

**JOSE F. SUGAY AND FERNANDO R. MANALASTAS, PETITIONERS, VS.
HON. MANUEL R. PAMARAN, AS PRESIDING JUDGE, CIRCUIT
CRIMINAL COURT, 6TH JUDICIAL DISTRICT, MANILA, AND THE
PEOPLE OF T...**

G.R. Nos. L-33877-79. September 30, 1971

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

An original action for certiorari and prohibition with prayer for preliminary injunction.

Petitioners Jose F. Sugay and Fernando R. Manalastas, executive and technical adviser to the mayor and city public service officer, respectively, of the City of Manila, together with two other city officials, namely Cesario P. Pastolero, chief, transportation division of the Manila Police Department, and Maximino San Pedro, buyer in charge and member of the city committee on bids, Carlos Montañes, a trader, and two former city officials were charged in three informations filed against them by the city fiscal's office on July 22, 1971 for alleged violations of sections 3 (g) and 4 (b) of Republic Act No. 3019[1] in connection with the purchase of certain equipment for the City of Manila. The informations were filed with the Circuit Criminal Court of Manila, presided by respondent judge, and were docketed therein as Criminal Cases Nos. CCC-VI-664, 665 and 667.

In substance, the informations charged that the accused city officials, "conspiring and confederating together and helping one another" entered in 1966 into three contracts, in behalf of the City of Manila for the purchase and delivery of certain equipments at the prices specified in the informations[2] which equipments were actually delivered to and paid for by the city government, and that said contracts were "manifestly and grossly disadvantageous to the city government of Manila, to the damage and prejudice of the latter." The informations also charged that the private supplier of the equipment "knowingly induced or caused the above-mentioned public officials and officers to enter into" the questioned contracts.

After the arraignment on July 28, 1971, at which petitioners and three of their co-accused were arraigned and entered a not guilty plea, the trial of the cases was set by respondent court for August 4, and 11, 1971.

On July 29, 1971, the prosecution filed an urgent motion for suspension from office, *pendente lite*, of the accused public officials, invoking the mandatory provisions of section 13 of Republic Act No. 3019[3] for the suspension from office of public officers facing "criminal prosecution under a valid information under this Act."

Petitioners filed separate oppositions to the prosecution's move, challenging the validity of the informations on the ground that the facts charged do not constitute an offense since no facts are averred to justify the bare conclusion that the contracts were "manifestly and grossly disadvantageous to the city government." Petitioners moved for the quashal of the informations and alternatively, that they be granted a pre-suspension hearing for a fair and adequate opportunity to challenge the validity of the criminal proceedings against them, which this Court has held to be an indispensable requirement for suspension of public officers indicted under the Anti-Graft and Corrupt

Practices Act.[4]

Respondent court scheduled and heard the incident on August 4, 1971 and having considered it submitted upon filing of written opposition thereto on the same day, issued its order of August 5, 1971 on the next following day ordering the immediate suspension from office of petitioners as well as their two other co-accused city officials, San Pedro and Pas-tolero, during the pendency of the cases. Respondent court sustained the prosecution's stand that "as to what is grossly and manifestly disadvantageous, is a matter of evidence" which need not be alleged in the information, adding that "had the accused been really serious in attacking the validity of the informations, they would have done so when they entered a plea of not guilty and not only when their suspension was prayed for after their plea."

Hence, the present petitions to set aside respondent court's suspension order and to annul as "insufficient and void ab initio the informations."

The Court issued upon the filing of the petitions, as prayed for, its temporary restraining order of August 9, 1971 enjoining, until further orders, enforcement of the suspension order and further proceedings in the cases below.

Cesario P. Pastolero and Manuel Cudiamat (retired city treasurer) subsequently moved for and were granted leave by the Court to intervene and filed their separate petitions-in-intervention, joining the original petitioners in seeking the relief sought in the cases at bar.

The Solicitor General, on behalf of respondents, instead of filing their answer to the petition,[5] filed on August 18, 1971 a manifestation and motion "to allow judgment to be rendered quashing the informations in question and ordering the city fiscal of Manila to file new informations that will allege in clear, simple, and positive language all the essential ingredients of the offense with which petitioners are charged," as follows:

"x x x

"2. That the petitioners seek to have this court quash the informations in question (Annexes A, A-1 & A-2, of the amended petition) for being null and void and to permanently enjoin respondent judge from enforcing his order of suspension dated August 5, 1971.

"3. That the amended petition containing a prayer to quash on file herein is tantamount to a withdrawal of petitioners' plea of not guilty entered in respondent court.

"4. That in order to abbreviate these proceedings, respondent judge manifests his willingness, with the permission of this honorable court, to lift said order of suspension, and respondents further offer to allow judgment to be rendered quashing the informations, as prayed for by petitioners, and ordering the City Fiscal of Manila to file new informations that will allege in clear, simple, and positive language all the essential ingredients of the offense with which petitioners are charged, with such definiteness and reasonable certainty as fully to apprise them of the nature and cause of the accusation against them and enable them to prepare for trial, whereupon petitioners will be provided all the opportunity to show cause why they should not be suspended thereupon.

"WHEREFORE, respondents offer to allow judgment to be rendered quashing the informations in question and ordering the City Fiscal of Manila to file new informations that will allege in clear, simple, and positive language all the essential ingredients of the offense with which petitioners are charged, with such definiteness and reasonable certainty as fully to apprise them of the nature and cause of the accusation against them and enable them to prepare for trial."

At the scheduled hearing of August 24, 1971, the Court therefore required the petitioners' written comment on the respondents' above-quoted manifestation and motion.[6]

Both principal petitioners have filed their respective comments, expressing no objection to the commendable non-contest plea entered herein by respondents. Obviously, the challenged informations do not state the essential facts and ingredients that would with sufficient definiteness and clarity fully apprise the accused of the nature and cause of the accusation against them - and violates their right to be informed of "the acts or omissions complained of as constituting the offense,"[7] as would warrant the bare conclusion therein that they executed "manifestly and grossly disadvantageous" contracts of purchase on behalf of the city government.

Both petitioners, however, take exception to the Solicitor General's manifestation, quoted above, that "the amended petition containing a prayer to quash on file herein is tantamount to a withdrawal of petitioners' plea of not guilty entered in respondent court," which was obviously made to make clear the State's position that the challenged informations now to be quashed for insufficiency has not placed the accused in jeopardy. Petitioner Manalastas best expresses the exception, stating that he "affirms that he has not withdrawn his plea of not guilty to the information, contrary to the allegations of the Solicitor General; his said plea may have far reaching consequences in the subsequent proceedings which might be taken against him and he does not want to waive any right to which he may be entitled in preparing for his defense."

In line with the State's abbreviation of the proceedings with their no contest plea, and to avoid needless protracted argument, the Court expressly holds that the quashing of the informations for insufficiency, as prayed for by the petitioners-accused themselves, can in no way be used by them to plead that they have already been placed in jeopardy. This is but in line with the Court's jurisprudence[8] and in accordance with the provisions of Rule 117, sections 7 and 8.[9]

ACCORDINGLY, the writ of certiorari prayed for is hereby granted and the respondent court's suspension order of August 5, 1971 is set aside. The three informations filed against petitioners-accused in the cases below are likewise annulled and declared null and void. Pursuant to the provisions of Rule 117, section 7 and respondents' manifestation and motion of August 18, 1971, respondent court is directed to order the city fiscal of Manila to file new or amended informations that will allege in clear, simple and positive language all the essential ingredients of the offense with which petitioners-accused are charged, with such definiteness and reasonable certainty as to fully apprise them of the nature and cause of the accusation against them and enable them to prepare for trial, and thereafter in due course to grant them a pre-suspension hearing with fair and adequate opportunity to challenge the validity of the new or amended informations filed against them prior to issuing any order of suspension from office as provided in section 13 of Republic Act No. 3019. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.

[1] "Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

"x x x

"(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby." (Sec. 3(g), R. A. 3019).

"Prohibition on private individuals.

"x x x

"(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof." (Sec. 4(b), *idem.*).

[2] The equipments were two steam cleaners valued at P12,300.00 each for use in the Department of Public Services, Manila, and in the Manila Police Department, and one air-compressor, valued at P17,400.00 for use in the said public services department.

[3] "SEC. 13. Suspension and loss of benefits. - Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him." (Rep. Act No. 3019); see *Luciano vs. Prov. Governor*, 26 SCRA 517 (June 20, 1969).

[4] *Luciano vs. Mariano*, L-32950, July 30, 1971; *Oliveros vs. Villaluz, et al.*, L-33362, July 30, 1971.

[5] An amended petition was filed on August 14, 1971 by petitioners, whose principal amendment impleaded the People of the Philippines as party respondent, in compliance with the Court's Resolution of August 10, 1971 to that effect.

[6] Alternatively, the parties were given a 30-day period for memoranda in lieu of oral argument, if they still wished to file the same, notwithstanding respondents' motion to confess judgment.

[7] Rule 110, sec. 5; see Art. III, sec. 1, par. 17, Bill of Rights, Phil. Constitution; Rule 115, sec. 1(c).

[8] Vide *People vs. Obsania* (per Castro, J.), 23 SCRA 1249 (June 29, 1968), last reaffirmed in *People vs. Catolico*, 38 SCRA 389, 404 (Apr. 20, 1971) and cases cited.

[9] "SEC. 7. Effect of sustaining the motion to quash. - If the motion to quash is sustained the court may order that another information be filed. If such order is made the defendant, if in custody, shall remain so unless he shall be admitted to bail. If such order is not made or if having been made another information is not filed within a time to be specified in the order, or within such further time as the court may allow for good cause shown, the defendant, if in custody, shall be discharged therefrom, unless he is in custody on some other charge.

"SEC. 8. Order sustaining the motion to quash not a bar to another prosecution -Exception. - An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in section 2, subsections (f) and (h) of this rule." (Rule 117). (Note: The exceptions refer to prescription and previous conviction or acquittal or prior jeopardy for the same offense.)

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