

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. RODOLFO V. TOLEDANO, IN HIS CAPACITY AS PRESIDING JUDGE OF THE RTC, BRANCH 69 AND ROLANDO BUNAO, ACCUSED IN CRIMINAL CASE NO. RTC...

G.R. No. 110220. May 18, 2000

Ponente: BUENA, J.

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BUENA, J.:

In this petition for certiorari and mandamus, petitioner seeks to (1) annul and set aside the Orders of the Regional Trial Court of Zambales in Criminal Case No. RTC 1274-I, entitled "People of the Philippines versus Rolando Bunao," dated February 26, 1993 and April 12, 1993, which dismissed the information filed against private respondent Bunao and denied petitioner's motion for reconsideration of the dismissal order, respectively; and (2) prevent respondent judge from hearing the case in the event of reinstatement of the information.

On June 25, 1990, private respondent Rolando Bunao, while allegedly a member of the Sangguniang Bayan of Sta. Cruz, Zambales and its Committee on Bids and Awards, entered into a lease contract with said municipality covering two (2) public market stalls. As a consequence, two (2) administrative charges for violation of Section 3(h) of Republic Act No. 3019[1] docketed as OMB-1-91-1482 and Republic Act No. 6713 docketed as OMB-ADM-1-91-0327 were filed against private respondent with the Office of the Ombudsman for Luzon.

On October 12, 1992 the Office of the Ombudsman dismissed Administrative Case No. OMB-1-91-1482 but recommended the prosecution of private respondent under Section 41, par.(1) in relation to Section 221 of Batas Pambansa Blg. 337 otherwise known as the 1983 Local Government Code. Similarly, on November 24, 1992 Administrative Case No. OMB-ADM-1-91-0327 was likewise dismissed but respondent was enjoined to terminate and surrender the contract of lease he executed with the municipality of Sta. Cruz, Zambales over stall nos. 115 and 116 at the new public market of said municipality.

On December 7, 1992 an information for violation of Section 41(1) in relation to Section 221 of Batas Pambansa Blg. 337 was filed against private respondent before the Regional Trial Court of Iba, Zambales. The information reads:

"That on or about the 25th day of June 1990, in the municipality of Sta. Cruz, province of Zambales, Philippines, and within the jurisdiction of this Honorable Court the above-named accused being then a member of the Sangguniang Bayan of Sta. Cruz, Zambales and the Committee on Bids and Awards of said Sanggunian and taking advantage of said positions, did then and there willfully, unlawfully and feloniously execute a lease contract with the municipality of Sta. Cruz, Zambales for two(2) market stalls at the public market thereat, in his favor, to the detriment of other stall holders and business competitors.

CONTRARY TO LAW."

The pertinent provision of the old Local Government Code or B.P. Blg. 337 that was allegedly violated reads:

"Section 41. Officials not to Engage in Business Transactions or Possess Pecuniary Interest.- It shall be unlawful for any lawful government official, directly or indirectly, individually or as a member of a firm:

(1) To engage in any business transaction with the local government unit of which he is an official or over which he has the power of supervision, or with any of its authorized official, boards, agents, or attorneys, whereby money is to be paid, or property or any other thing of value is to be transferred, directly or indirectly, out of the resources of the local government unit to such person or firm;

x x x x x x x x"

Section 221 of the same Code provides for the penal sanctions for such violation, thus:

"Section 221. Engaging in Business Transactions or Possessing Pecuniary Interest.- Any local government official and any person or persons dealing with him who violate the prohibitions provided in Section 41 hereof, shall be punished with prison correccional or fine of not less than three thousand pesos (P3,000.00) nor more than ten thousand pesos (P10,000.00), or both such imprisonment and fine at the discretion of the court."

Before arraignment, private respondent moved to dismiss the information on the ground that the charge had already become moot and academic and that any criminal liability he may have incurred has been extinguished.[2] In an Order dated February 26, 1993, respondent Court dismissed the information, to wit:

"Considering that:

"1. The contract of lease is a bilateral contract perfected upon the meeting of the minds of the lessor and the lessee, and therefore cannot be consummated without the knowledge and consent of both, the complainant/lessor in his capacity as Mayor of Municipality of Sta. Cruz, Zambales and the accused as lessee. If any crime was consummated with the execution of the contract of lease, then the information charging the offense should not have been only against the accused but also against the complainant;

"2. The charge against the accused in OMB-ADM-1-91-0327 by the Office of the Deputy Ombudsman for Luzon was dismissed by the said office;

"3. It will result in absurdity and inconsistency if the accused were made to answer and be liable in OMB-1-91-1482 and absolved from any liability under OMB-ADM-1-91-0327 when in both cases he is charged for violation of Section 41 of B.P. Blg. 337 otherwise known as the Local Government Code;

"4. The re-election of the accused as a Kagawad in the 11 May 1992 elections;

"5. The decision of the Supreme Court in *Aguinaldo vs. Santos* (supra);

"6. The Court should be cautious and vigilant so that it does not unknowingly become an instrument of any protagonist in the political arena,

may the accused be still held liable under Section 41, par.(1) of BP Blg. 337. The answer is in the NEGATIVE.

"WHEREFORE, the Information filed against the accused for violation of Section 41, par.(1) in relation to Section 221 of B.P. Blg. 337 is DISMISSED. The cashbond posted by the accused in the amount of P6,000.00 deposited with the Clerk of Court on 15 January 1993 under O.R. No. 147387 is ordered reimbursed to the accused.

SO ORDERED."[3]

On April 2, 1993, 2nd Assistant Provincial Prosecutor Benjamin A. Fadera filed a motion for reconsideration of the order of dismissal. With the denial of the motion for reconsideration in an Order dated April 12, 1993,[4] Dorentino Z. Floresta, in his capacity as Provincial Prosecutor of Zambales and Deputized Tanodbayan Prosecutor and Benjamin A. Fadera, in his capacity as Assistant Provincial Prosecutor of Zambales and Deputized Tanodbayan Prosecutor filed, on June 2, 1993, this petition for certiorari and mandamus questioning the Orders issued by the respondent court dismissing the information.

Initially, the procedural infirmity regarding the filing of this petition, having been filed by the provincial prosecutor and assistant provincial prosecutor of Zambales instead of the Solicitor General who is authorized to bring and defend actions in behalf of the People or Republic of the Philippines in cases brought before the Supreme Court or the Court of Appeals[5] was cured when this Court, in a Resolution dated February 21, 1994, noted and granted the manifestation and motion filed by the Solicitor General "stating that they adopt the petition as their own, and prays that the People be impleaded as party petitioner and the reliefs prayed for in the petition be granted." In view thereof, we now consider the People as the sole petitioner in this case duly represented by the Solicitor General.

The petition is meritorious.

As indicated above, respondent judge dismissed the information on the ground that the administrative case filed against private respondent Bunao with the Office of the Ombudsman had been dismissed. In the memorandum filed by the Solicitor General dated January 11, 1995,[6] said order of dismissal on the ground of extinction of criminal liability is assailed for having been issued with grave abuse of discretion amounting to lack of jurisdiction on the part of respondent judge, thus:

"The respondent court anchored its disposition in Criminal Case RTC No. 1274-I on dismissal of administrative case OMB-1-91-1482 and OMB-ADM-1-91-0327 against private respondent Rolando Bunao. But Article 89 of the Revised Penal Code enumerates the grounds for extinction of criminal liability; and, dismissal of an administrative charge against accused is not one of them, thus:

'Art. 89. How criminal liability is totally extinguished. – Criminal liability is totally extinguished:

'1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before the final judgment;

'2. By the service of the sentence;

'3. By amnesty, which completely extinguishes the penalty and all its effects;

'4. By absolute pardon;

'5. By prescription of the crime;

'6. By the prescription of the penalty;

'7. By the marriage of the offended woman, as provided in Article 344 of this Code;'

"The law is clear and unequivocal. There is nothing in it which states that exoneration from an administrative charge extinguishes criminal liability."

It is indeed a fundamental principle of administrative law that administrative cases are independent from criminal actions for the same act or omission.[7] Besides, the reliance made by respondent judge on the re-election of private respondent as Kagawad in the May 1992 election so as to warrant the dismissal of the information filed against him, citing *Aguinaldo vs. Santos*[8] is misplaced. The ruling in said case which forbids the removal from office of a public official for administrative misconduct committed during a prior term, finds no application to criminal cases, pending against said public officer.

Finally, Republic Act 7160, otherwise known as the Local Government Code of 1991, which repealed B.P. Blg. 337 reenacted in its Section 89 the legal provision of Section 41 of B.P. Blg. 337 under which private respondent Bunao was charged and penalizes the same act previously penalized under the repealed law, such that the act committed before the reenactment continuous to be a crime.[9] Hence, prosecution will proceed under the provisions of Section 89 in relation to Section 514 of R.A.7160.[10]

WHEREFORE, the petition is GRANTED and ACCORDINGLY, the orders of respondent judge dated February 26, 1993 and April 12, 1993 are hereby REVERSED and SET ASIDE and the lower court is ordered to proceed

with the case.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Quisumbing, JJ., concur.

De Leon, Jr., J., on leave.

[1] Section 3(h) of Republic Act No. 3019 provides:

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

[2] Rollo, p. 59.

[3] Rollo, pp. 12-13.

[4] The dispositive portion of the Order reads -

"Aside from the fact that the Motion for Reconsideration, dated 02 April 1993, filed by 2nd Assistant Provincial Prosecutor Benjamin A. Fadera, was filed out of time (31 days after receipt of the Order dated 26 February 1993) no new matter/s having been alleged in the Motion which the Court has not as yet considered, the Motion for Reconsideration is denied for lack of merit.

SO ORDERED." (Rollo, p. 14.)

[5] People vs. Nano, 205 SCRA 155.

[6] Rollo, pp. 89-99.

[7] Larin vs. Executive Secretary, 280 SCRA 713.

[8] 212 SCRA 768.

[9] People vs. Concepcion, 44 Phil 126; United States vs. Cuna, 12 Phil 241.

[10] The provision reads:

Section 89. Prohibited Business and Pecuniary Interest. (a) It shall be unlawful for any local government official or employee, directly or indirectly, to:

(1) Engage in any business transaction with the local government unit in which he is an official or employee or over which he has the power of supervision, or with any of its authorized boards, officials, agents, or attorneys, whereby money is to be paid, or property or any other thing of value is to be transferred, directly or indirectly, out of the resources of the local government unit to such person or firm.

Section 514. Engaging in Prohibited Business Transaction or Possessing Illegal Pecuniary Interest. Any local official and any person or persons dealing with him who violate the prohibitions provided in Section 89 of Book I hereof, shall be punished with imprisonment for six months and one day to six years, or a fine of not less than Three Thousand pesos (P3,000.00) nor more than Ten Thousand Pesos (10,000.00), or both such imprisonment and fine, at the discretion of the court.

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