

ANTONIO H. NOBLEJAS, PETITIONER, VS. HON. EMILIO V. SALAS, AS JUDGE OF PASIG BRANCH I, RIZAL COURT OF FIRST INSTANCE; PROVINCIAL FISCAL OF RIZAL, AND ELISEO C. DE GUZMAN, AS ASS...

G.R. Nos. L-31788 & L-31792. September 15, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari seeking the nullification and setting aside of the orders of respondent court dated February 6, 1970 and March 6, 1970 denying petitioner's motion to quash the amended information in its Criminal case No. 19574, entitled *People vs. Genoveva Carlos, et al.* which added petitioner as one of the accused therein charged with estafa thru falsification of public documents, petitioner having contended in said motion to quash that:

- "1. That the accused was not accorded any preliminary investigation and, therefore, he was charged without due process of law.
2. That the amended information shows on its face that the alleged falsification was committed outside the jurisdiction of this Court.
3. That the State is estopped to prosecute the accused because it used him as a prosecution witness in cases similar to this case and because Fiscal Benjamin H. Aquino, with the approval of the Secretary of Justice, exonerated the defendant from any criminal complicity in resurveys with expanded areas.
4. That the question of whether the defendant can be included in the so-called "land-grabbing" cases is sub judice in *Noblejas vs. Judge Mariano, L-30578* and *Fiscal Aquino vs. Judge Mariano, L-30485*.
5. That the inclusion of the defendant in this case constitutes an undue harassment, or the use of the strong arm of the law in an oppressive and vindictive manner, which can be enjoined,"(Pp. 20-21, Record.).

which grounds, he has allegedly substantiated during the proceedings in said court. At the same time, there is also a petition for prohibition to enjoin the respondent fiscals from further taking any criminal action against petitioner in all cases of alleged "land grabbing" being handled by them in which he had already been exonerated by said respondents' predecessor with the approval of the Secretary of Justice.

It appears that on several occasions prior to 1968, various land titles (Torrens titles) covering lands situated within the Province of Rizal were amended on the basis of supposed corrective resurveys, by increasing the respective areas covered by said titles. The corresponding certifications of the verifications of these resurveys were issued by the Land Registration Office, headed then by petitioner Noblejas, and subsequently approved by the court, in instances where the subdivision plans were complex, the action of the office being sufficient where the subdivision plans were simple. Allegedly, however, it turned out that the increases in said various amendments were far in excess of the respective corresponding real areas of the lands involve, so much so that even vast portions of lands and waters of the public domain not capable of appropriation by any private person or entity

have been included within the expanded titles. Information about such alleged 'land grabbing' must have reached the office of the Provincial Fiscal of Rizal, albeit the record does not show when, how and upon whose initiative, for it is here mutually agreed among all the parties that investigations thereof were conducted by said office. Again, the record is bereft of adequate information as to how the said investigations were conducted. Nowhere in the various pleadings, briefs and memoranda of the parties is there any indication what procedure had been followed in said investigations. All that We can see is that on various occasions petitioner Noblejas had been subpoenaed by the fiscals concerned and that said petitioner had actually appeared either personally or by counsel in some of said investigations and had in fact presented, subsequent to June 20, 1968, an affidavit explaining his participation in the matter, as then Commissioner of Land Registration. In other words, We are not definitely informed by actual reference to records of the corresponding proceedings whether or not the existing rules governing preliminary investigations have been observed, the only indication there is of what might have been done in said proceedings being no more than what are alleged in the "Answer" of respondent fiscals dated January 29, 1970[1] to the order of respondent Judge Emilio V. Salas of January 19, 1970 directing them to submit "any evidence showing that a preliminary investigation (had been) conducted" in the Carlos case,[2] the said answer stating simply that petitioner Noblejas had been "given a chance to appear in person or by counsel¹ because the corresponding subpoena had been sent to him at the office of the Commissioner of Land Registration on May 2 and May 9, 1968 and that "the Investigating Fiscal on page 3 of the Information certifies that he had conducted the preliminary investigation of the above-captioned case in accordance with law."

Evidently, as a result of said investigations, several criminal cases were filed by the fiscals and are now pending in the different salas of the Court of First Instance of Rizal. In this connection, the following details alleged in the petition in G.R. Nos. L-31788 and L-31792 are admitted in the answer of respondents:

"11. That, according to petitioner's information, out of more than twenty (20) land grabbing cases investigated by Fiscals Aquino and De Guzman, only eight (8) were filed in Court. In six of these eight cases, the petitioner was listed as a prosecution witness.

12. That in three of the said cases, namely People vs. Ceñidoza, Crim. Case No 18425 (Judge Revilla); People vs. Dacanay, Crim. Case No. 18577 (Judge Salas) and People vs. Dizon, Crim. Case No. 19479 (Judge Mariano), petitioner Noblejas testified as a prosecution witness. He has been subpoenaed to testify in a fourth case, People vs. Del Rosario, Crim. Case No. 18461, sala of Judge Flores. (Pp. 5-6, Record.).

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"37. That respondent Fiscals amended the informations for estafa thru falsification, not only in this Carlos case, but also in Crim. Case No. 19550, People vs. Gonzalez, sala of Judge Ruiz, and Crim. Case No. 20360, People vs. Aguirre, sala of Judge Navarro, and that Fiscal De Guzman filed on March 4, 1970 an information against the petition in Crim. Case No. 0334, People vs. Samson, although the preliminary investigation therein was conducted in March, 1968 or two years ago and the petitioner had already been exonerated in that case.

"38 That Fiscal De Guzman is at present conducting the preliminary investigation of a similar case, I.S. No. 69-2093, CIS vs. General Alfonso Arellano, et al., wherein the petitioner has been included as a respondent, and, unless restrained, he might file an information against the petitioner in the said case and thus compel him to post another bail bond.

"39. That it should be noted that Fiscals De Guzman and former Fiscal Aquino investigated in 1968 the following eighteen (18) other so called 'land grabbing' cases:

(1)

I.S. No. 68-1681, CIS vs. Gregoria Yujuico-Paredes.

(2) I.S. No. 68-873, Dept. of Agriculture and Natural Resources vs. Galaxie Industrial Corporation.

(3) I.S. No. 68-324, Metrocom vs. Gozon.

(4) I.S. No. 68-574, Prov. Gov't. of Rizal vs. Roque.

(5) I.S. No. 576, Prov. Gov't. of Rizal vs. Nicolas.

(6) I.S. No. 68-577, Prov. Gov't. of Rizal vs. Siongco or Moris ay ac.

(7) I.S. No. 68-578, Prov. Gov V. of Rizal vs. Roxas.

(8) I.S. No. 68-579, Prov. Gov't. of Rizal vs. Villaflor.

(9) I.S. No. 68-594, Prov. Gov't. of Rizal vs. Jimenez.

(10) I.S. No. 68-913, Prov. of Rizal vs. Landicho.

(11) I.S. No. 1265, Prov. Gov't of Rizal vs. Sumulong.

(12) I.S. No. 1267, Prov. Gov't. of Rizal vs. Rizal Cement Co.

(13) I.S. No. 1268, Prov. Gov't. of Rizal vs. Pamplona Development Company.

(14) I.S. No. 1269, Prov. Gov't. of Rizal vs. Buenaventura.

(15) I.S. No. 1270, Prov. Gov't. of Rizal vs. Santiago Syjuco, Inc.

(16) I.S. No. 68-1429, Prov. Gov't. of Rizal vs. Paez.

(17) I.S. No. 68-1 516, Prov. Gov't. of Rizal vs. Doctor Carmen Enverga-Santos.

(18)

I.S. No. 68-1583, Prov. Gov't. of Rizal vs. Manuel Syjuco.

"40. That no information have been filed up to this time in the above eighteen (18) cases; that petitioner Noblejas was exonerated by Fiscal Aquino and the Secretary of Justice in the said cases; but, however, considering that respondent Fiscals have not respected the holding of Fiscal Aquino, as affirmed by the Secretary of Justice, it is probable that they might include petitioner Noblejas in any informations which they might file in the said cases, should they choose to file informations therein, as they did in the recent aforementioned Narciso Samson case." (Pp. 11-12, Record.).

Also in connection with the investigations conducted by his office, on March 4, 1968 and June 20, 1968, Fiscal Aquino submitted reports to the Secretary of Justice seeking authority to prosecute Noblejas and other persons in connection with the alleged "land grabbing" already referred to. The report of June 20, 1968, concluded thus:

"This Office believes that the prolonged pendency of any action to be taken in connection with the so called land grabbing cases reflected on the image of this Office and indirectly on the Department of Justice. Since the investigations have been concluded and the evidence shows strong prima facie case against the respondents, it is recommended that authority be granted to this Office to file the corresponding information against Commissioner Noblejas for Violation of the Anti-Graft Law, in addition to such other provisions of the Public Land Laws that may have been violated or the pertinent provisions of the Penal Code, particularly that of falsification of Public Documents, and the information for such offense as are justified by the evidence against the private land owners, the surveyors, the officials of (he Land Registration Commission, aside from Commissioner Noblejas, who

processed and approved the technical descriptions, the resurvey plans and other pertinent documents submitted for review by that office, as soon as possible." (Page 117, Record.).

Shortly after this last resort was submitted, Noblejas, as already stated earlier, appeared before Fiscal Aquino and presented an affidavit explaining in detail his participation as Commissioner of Land Registration in the verification and certification of the resurveys in question. He protested he acted in good faith and with due diligence in approving said verifications and in affixing his signature on the certifications and denied there was any anomalous motive in his actuations. Upon a review of the records in the light of this affidavit, on September 2, 1968, Fiscal Aquino sent a memorandum to the Secretary of Justice exonerating Noblejas this wise:

"We have carefully reviewed the records of the various cases and we find that there were classes of intervention of Commissioner Noblejas in relation thereto. One, the approval of his office of the resurvey plans, resulting from subdivision or consolidation of several lots or a combination thereof whereby he directed the Register of Deeds to issue the corresponding titles covering the resulting lots. Second, in the form of a report to the Court of First Instance whereby he recommended the approval of the subdivision or consolidation plans or a combination of both, resulting similarly in the issuance of new titles covering the new lots. Under both modes of approval of resurvey plans, we find that the plans, as well as the technical descriptions, were passed over by different officials and employees of the Land Registration Commission, particularly the chiefs of two divisions, Messrs. Lucio Adriano, Jr. and Adriano Castillo, who were directly in charge of processing said documents, plans and technical descriptions before they were sent over to Commissioner Noblejas for signature. We find merit in the claim of Commissioner Noblejas that he relied on the processing and approval of resurvey plans and technical descriptions of the land covered by them by his trained staff and personnel. In truth, we find invariably the initials of these subordinate officials and employees on the documents signed by Commissioner Noblejas and the express approval of (he technical descriptions of the chief of division concerned. As Commissioner Noblejas explained repeatedly on several occasions, he has to sign hundreds of documents everyday, after the papers were processed by his technical staff; that unless his attention is called to an irregularity he has to approve them as a matter of course because to require him to go over the supporting papers would be almost an impossibility and would require considerable delay in the disposition of cases to the detriment of the general public. As Chief of Office, he did not have the opportunity to go over the voluminous documents supporting each resurvey plans, and this work has to be done by the chiefs of division, particularly the Chiefs of the Division of Registered Land and Field Service Division, and the technical men under them. Reassessed in the light of this explanation and his further claim that if there was an error committed by him, it was a mistake of judgment which did not amount to a criminal act, and coupled with the issuance of LRC Circular No. 167 by Commissioner Noblejas, instructing all Registers of Deeds and Branch Deputy Register of Deeds to:

- Deny the registration of said land and to withhold the issuance of the corresponding titles; or if the plans have already been registered and the titles issued, to recall the titles and to take appropriate steps for their cancellation;
- Withhold or suspend the registration of any instrument affecting or involving lands covered by these plans with expanded or increased areas;
- Submit a list of these plans, if any, to this Commission together with a report of the corresponding action they have taken.

immediately after he was informed of the irregularity, we may conclude that he acted in good faith and his action constituted an error in Judgment for which he may only be administratively responsible. This is particularly corroborated by our finding that there is no evidence to establish that he profited from any of the acts imputed to him. The attention of the Department is invited to our finding in our report of March 4, 1968 that there is no evidence to show that he (Commissioner Noblejas) acted in the premises for any consideration or promise of

reward. We also stated therein that there is scanty or weak evidence of conspiracy between Commissioner Noblejas and the other persons responsible for the enlargement of the lands involved in these cases." (Pp. 15-16, Record.).

On October 8, 1968, this exculpatory memorandum was approved by the Secretary thus:

"Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

October 8, 1968

Fiscal Benjamin Aquino
Provincial Fiscal
Pasig, Rizal.

Sir:

Anent your report dated September 2, 1968, please be informed that we have approved your recommendation based on your findings regarding Mr. Antonio H. Noblejas.

We further approved your recommendation that criminal action or actions maybe taken as against the other respondents if warranted in those cases that you have already investigated.

Please be guided accordingly.

Truly yours,

(Sgd.) Claudio Teehankee

(t) CLAUDIO TEEHANKEE

Secretary." (Page 5, Record.)

At this juncture, it should be mentioned that the particular reason why Fiscal Aquino had to report the Noblejas case to the Secretary of Justice is found in the following Circular No. 97 dated September 1, 1967:

"TO ALL PROVINCIAL AND CITY
FISCALS AND THEIR ASSISTANTS
AND STATE PROSECUTORS:

There is quoted hereunder the Memorandum of the President of the Philippines, dated May 29, 1967, addressed to the Secretary of Justice, for your information:

'In the legitimate performance of their official duties, Justices of the Supreme Court and of the Court of Appeals and District Judges of the Courts of First Instance and Department heads and Chief of Bureaus and Offices are sometimes subjected to frivolous court cases. Undoubtedly such suits affect adversely the initiative, enthusiasm and dedication of the aforementioned officials in the performance of their duties.

In view thereof, in order to protect these public officials from undue harassments, you are directed to circularize all Fiscals and other prosecuting officers to submit to you for review any case contemplated to be

filed against anyone of the above-mentioned officials in the accomplishment of his sworn duties, before the case is actually filed in court.

For strict compliance.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines'

In addition to the specific instructions of the President to submit to the Secretary of Justice for review any case contemplated to be filed against anyone of the officials mentioned in his memorandum before the case is actually filed in court, you are directed to submit to this Department a report of the case filed together with copies of the pertinent papers, within three (3) days from the date of its filing in your office.

You are further directed not to entertain any such complaint unless the same is supported by the sworn statement of the complainant(s) and his witnesses. The head of office shall see to it that the case is not set for preliminary investigation and no subpoenas for the appearance of the respondent official(s) in such investigation shall be issued except after he has satisfied himself, from the sworn statements accompanying the complaint, that there exists factual and legal basis to conduct such investigation.

Strict compliance herewith is hereby enjoined.

(Sgd.) CLAUDIO TEEHANKEE
Secretary of Justice"

And so, Noblejas was left out in all the "land grabbing" cases that reached the Court of First Instance of Rizal. For instance, when respondent Fiscal de Guzman filed the original information in the herein subject case of People vs. Carlos, Noblejas was not included among the accused, albeit he was listed therein among the prosecution witnesses. It was much later and after Fiscal Aquino had already been appointed Judge of the Court of First Instance of Rizal "that on November 19, 1969, Fiscal de Guzman, without conducting a new preliminary investigation and without prior notice to petitioner Noblejas, amended the information in the aforementioned Carlos case by including the petitioner as, a. co-defendant therein and striking out his name in the list of prosecution witnesses." (Par. 13 of the petition admitted in the answer of respondents.).

Upon learning from newspaper reports of November 21, 1969 of his being included as accused in the Carlos case, Noblejas filed a motion to quash the amended information on the grounds already quoted at the outset of this opinion.

In their opposition to said motion to quash, respondent fiscals maintained that the proper preliminary investigation had been conducted, whereupon Noblejas filed a motion for the production of the records of the alleged investigation or his supposed waiver thereof, which motion was granted, but as already mentioned earlier, the compliance of the fiscals with the order of the court was limited to no more than their own assertion that an investigation had been undertaken and as proof thereof, they referred to Fiscal de Guzman's own certification at the foot of the information that indeed he had conducted it. After said compliance was filed, Judge Salas denied the motion to quash, hence the instant petition.

In effect, the fundamental issue submitted to Us is whether or not Fiscals Castillo and de Guzman had authority to sign and file the amended information adding petitioner as one of the accused in the above mentioned case of People vs. Carlos.

The answer to this question is not difficult to find. It cannot be disputed that the reports of Fiscal Aquino of March 4 and June 20, 1968 did not refer to any particular and individual case of so-called land grabbing in the province of Rizal. A cursory reading of said reports readily discloses that they cover all the cases then in the hands of the

Office of the Fiscal of Rizal, more specifically those enumerated above. Upon the other hand, it should likewise be beyond question that the exculpatory memorandum of Fiscal Aquino to the Secretary of Justice of September 2, 1968 quoted above refers to all of said cases also.

Such being the case, and inasmuch as this exculpatory memorandum was approved by the Secretary of Justice, the finding that no criminal liability may be attached to petitioner Noblejas for any of the land grabbing cases in the province of Rizal and the decision not to prosecute him may be said to be those of the Secretary already, not of Fiscal Aquino anymore. In other words, the contention of respondent fiscals here, citing the case of *Matute vs. Abbas*, CA-G.R. No. 304303-R, a decision of the Court of Appeals, misses the point entirely, for under the circumstances, what they have reviewed and overruled was not the actuation and resolution of their predecessor, but those of the Secretary of Justice. This, it is definite, they have neither the personality nor legal authority to do.

In *Estrella vs. Orendain*, 37 SCRA 640, the Court elucidated on the superior authority of the Secretary of Justice over fiscals thus:

"Importantly, it must be borne in mind that while it is true that a fiscal in exercising his discretion as to whether or not to prosecute somebody for an offense performs a quasi-judicial act, the functions that he discharges as an officer of the government are basically executive. He belongs to the executive department rather than to the judiciary. If indeed, in some instances, his salary is paid by the corresponding local governments, he does not thereby become a part thereof, for he is always within the ambit of the national authority when it comes to the supervision and control of his office, powers and functions. As a matter of fact, Section 83 of the Revised Administrative Code places him under the 'general supervision and control' of the Department of Justice together with other prosecuting officers and under Section 74 of the same Code, the Secretary of Justice as 'Department Secretary shall assume the burden and responsibility of all activities of the Government under his control and supervision.' (*Uichangco vs. Secretary of Agriculture and Natural Resources*, et al., L-17328, March 30, 1963, 7 SCRA 547.) Consequently, the constitutional power of the President of control of all executive departments, bureaus or offices (Sec. 10, Art. VII, Constitution of the Philippines) should be considered as embracing his office. Withal, the prosecution of crimes is part of the President's duty to 'take care that the laws be faithfully executed' (*Id.*) and the Secretary of Justice is, by the nature of his office, the principal alter ego of the President in the performance of such duty. (*Villena vs. Secretary of Interior*, 67 Phil. 451) whereas the working arms of the Secretary in this respect are the fiscals and other prosecuting officers. On the other hand, Section 79(c) of the Revised Administrative Code defines (the extent of a department secretary's powers in the premises this wise:

'SECTION 79 (c). Power of direction and supervision. — The Department Head shall have direct control, discretion, and supervision over all bureaus and offices under his jurisdiction and may, any provision of existing law to the contrary notwithstanding, repeal or modify the decisions of the chief of said bureaus or offices when advisable in the public interest.'

In *Mondano vs. Silvosa*, 97 Phil. 143, We explained that the import of this provision is that the power of control therein contemplated 'means the power (of the department head) to alter, modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter.' In *Pelaez vs. Auditor General*, L-23825, December 24, 1965, 15 SCR A 569, our learned present Chief Justice made it plain that under Section 10, Article VII of the Constitution, cited above, 'the power of control . . . implies the right of the President (and, naturally, of his alter ego) to interfere in the exercise, of such discretion as may be vested by law in the officers of the national government, as well as to act in lieu of such officers.¹ In fact, Section 37 of Act 4007, spells out this power in these precise terms: 'The provisions of the existing law to the contrary notwithstanding, whenever a specific power, authority, duty, function, or activity is entrusted to a chief of bureau, office, division or service, the same shall be understood as also conferred upon the proper Department Head who shall have authority to act directly in pursuance thereof, or to review, modify or

revoke any decision or action of said chief of bureau, office, division or service.' Accordingly, that section 83 confers upon the Secretary only 'general supervision and control' may not be construed as limiting or in any way diminishing the pervasiveness of the Secretary's power of control under Sec. 79(c) which is constitutionally based, since he acts also as alter ego of the President."

Upon these premises, We cannot see how the position of respondent fiscals can be sustained, there being no showing that they had previously cleared with the Secretary of Justice their purported inclusion of petitioner in the amended information in question. Accordingly, while the point of estoppel raised by petitioner may not be well taken, it results that petitioner's motion to quash must be granted upon the ground that respondent fiscals had no authority to file the impugned amended information insofar as it includes petitioner as one of the accused therein. With this conclusion We have arrived at, it goes without saying that in all the other cases of supposed "land grabbing" pending either in the office of the Provincial Fiscal of Rizal or in the Courts of First Instance of said province covered by the memorandum of Fiscal Aquino of September 2, 1968, approved by the Secretary of Justice as above stated, more particularly those enumerated on pages 5-6 of this decision, any criminal action or prosecution against petitioner would be unwarranted and legally unauthorized.

Respondents claim that inasmuch as petitioner had already ceased to be Land Registration Commissioner, by resignation, at the time they filed the amended information at issue, there was no need for them to comply with Circular 97 of the Secretary of Justice aforequoted. This argument overlooks the fact that the action taken by the Secretary of Justice on the memorandum of Fiscal Aquino was not merely for the purposes of said circular, but rather a review of the action of the fiscal by virtue of his power of supervision and control over him.

The foregoing considerations being sufficiently decisive of the instant petition, We deem it unnecessary to pass on the other issues raised and discussed by the parties.

WHEREFORE, the petitions are granted. The orders of respondent judge of February 6 and March 6, 1970 in the case of *People vs. Genoveva Carlos*, Criminal Case No. 19574 of his court, denying the motion to quash filed therein by petitioner are hereby set aside and respondent court and fiscals are enjoined permanently from including petitioner as an accused in said case. Respondents fiscals and whoever may act in their stead are further enjoined from taking any criminal action against petitioner in regard to the so-called "land grabbing" covered by this decision, particularly those enumerated above.

No costs.

Makalintal, C.J., Fernando, Muñoz Palma, and Martin, JJ., concur.

Antonio and Aquino, JJ., did not take part.

Concepcion Jr., J., is on official leave,

[1] Annex (i of the petition.

[2] The ease pending before Judge Salas wherein (Genoveva Carlos, the landowner concerned is one of the accused.

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