123.

in the Information of any assertion that the alleged hazing was not part of the “physical, mental, and psychological testing and training procedure and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members.” Furthermore, they emphasized that there was no allegation that they were given prior written notice of the hazing and that they had permitted the activity.

As a final point, Bayabos *et al.* argued that the case against the principal accused had already been dismissed with finality by the RTC. There being no more principals with whom they could have cooperated in the execution of the offense, they asserted that the case against them must be dismissed.

The Special Prosecutor opposed<sup>14</sup> the motion of Bayabos *et al.* He insisted that the Information alleged the material facts that would sufficiently establish the presence of the essential ingredients of the crime of *accomplice to hazing*. He also stressed that there was nothing in the law requiring that the principals must be prosecuted first before a case could be filed against the accomplices. The Comment/Opposition of the Special Prosecutor was, however, silent on the issue of whether the Information contained an allegation that the supposed hazing had been made a prerequisite for admission to the PMMA, and whether the academy was considered an “organization” within the meaning of the Anti-Hazing Law.

Six days before Bayabos *et al.* were set to be arraigned,<sup>15</sup> the Sandiganbayan issued the assailed Resolution (SB Resolution I) quashing the Information and dismissing the criminal case against them. According to the court, the fact that the charge against the principal accused Alvarez *et al.* was dismissed with finality favorably carried with it the indictment against those charged as accomplices, whose criminal responsibility was subordinate to that of the former. It stressed that before there can be an accomplice, there must be a principal by direct participation, the latter being the originator of the criminal design. In this case, as there were no principal perpetrators to speak of, necessarily, there was no one else with whom they could have cooperated in the execution of the crime of hazing. In view of the dismissal of the case against the principals, the court ruled that the Information charging Bayabos *et al.* as accomplices could no longer stand on its own.

In any event, the Sandiganbayan found that the Information charged no offense, and that the allegations therein were mere conclusions of law. It also stressed that there was no averment that the alleged hazing was not part of the “physical, mental and psychological testing and training procedure

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<sup>14</sup> Comment/Opposition of the Special Prosecutor, (*People v. Aris*, Criminal Case No. 28339, SB, decided on 27 January 2006), Sandiganbayan *rollo*, pp. 186-196 (hereinafter, Opposition to the Motion to Quash).

<sup>15</sup> Order of Arraignment of Bayabos *et al.* (*People v. Aris*, Criminal Case No. 28339, 7 December 2005), slip op., Sandiganbayan *rollo*, pp. 211-213. See Motion to Defer Arraignment (*People v. Aris*, Criminal Case No. 28339, filed on 24 January 2006), Sandiganbayan *rollo*, pp. 213-214.

and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members” of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), pursuant to Section 1 of the law.<sup>16</sup> It must be noted, though, that the Sandiganbayan did not make any categorical determination that the PMMA was considered an “organization” within the meaning of the Anti-Hazing Law.

Six months after the Sandiganbayan issued its Resolution dismissing the criminal case against Bayabos *et al.*, the accused Velasco surrendered and then filed his own Motion to Quash,<sup>17</sup> adopting the grounds raised by that court. His arraignment was set on 14 August 2006.<sup>18</sup> However, on 3 August 2006, the Sandiganbayan issued another Resolution (SB Resolution II) dismissing the case against him. According to the court, since Velasco was similarly situated as Bayabos *et al.*, the Information against him must likewise be quashed in light of the reasoning laid out in SB Resolution I. In the same Resolution, the Sandiganbayan *ex proprio motu* dismissed the case against Aris and Maborang (collectively, Velasco *et al.*), explaining that they, too, had been charged under the same Information for the same offense.<sup>19</sup> It is unclear from the records<sup>20</sup> whether the accused Aris and Maborang surrendered or were arrested, or whether the Order of Arrest<sup>21</sup> was recalled prior to the dismissal of the case.

Aggrieved, the Office of the Ombudsman, through the Special Prosecutor, filed with this Court on 13 March 2006 a Petition assailing SB Resolution I and, on 16 October 2006, another Petition challenging SB Resolution II.

### THE ISSUES

The Special Prosecutor asks this Court to address a number of legal issues. After a thorough evaluation of the Petitions, however, we cull the threshold issues needing to be addressed by this Court as follows:

- I. Whether the prosecution of respondents for the crime of accomplice to hazing can proceed in spite of the dismissal with finality of the case against the principal accused
- II. Whether the Information filed against respondents contains all the material averments for the prosecution of the crime of *accomplice to hazing* under the Anti-Hazing Law

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<sup>16</sup> Sandiganbayan Resolution I, *supra* note 2, at 8, *rollo* (G.R. No. 171222), p. 84.

<sup>17</sup> Motion to Quash of Velasco, *supra* note 3, Sandiganbayan *rollo*, pp. 258-265.

<sup>18</sup> Order of Arraignment of Velasco (*People v. Aris*, Criminal Case No. 28339, 21 July 2006), slip op., Sandiganbayan *rollo*, pp. 254-255.

<sup>19</sup> SB Resolution II, *supra* note 2, *rollo* (G.R. No. 174786), p. 57.

<sup>20</sup> See SB Resolution II, *id.*; Order of Arraignment of Velasco, *supra* note 18, at 254.

<sup>21</sup> Order of Arrest (*People v. Aris*, Criminal Case No. 28339, 30 September 2005), slip op., Sandiganbayan *rollo*, pp. 109-110.

## OUR RULING

With regard to the first issue, we agree with petitioner that the Sandiganbayan erred when it dismissed outright the case against respondents, on the sole ground that the case against the purported principals had already been dismissed. It is a settled rule that the case against those charged as accomplices is not *ipso facto* dismissed in the absence of trial of the purported principals; the dismissal of the case against the latter; or even the latter's acquittal, especially when the occurrence of the crime has in fact been established.<sup>22</sup> In *People v. Rafael*,<sup>23</sup> the Supreme Court *En Banc* reasoned thus: "The corresponding responsibilities of the principal, accomplice, and accessory are distinct from each other. As long as the commission of the offense can be duly established in evidence, the determination of the liability of the accomplice or accessory can proceed independently of that of the principal." Accordingly, so long as the commission of the crime can be duly proven, the trial of those charged as accomplices to determine their criminal liability can proceed independently of that of the alleged principal.<sup>24</sup>

We note in the present case that Bayabos *et al.* merely presented the Order of Entry of Judgment<sup>25</sup> dismissing the case against Alvarez *et al.* Nowhere is it mentioned in the order that the case was dismissed against the alleged principals, because no crime had been committed. In fact, it does not cite the trial court's reason for dismissing the case. Hence, the Sandiganbayan committed an error when it simply relied on the Order of Entry of Judgment without so much as scrutinizing the reason for the dismissal of the case against the purported principals.

Nonetheless, as will be discussed below, we affirm the quashal of the Information against respondents.

Section 14, Article III of the Constitution, recognizes the right of the accused to be informed of the nature and cause of the accusation against them. As a manifestation of this constitutional right, the Rules of Court requires that the information charging persons with an offense be "sufficient." One of the key components of a "sufficient information" is the statement of the acts or omissions constituting the offense charged, subject of the complaint.<sup>26</sup> The information must also be crafted in a language ordinary and concise enough to enable persons of common understanding to

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<sup>22</sup> *People v. Rafael*, 397 Phil. 109 (2000); *Vino v. People*, 258-A Phil. 404 (1989). *Cf.*: *U.S. v. Mendoza*, 23 Phil. 194 (1912) (cited in *Vino v. People*, in which the acquittal of the principal resulted in the acquittal of the accessory, as it was shown that no crime had been committed, as the fire was the result of an accident; hence, there was no basis for the conviction of the accessory.)

<sup>23</sup> *People v. Rafael*, *supra*, at 123 (quoting *Vino v. People*, *supra*).

<sup>24</sup> *People v. Rafael*, *supra*; *Vino v. People*, *supra*.

<sup>25</sup> Annex B of the Motion to Quash of Bayabos *et al.*, *supra* note 12, Sandiganbayan *rollo*, p. 133.

<sup>26</sup> RULES OF COURT, RULE 110, SECS. 6 & 8.

know the offense being charged against them.<sup>27</sup> This approach is intended to allow them to suitably prepare for their defense, as they are presumed to have no independent knowledge of the facts constituting the offense they have purportedly committed.<sup>28</sup> The information need not be in the same kind of language used in the law relied upon.<sup>29</sup>

At any time before entering a plea, an accused may assail the information filed with the court based on the grounds enumerated in Section 3, Rule 117 of the Rules of Court, one of which is the claim that the facts charged do not constitute an offense. In assessing whether an information must be quashed on that ground, the basic test<sup>30</sup> is to determine if the facts averred would establish the presence of the essential elements of the crime as defined in the law. The information is examined without consideration of the truth or veracity of the claims therein, as these are more properly proven or controverted during the trial. In the appraisal of the information, matters *aliunde* are not taken into account.

We quote the pertinent provision of the Anti-Hazing Law as follows:

Section 1. Hazing, as used in this Act, is an **initiation rite or practice** as a **prerequisite for admission** into membership in a fraternity, sorority or **organization** by **placing the recruit, neophyte or applicant in some embarrassing or humiliating situations** such as forcing him to do menial, silly, foolish **and other similar tasks or activities** or otherwise **subjecting him to physical or psychological suffering or injury**.

The term **“organization”** shall include **any club or the Armed Forces** of the Philippines, **Philippine National Police, Philippine Military Academy, or officer and cadet corp of the Citizen's Military Training and Citizen's Army Training**. The physical, mental and psychological testing and training procedure and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members of the Armed Forces of the Philippines and the Philippine National Police as approved by the Secretary of National Defense and the National Police Commission duly recommended by the Chief of Staff, Armed Forces of the Philippines and the Director General of the Philippine National Police shall not be considered as hazing for the purposes of this Act.

Sec. 4. x x x x.

The **school authorities** including faculty members **who consent to the hazing or who have actual knowledge thereof, but failed to take any action to prevent the same from occurring** shall be **punished as**

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<sup>27</sup> RULES OF COURT, RULE 110, SEC. 9; *Lazarte v. Sandiganbayan*, 600 Phil. 475 (2009).

<sup>28</sup> *Lazarte v. Sandiganbayan*, supra; *People v. Cinco*, G.R. No. 186460, 4 December 2009, 607 SCRA 820 (citing *Balitaan v. Court of First Instance*, 201 Phil. 311 [1982]); *Andaya v. People*, 526 Phil. 480 (2006) (citing *U.S. v. Karelsen*, 3 Phil. 223 [1904]).

<sup>29</sup> *Id.*

<sup>30</sup> *Torres v. Garchitorena*, 442 Phil. 765 (2002); *Domingo v. Sandiganbayan*, 379 Phil. 708 (2000); *Ingco v. Sandiganbayan*, 338 Phil. 1067 (1997).

**accomplices** for the acts of hazing committed by the perpetrators.  
(Emphasis supplied)

The crime of hazing is thus committed when the following essential elements are established: (1) a person is placed in some embarrassing or humiliating situation or subjected to physical or psychological suffering or injury; and (2) these acts were employed as a prerequisite for the person's admission or entry into an organization. In the crime of hazing, the crucial ingredient distinguishing it from the crimes against persons defined under Title Eight of the Revised Penal Code is the infliction by a person of physical or psychological suffering on another in furtherance of the latter's admission or entry into an organization.

In the case of school authorities and faculty members who have had no direct participation in the act, they may nonetheless be charged as accomplices if it is shown that (1) hazing, as established by the above elements, occurred; (2) the accused are school authorities or faculty members; and (3) they consented to or failed to take preventive action against hazing in spite actual knowledge thereof.

First, we reject the contention of respondents that PMMA should not be considered an *organization*. Under the Anti-Hazing Law, the breadth of the term *organization* includes – but is not limited to – groups, teams, fraternities, sororities, citizen army training corps, educational institutions, clubs, societies, cooperatives, companies, partnerships, corporations, the PNP, and the AFP.<sup>31</sup> Attached to the Department of Transportation and Communications,<sup>32</sup> the PMMA is a government-owned educational institution<sup>33</sup> established for the primary purpose of producing efficient and well-trained merchant marine officers.<sup>34</sup> Clearly, it is included in the term *organization* within the meaning of the law.

We also disagree with the Sandiganbayan ruling that the quashal of the Information was warranted for failure to allege that the purported acts were not covered by the exemption relating to the duly recommended and approved “testing and training procedure and practices” for prospective regular members of the AFP and the PNP. This exemption is an affirmative defense in, not an essential element of, the crime of *accomplice to hazing*. It is an assertion that must be properly claimed by the accused, not by the prosecution. The reason for this rule is that the accused carry the burden of proof in establishing by clear and convincing evidence that they have satisfied the requirements thereof.<sup>35</sup> Thus, the prosecution's failure to point

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<sup>31</sup> Anti-Hazing Law, Secs. 1, 4.

<sup>32</sup> E.O. 292 – *Administrative Code of 1987*, Title XV, Chap. 6, Sec. 23.

<sup>33</sup> *Olanda v. Bugayong*, 459 Phil. 626 (2003); *Philippine Merchant Marine Academy v. Court of Appeals*, 161 Phil. 634 (1976).

<sup>34</sup> R.A. 3680 – *An Act Converting the Philippine Nautical School into the PMMA*, Sec. 2.

<sup>35</sup> See *Sierra v. People*, 609 Phil. 446 (2009); *People v. Castillo*, 533 Phil. 197 (2007); *People v. Rapisora*, G.R. No. 147855, 28 May 2004, 430 SCRA 237; *People v. Marcelo*, 471 Phil. 301 (2004).



out in the Information that the exception is inapplicable would not justify the quashal of that Information.

Nevertheless, we find – albeit for a different reason – that the Motion to Quash must be granted, as the Information does not include all the material facts constituting the crime of *accomplice to hazing*. The Information charging respondents reads as follows:

The undersigned Assistant Special Prosecutor, Office of the Special Prosecutor, hereby accuses [RADM] VIRGINIO R. ARIS, [LTSG.] DOMINADOR D. BAYABOS, [LTJG.] MANNY G. FERRER, [LTJG.] RONALD G. MAGSINO, [LTJG.] KRUZALDO G. MABBORANG, [LTJG.] GERRY P. DOCTOR, [ENS.] DOMINADOR B. OPERIO, JR., and [ENS.] DENNIS S. VELASCO, as accomplices for Violation of R.A. 8049 (Anti-Hazing Law), committed as follows:

That during the period from the 2<sup>nd</sup> of May 2001 up to the 3<sup>rd</sup> of May 2001, inside the campus of the Philippine Merchant Marine Academy (PMMA), in the Municipality of San Narciso, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court accused RADM VIRGINIO R. ARIS, President of PMMA with [Salary Grade (SG) 29]; LTSG. DOMINADOR D. BAYABOS, Commandant of the Cadets; (LTJG.) MANNY G. FERRER, 1<sup>st</sup> Batallion Officer; LTJG. RONALD G. MAGSINO, Security Officer; LTJG. KRUZALDO G. MABBORANG, 2<sup>nd</sup> Battalion Officer; LTJG. GERRY P. DOCTOR, Batl. Mast.; ENS. DOMINADOR B. OPERIO, JR., 1<sup>st</sup> Battalion Company Officer; and ENS. DENNIS S. VELASCO, Mess Officer, all public officers, conspiring, confederating and mutually helping one another, committing the offense in relation to office and while in the performance of their duties as such public officers being the school authorities and/or faculty members did then and there willfully, unlawfully and criminally, consent or have actual knowledge of the hazing perpetrated by the principal accused, all First Class Midshipmen, against probationary midshipman FERNANDO BALIDOY, JR. during the school's Indoctrination and Orientation; and, fail to take any action to prevent the occurrence of the hazing and the infliction of psychological and physical injuries against said FERNANDO BALIDOY, JR. thereby causing the instantaneous death of the latter, to the damage and prejudice of the heirs of said FERNANDO BALIDOY, JR.<sup>36</sup>

As can be gleaned from the above, the indictment merely states that psychological pain and physical injuries were inflicted on the victim. There is no allegation that the purported acts were employed as a prerequisite for admission or entry into the organization. Failure to aver this crucial ingredient would prevent the successful prosecution of the criminal responsibility of the accused, either as principal or as accomplice, for the crime of hazing. Plain reference to a technical term<sup>37</sup> – in this case, *hazing* –

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<sup>36</sup> Information (dated 2 September 2005), Sandiganbayan *rollo*, pp. 1-4. It is also quoted in Sandiganbayan Resolution, pp. 4-5, *rollo* (G.R. No. 171222), pp. 16-17.

<sup>37</sup> See generally *U.S. v. Lim San*, 17 Phil. 273 (1910) (cited in *Consigna v. People*, G.R. Nos. 175750-51, 2 April 2014; *People v. Valdez*, G.R. No. 175602, 18 January 2012, 663 SCRA 272; *Matrado v. People*, 613 Phil. 203 (2009); *Batulanon v. People*, 533 Phil. 336 (2006); *Andaya v. People*, supra note 28; *Burgos v.*

is insufficient and incomplete, as it is but a characterization of the acts allegedly committed and thus a mere conclusion of law. Section 6, Rule 110 of the Rules of Court, expressly states that the information must include, *inter alia*, both “the designation of the offense given by the statute” and “the acts or omissions complained of as constituting the offense.” The Special Prosecutor’s belated argument<sup>38</sup> in his Petition before this Court that the successful completion of the indoctrination and orientation program was used as a prerequisite for continued admission to the academy – *i.e.*, attainment of active midshipman status – does not cure this defect in the Information. Thus, the Information must be quashed, as the ultimate facts it presents do not constitute the crime of *accomplice to hazing*.

Finally, we reject the Special Prosecutor’s claim that the Sandiganbayan should just have ordered the filing of another information or the correction of the defect by amendment, instead of dismissing the case outright.<sup>39</sup> Indeed, Section 4, Rule 117 of the Rules of Court, provides that if a motion to quash is based on the ground that the facts charged do not constitute an offense, the court shall give the prosecution a chance to correct the defect by amendment. However, the provision also states that if the prosecution fails to make the amendment, the motion shall be granted. Here, we point out that the Special Prosecutor insisted in his Comment on the Motion to Quash<sup>40</sup> that there was no defect in the Information. Neither has he filed a new information after the motion was sustained, pursuant to Section 5, Rule 117. Thus, the Sandiganbayan was correct in ordering the quashal of the Information and the eventual dismissal of the case.

This does not mean, however, that the Special Prosecutor is now precluded from filing another information. Section 6, Rule 117, specifically states that an order sustaining a motion to quash would not bar another prosecution. That is, of course, unless respondents are able to prove that the criminal action or liability has been extinguished, or that double jeopardy has already attached.

Given the foregoing, the Court no longer sees the necessity to pass upon the other issues raised by petitioner.

**WHEREFORE**, the petition for review on *certiorari* in G.R. No. 171222 is hereby **DENIED** and the petition for *certiorari* in G.R. No. 174786, **DISMISSED**. The dismissal of the case in Sandiganbayan Resolutions dated 27 January 2006 and 3 August 2006 in Criminal Case No. 28339 are thus **AFFIRMED**.

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cont..


*Sandiganbayan*, 459 Phil. 794 (2003); *People v. Banihit*, 393 Phil. 465 (2000); *Oca v. Jimenez*, 115 Phil. 420 (1962).

<sup>38</sup> Petition of the Special Prosecutor, pp. 15-16, *rollo* (G.R. No. 171222), pp. 46-47.

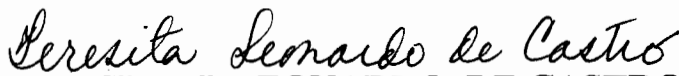
<sup>39</sup> Petition of the Special Prosecutor, p. 28, *rollo* (G.R. No. 171222), p. 59.

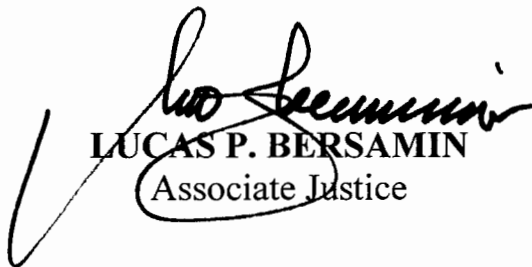
<sup>40</sup> Opposition to the Motion to Quash, *supra* note 14 at 4-9, *Sandiganbayan rollo*, pp. 189-194.

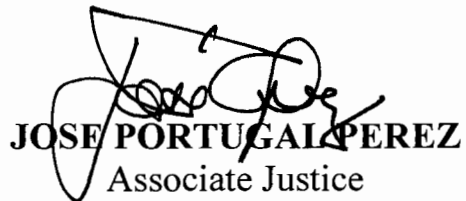
**SO ORDERED.**


  
**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

**WE CONCUR:**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice


  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice