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**THIRD DIVISION**

[G.R. Nos. 147706-07. February 16, 2005]

**PEOPLE OF THE PHILIPPINES,** *petitioner, vs.* **THE HONORABLE SANDIGANBAYAN (Fifth Division) and EFREN L. ALAS,** *respondents*.

**SYLLABUS**

1. **POLITICAL LAW; ADMINISTRATIVE LAW; GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS; PHILIPPINE POSTAL SAVINGS BANK (PPSB); ITS CREATION WAS EXPRESSLY SANCTIONED BY SECTION 32 OF POSTAL SERVICE ACT OF 1992.—** PPSB fits the bill as a government-owned or controlled corporation, and organized and incorporated under the Corporation Code as a subsidiary of the Philippine Postal Corporation (PHILPOST). More than 99% of the authorized capital stock of PPSB belongs to the government while the rest is nominally held by its incorporators who are/were themselves officers of PHILPOST. The creation of PPSB was expressly sanctioned by Section 32 of RA 7354, otherwise known as the Postal Service Act of 1992, for purposes of, among others, "to encourage and promote the virtue of thrift and the habit of savings among the general public, especially the youth and the marginalized sector in the countryside xxx" and to facilitate postal service by "receiving collections and making payments, including postal money orders."

2. **REMEDIAL LAW; COURTS; SANDIGANBAYAN; JURISDICTION; GOVERNED BY ARTICLE XI, SECTION 4 OF THE 1987 CONSTITUTION.—** It should be pointed out however, that the jurisdiction of the Sandiganbayan is separate and distinct from the Civil Service Commission. The same is governed by Article XI, Section 4 of the 1987 Constitution which provides that "the present anti-graft court known as the Sandiganbayan *shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law*." This provision, in effect, retained the jurisdiction of the anti-graft court as defined under Article XIII, Section 5 of the 1973 Constitution which mandated its creation[.]

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**3. ID.; ID.; ID.; INCLUDES PRESIDENTS, DIRECTORS OR TRUSTEES, OR MANAGERS OF ALL GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS.—** On March 30, 1995, Congress, pursuant to its authority vested under the 1987 Constitution, enacted RA 7975 maintaining the jurisdiction of the Sandiganbayan over presidents, directors or trustees, or managers of government-owned or controlled corporations without any distinction whatsoever. Thereafter, on February 5, 1997, Congress enacted RA 8249 which preserved the subject provision[.] x x x The legislature, in mandating the inclusion of "presidents, directors or trustees, or managers of government-owned or controlled corporations" within the jurisdiction of the Sandiganbayan, has consistently refrained from making any distinction with respect to the manner of their creation. The deliberate omission, in our view, clearly reveals the intention of the legislature to include the presidents, directors or trustees, or managers of *both* types of corporations within the jurisdiction of the Sandiganbayan whenever they are involved in graft and corruption. Had it been otherwise, it could have simply made the necessary distinction. But it did not.

**4. ID.; ID.; ID.; ID.; ID.; REFERS TO THE CONCERNED OFFICERS OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WHETHER CREATED BY SPECIAL LAW OR FORMED UNDER THE CORPORATION CODE.—** In *Quimpo v. Tanodbayan*, this Court, already mindful of the pertinent provisions of the 1987 Constitution, ruled that the concerned officers of government-owned or controlled corporations, whether created by special law or formed under the Corporation Code, come under the jurisdiction of the Sandiganbayan for purposes of the provisions of the Anti-Graft and Corrupt Practices Act. Otherwise, as we emphasized therein, a major policy of Government, which is to eradicate, or at the very least minimize, the graft and corruption that has permeated the fabric of the public service like a malignant social cancer, would be seriously undermined. In fact, Section 1 of the Anti-Graft and Corrupt Practices Act embodies this policy of the government, that is, to repress certain acts not only of public officers but also of private persons constituting graft or corrupt practices or which may lead thereto. The foregoing pronouncement has not outlived its usefulness. On the contrary, it has become even more relevant today due to the rampant cases of graft and corruption that erode the

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people's faith in government. For indeed, a government-owned or controlled corporation can conceivably create as many subsidiary corporations under the Corporation Code as it might wish, use public funds, disclaim public accountability and escape the liabilities and responsibilities provided by law. By including the concerned officers of government-owned or controlled corporations organized and incorporated under the Corporation Code within the jurisdiction of the Sandiganbayan, the legislature evidently seeks to avoid just that.

**APPEARANCES OF COUNSEL**

*The Solicitor General* for petitioner.
*Ramon Y. Gargantos* for private respondent.

**D E C I S I O N**

**CORONA, *J.*:**

Does the Sandiganbayan have jurisdiction over presidents, directors or trustees, or managers of government-owned or controlled corporations organized and incorporated under the Corporation Code for purposes of the provisions of RA 3019, otherwise known as the Anti-Graft and Corrupt Practices Act? The petitioner, represented by the Office of the Special Prosecutor (OSP), takes the affirmative position in this petition for *certiorari* under Rule 65 of the Rules of Court. Respondent Efren L. Alas contends otherwise, together with the respondent court.

Pursuant to a resolution dated September 30, 1999 of the Office of the Ombudsman, two separate informations[1] for violation of Section 3(e) of RA 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, were filed with the Sandiganbayan on November 17, 1999 against Efren L. Alas. The charges emanated from the alleged anomalous advertising contracts entered into by Alas, in his capacity as President and Chief Operating Officer of the Philippine Postal Savings Bank (PPSB), with Bagong Buhay Publishing Company which purportedly caused damage and prejudice to the government.

[1] Docketed as Criminal Cases Nos. 25750-25751

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On October 30, 2002, Alas filed a motion to quash the informations for lack of jurisdiction, which motion was vehemently opposed by the prosecution. After considering the arguments of both parties, the respondent court ruled that PPSB was a private corporation and that its officers, particularly herein respondent Alas, did not fall under Sandiganbayan jurisdiction. According to the Sandiganbayan:

> After a careful consideration of the arguments of the accused-movant as well as of that of the prosecution, we are of the considered opinion that the instant motion of the accused is well taken. Indeed, it is the basic thrust of Republic Act as well as (*sic*) Presidential Decree No. 1606 as amended by President Decree No. 1486 and Republic Act No. 7975 and Republic Act No. 8249 that the Sandiganbayan has jurisdiction only over public officers unless private persons are charged with them in the commission of the offenses.
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> The records disclosed that while Philippine Postal Savings Bank is a subsidiary of the Philippine Postal Corporation which is a government owned corporation, the same is not created by a special law. It was organized and incorporated under the Corporation Code which is Batas Pambansa Blg. 68. It was registered with the Securities and Exchange Commission under SEC No. AS094-005593 on June 22, 1994 with a lifetime of fifty (50) years. Under its Articles of Incorporation the purpose for which said entity is formed was primarily for business, xxx
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> Likewise, a scrutiny of the seven (7) secondary purposes of the corporation points to the conclusion that it exists for business. Obviously, it is not involved in the performance of a particular function in the exercise of government power. Thus, its officers and employees are not covered by the GSIS and are under the SSS law, and actions for reinstatement and backwages are not within the jurisdiction of the Civil Service Commission but by the National Labor Relations Commission (NLRC).
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> The Supreme Court, in the case of *Trade Unions of the Philippines and Allied Services vs. National Housing Corp.,* 173 SCRA 33, held that the Civil Service now covers only government owned or controlled corporations with original or legislative charters, those created by an act of Congress or by special law, and not those incorporated under and pursuant to a general legislation. The Highest Court categorically ruled that the Civil Service does not include

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government-owned or controlled corporation which are organized as subsidiaries of government-owned or controlled corporation under the general corporation law.

> In *Philippine National Oil Company — Energy Development Corporation vs. Leogardo*, 175 SCRA 26, the Supreme Court emphasized that:
>
> > The test in determining whether a government-owned or controlled corporation is subject to the Civil Service Law is the manner of its creation such that government corporation created by special charter are subject to its provision while those incorporated under the general corporation law are not within its coverage.

Likewise in *Davao City Water District vs. Civil Service Commission*, 201 SCRA 601 it was held that "by government-owned or controlled corporation with original charter we mean government-owned or controlled corporation created by a special law and not under the Corporation Code of the Philippines" while in *Llenes vs. Dicdican, et al.*, 260 SCRA 207, a public officer has been ruled, as a person whose duties involve the exercise of discretion in the performance of the function of government.

Clearly, on the basis of the foregoing pronouncements of the Supreme Court, the accused herein cannot be considered a public officer. Thus, this Court may not exercise jurisdiction over his act.[2]

Dissatisfied, the People, through the Office of the Special Prosecutor (OSP), filed this petition [3] arguing, in essence, that the PPSB was a government-owned or controlled corporation as the term was defined under Section 2(13) of the Administrative Code of 1987.[4] Likewise, in further defining the jurisdiction of the Sandiganbayan, RA 8249 did not make a distinction as to the manner of creation of the government-owned or controlled corporations for their officers to fall under its jurisdiction. Hence, being President and Chief Operating Officer of the PPSB at

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[2] Resolution dated February 15, 2001, Annex "A", *Rollo*, pp. 18-22.

[3] *Rollo*, pp. 2-17.

[4] EO No. 292.

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the time of commission of the crimes charged, respondent Alas came under the jurisdiction of the Sandiganbayan.

Quoting at length from the assailed resolution dated February 15, 2001, respondent Alas, on the other hand, practically reiterated the pronouncements made by the respondent court in support of his conclusion that the PPSB was not created by special law, hence, its officers did not fall within the jurisdiction of the Sandiganbayan.[5]

We find merit in the petition.

Section 2(13) of EO 292[6] defines government-owned or controlled corporations as follows:

> Sec. 2. General Terms Defined — Unless the specific words of the text or the context as a whole or a particular statute, shall require a different meaning:
>
> xxx xxx xxx
>
> (13) government owned or controlled corporations refer to any agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly or through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least 51% of its capital stock: provided, that government owned or controlled corporations maybe further categorized by the department of the budget, the civil service commission and the commission on audit for the purpose of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.

From the foregoing, PPSB fits the bill as a government-owned or controlled corporation, and organized and incorporated under the Corporation Code as a subsidiary of the Philippine Postal Corporation (PHILPOST). More than 99% of the authorized capital stock of PPSB belongs to the government while the rest is nominally held by its incorporators who are/were themselves

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[5] Comment, *Rollo*, pp. 38-49.

[6] Administrative Code of 1987.

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officers of PHILPOST. The creation of PPSB was expressly sanctioned by Section 32 of RA 7354, otherwise known as the Postal Service Act of 1992, for purposes of, among others, "to encourage and promote the virtue of thrift and the habit of savings among the general public, especially the youth and the marginalized sector in the countryside xxx" and to facilitate postal service by "receiving collections and making payments, including postal money orders."[7]

It is not disputed that the Sandiganbayan has jurisdiction over presidents, directors or trustees, or managers of government-owned or controlled corporations with original charters whenever charges of graft and corruption are involved. However, a question arises whether the Sandiganbayan has jurisdiction over the same officers in government-owned or controlled corporations organized and incorporated under the Corporation Code in view of the delimitation provided for in Article IX-B Section 2(1) of the 1987 Constitution which states that:

> SEC. 2. (1) The Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.

It should be pointed out however, that the jurisdiction of the Sandiganbayan is separate and distinct from the Civil Service Commission. The same is governed by Article XI, Section 4 of the 1987 Constitution which provides that "the present anti-graft court known as the Sandiganbayan *shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law*." This provision, in effect, retained the jurisdiction of the anti-graft court as defined under Article XIII, Section 5 of the 1973 Constitution which mandated its creation, thus:

> Sec. 5. The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offense committed by public officers and employees,

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[7] Articles of Incorporation of PPSB, Annex "C", *Rollo*, pp. 27-35.

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*including those in government-owned or controlled corporations*, in relation to their office as may be determined by law. (Italics ours)

On March 30, 1995, Congress, pursuant to its authority vested under the 1987 Constitution, enacted RA 7975[8] maintaining the jurisdiction of the Sandiganbayan over presidents, directors or trustees, or managers of government-owned or controlled corporations without any distinction whatsoever. Thereafter, on February 5, 1997, Congress enacted RA 8249[9] which preserved the subject provision:

Section 4. *Jurisdiction*. The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense,

(1) Officials of the executive branch occupying the positions of regional director, and higher, otherwise classified as grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758) specifically including:

xxx xxx xxx

(g) *Presidents, directors or trustees, or managers of government-owned or controlled corporations*, state universities or educational institutions or founda-tions. (Italics ours)

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[8] Entitled: ACT TO STRENGTHEN THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, AMENDING FOR THAT PURPOSE PD 1606, AS AMENDED.

[9] Entitled: AN ACT FURTHER DEFINING THE JURISDICTION OF THE *SANDIGANBAYAN*. AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

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The legislature, in mandating the inclusion of "presidents, directors or trustees, or managers of government-owned or controlled corporations" within the jurisdiction of the Sandiganbayan, has consistently refrained from making any distinction with respect to the manner of their creation.

The deliberate omission, in our view, clearly reveals the intention of the legislature to include the presidents, directors or trustees, or managers of *both* types of corporations within the jurisdiction of the Sandiganbayan whenever they are involved in graft and corruption. Had it been otherwise, it could have simply made the necessary distinction. But it did not.

It is a basic principle of statutory construction that when the law does not distinguish, we should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. Corollarily, Article XI Section 12 of the 1987 Constitution, on the jurisdiction of the Ombudsman (the government's prosecutory arm against persons charged with graft and corruption), includes officers and employees of government-owned or controlled corporations, likewise without any distinction.

In *Quimpo v. Tanodbayan*,[10] this Court, already mindful of the pertinent provisions of the 1987 Constitution, ruled that the concerned officers of government-owned or controlled corporations, whether created by special law or formed under the Corporation Code, come under the jurisdiction of the Sandiganbayan for purposes of the provisions of the Anti-Graft and Corrupt Practices Act. Otherwise, as we emphasized therein, a major policy of Government, which is to eradicate, or at the very least minimize, the graft and corruption that has permeated the fabric of the public service like a malignant social cancer, would be seriously undermined. In fact, Section 1 of the Anti-Graft and Corrupt Practices Act embodies this policy of the government, that is, to repress certain acts not only of public officers but also of private persons constituting graft or corrupt practices or which may lead thereto.

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[10] 230 Phil. 232 (1986).

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The foregoing pronouncement has not outlived its usefulness. On the contrary, it has become even more relevant today due to the rampant cases of graft and corruption that erode the people's faith in government. For indeed, a government-owned or controlled corporation can conceivably create as many subsidiary corporations under the Corporation Code as it might wish, use public funds, disclaim public accountability and escape the liabilities and responsibilities provided by law. By including the concerned officers of government-owned or controlled corporations organized and incorporated under the Corporation Code within the jurisdiction of the Sandiganbayan, the legislature evidently seeks to avoid just that.

**WHEREFORE**, in view of the foregoing, the petition is hereby *GRANTED* and the assailed resolution dated February 15, 2001 of the respondent court is hereby *REVERSED* and *SET ASIDE*.

**SO ORDERED.**

*Panganiban (Chairman), Sandoval-Gutierrez, Carpio Morales,* and *Garcia, JJ.*, concur.

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**SECOND DIVISION**

[G.R. No. 147956. February 16, 2005]

**ESPERANZA S. LONGINO,** *petitioner, vs.* **ATTY. LINA A. GENERAL, OIC, Commission Member III; ATTY. NOEL A. GALAROSA, OIC, Commission Member III; ATTY. LUZ SARMIENTO, OIC, Office of the Executive Director, all of COSLAP; JUDGE JAIME F. BAUTISTA of the Regional Trial Court, Branch 75, Valenzuela City; and ELSA P. SERRANO,** *respondents*.