

**ALFONSO ZOBEL, G. H. W. CHURCHILL AND J. ANTONIO ARANETA,  
PETITIONERS AND APPELLANTS, VS. HERMOGENES CONCEPCION,  
JR. AND ANTONIO G. ALINDOGAN, FISCAL AND ASSISTANT FISCAL,  
RESPE...**

*G. R. No. L-17806. June 29, 1962*

Ponente: LABRADOR, J.

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**LABRADOR, J.:**

Appeal from an order of the Court of First Instance of Manila, Hon. Jesus Y. Perez, presiding, dismissing a petition for prohibition filed by Alfonso Zobel and others against the Fiscal Hermogenes Concepcion and others of the City of Manila.

The facts leading to the filing of the action may be briefly stated as follows:

On December 29, 1959, Gavino S. Abaya wrote a letter to petitioner Alfonso Zobel demanding an additional payment equivalent to about 30% of P517,903, the price agreed upon in the deed of absolute sale of a parcel of land belonging to the children of the former, executed in favor of the Ayala Securities Corporation, of which petitioner Zobel is the president. Zobel refused to accede to this demand, so Abaya presented to the National Bureau of Investigation the charge that petitioner J. Antonio Araneta (who intervened in the sale of the above-mentioned property) and/or the Ayala Securities Corporation acted as dummy for the Shell Refining Company (Phils.), Inc., in violation of Commonwealth Act No. 108, otherwise known as the Anti-Dummy Law. On January 13, 1960, the acting director of the NBI, Jose G. Lukban, endorsed the charge to the Anti-Dummy Board which took cognizance and conducted an investigation of the same. Petitioners, as well as Gavino S. Abaya, testified before and submitted evidence to the Anti-Dummy Board. While the case was pending decision by the Board, Gavino S. Abaya addressed a letter to the city fiscal of Manila, charging petitioners of the same violation of Commonwealth Act No. 108. The charge was docketed in the city fiscal's office as I. S. No. 24331 and assigned to respondent assistant fiscal Antonio G. Alindogan for investigation. The latter subpoenaed petitioners to appear and testify at the investigation of the charge on October 24, 1960, which was later postponed to September 15, 1960. Prior to the investigation scheduled for the latter date, petitioner Zobel filed with respondent Alindogan a motion praying that the charge filed by Mr. Abaya with the fiscal's office be dismissed because (1) the fiscal's office had no jurisdiction to investigate the charge since the complainant Gavino S. Abaya did not have the legal personality to file charges against petitioners for violation of the Anti-Dummy Law, and (2) the fiscal of Manila was not authorized by law to investigate violations of the Anti-Dummy Law independently of the Anti-Dummy Board. On October 18, 1960, respondent Alindogan issued a resolution denying petitioners' motion to dismiss and gave notice that he would proceed with the investigation of the charge of Mr. Abaya on October 20, 1960.

On October 20, 1960, petitioners filed with the Court of First Instance of Manila, a petition for prohibition with preliminary injunction to prohibit and enjoin respondents from proceeding with the investigation of the alleged

violation of the Anti-Dummy Law. The lower court on the same day denied the petition, and on November 5, 1960, also denied a motion to reconsider its order of denial. From these two orders petitioners have appealed to this Court.

On this appeal petitioners-appellants assign the following error:

The lower court erred in holding that respondent fiscals have the power to investigate the complaint against petitioners-appellants for alleged violation of Commonwealth Act No. 108 (Anti-Dummy Law) notwithstanding the previous investigation already conducted by the Anti-Dummy Board of the same complaint.

Republic Act No. 1130, which creates the Anti-Dummy Board, contains the following pertinent provisions:

"Section 1. There is hereby created in the Department of Justice a board which shall be designated and known as the Anti-Dummy

Board and which shall be vested with and shall exercise the powers and duties hereinafter specified. \* \* \*

"Sec. 2. The main purpose. of the Anti-Dummy Board shall be to insure the implementation of all the provisions of the Constitution, nationalization laws, and other legal provisions which require Philippine citizenship or citizenship of any other specific country for the exercise or enjoyment of a right, franchise or privilege, property or business, and further, to Coordinate, as far as practicable all government agencies charged with the enforcement of the said provisions of the Constitution and laws and, in particular, Commonwealth Act Numbered One hundred and eight, as amended, commonly known as the Anti-Dummy Law, \* \* \* "

"Sec. 3. The Anti-Dummy Board shall have the following duties:

"(a) To investigate violations and prosecute all violators of the laws mentioned in section two of this Act, hereinafter called dummies.

"(b) To furnish professional services to informers who wish to avail themselves of section three-A of Commonwealth Act Numbered One hundred and eight, as inserted therein by Republic Act Numbered One hundred and thirty-four.

"(c) To enter as amicus curiae in all court cases which may have arisen from dummy cases.

"(d) To devise ways and means for the carrying out of an educational propaganda against dummies.

"(e) To devise ways and means for the carrying out of all nationalization legislation.

"(f) To organize local subcommittees in the chartered cities and municipalities and a provincial chapter in every capital of the provinces to help the Board in its campaigns against dummies.

"(g) To issue rules and regulations for the government of the Board and that of the subcommittees and chapters to be established under the provisions hereof; and

"(h) To perform such other duties as may enable the Board to carry out the purposes for which it has been created."

"SEC. 6. \* \* \*

"The Anti-Dummy Board may appoint attorneys, investigators and other employees as it may deem necessary and fix their duties and salaries: Provided, That investigators appointed by the Board shall be lawyers, and/or certified public accountants, the proportion of the number of lawyers and accountants to be at the discretion of the Board. Each investigator shall receive a salary of at least three thousand six hundred pesos per annum.

The President, may upon recommendation of the Board, detail one or more assistant provincial fiscals or assistant attorneys under the Department of Justice, or any other employees in the National, provincial, city or municipal governments, on special duty with the Board. Employees so detailed shall perform such duty as is required under such detail, and the time so employed shall count as part of their regular official service."

Petitioners-appellants argue before Us that Section 3S-B of the Revised Charter of Manila granting authority to the city fiscal to prosecute all violations of laws and ordinances should be harmonized with the provisions of Republic Act No. 1130 insofar as Anti-Dummy cases are concerned, otherwise the city fiscal and Anti-Dummy Board would be exercising overlapping authorities over violations of the Anti-Dummy Law; that were the city fiscal allowed independently to investigate and prosecute violations of anti-dummy laws, the provisions of Republic Act No. 1130 granting the Anti-Dummy Board the right to coordinate all government agencies charged with the enforcement of the anti-dummy laws, would be violated. Answering the contention of the respondents-appellees that the Revised Charter of the City of Manila grants them power to prosecute all violations of laws and ordinances, and therefore, violations of the anti-dummy laws should be included, petitioners-appellants argue that since Republic Act No. 1130 is a special act, its provisions should be interpreted to amend or modify or restrict in a way the general power vested in the city fiscal insofar as the violations of the anti-dummy laws are concerned.

We find reason and sense in the above arguments of the petitioners-appellants. Under Section 6 of Republic Act No. 1130, the President may, upon recommendation of the Board detail one or more assistant provincial fiscals or assistant attorneys in the Department of Justice or any other employee of the national, city or provincial government on special duty with the Board. If respondents-appellees' contention were correct, that the city fiscal of Manila can prosecute violations of the Anti-Dummy Law independently and without coordination with the agencies of the Anti-Dummy Board, there would be no need for this provision. Were the city fiscal or the provincial fiscals who have the power or right to prosecute violations of all laws and ordinances allowed to prosecute violations of the Anti-Dummy Law independently of the Anti-Dummy Board, there would be no order, concert, cooperation, and coordination between the said agencies of the government. The function of coordination which is entrusted to the Anti Dummy Board is evident from all the above-quoted provisions of Republic Act No. 1130. There can be no coordination as envisioned in the law unless the Anti-Dummy Board be given the power to direct and control the city fiscal in prosecutions of the violations of the Anti-Dummy Law.

We, therefore, find that the appeal is meritorious and hereby declare that the court below should have granted the petition for prohibition and issued the writ of preliminary injunction. The orders appealed from are hereby set aside and the writ of prohibition prayed for issued against the respondents-appellees. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Barrera, Paredes and Dizon, JJ., concur.

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