

ROMAN A. CRUZ, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, THE SANDIGANBAYAN (FIRST DIVISION), AND OFFICE OF THE OMBUDSMAN, RESPONDENTS.

G.R. No. 110436. June 27, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

The present original action for certiorari, prohibition and mandamus seeks the reversal of the Orders issued by respondent Sandiganbayan in Criminal Case No. 14252, dated February 17, 1993[1] and May 12, 1993,[2] denying petitioner's Omnibus Motion and Motion for Reconsideration, respectively.

The facts are summarized in the Memorandum of public respondents as follows:

1. The Government Service Insurance System (the GSIS, for short) filed two separate criminal complaints against petitioner Roman A. Cruz, Jr., a former public official who used to be the President and General Manager of the GSIS and, also, the President of the Manila Hotel, for violation of Section 3 (e) of Republic Act No. 3019, as amended. The first complaint against petitioner was filed with the Office of the Special Prosecutor (the OSP, for short) and docketed as OSP-88-02028 while the second, which involved the same set of facts, was filed with the Presidential Commission on Good Government (the PCGG, for short) but which was later endorsed to the Office of the Ombudsman and docketed as OMB-0--91-0986. x x x
2. A preliminary investigation was conducted by the PCGG where petitioner duly submitted his counter-affidavit. As a consequence of said investigation, an Information was filed with the first Division of the Sandiganbayan, docketed as Criminal Case No. 14134, charging petitioner with violation of Section 3(e) of Republic Act No. 3019. x x x
3. During the proceedings before the OSP, petitioner moved to dismiss the complaint. The OSP, however, denied the motion and filed with the Third Division of the Sandiganbayan an Information charging petitioner with Estafa through Falsification of Public Documents (Articles 171 and 315 of the Revised Penal Code), docketed as Criminal Case No. 14252. Petitioner was deemed by the OSP to have waived his right to submit a counter-affidavit and supporting evidence. x x x
4. As a result of the filing of two informations with respondent Sandiganbayan involving the same accused (herein petitioner) and the same set of facts, Criminal Case No. 14252 was consolidated with Criminal Case No. 14134 which was pending before the First Division of respondent Sandiganbayan. x x x
5. Respondent Sandiganbayan, however, remanded the consolidated cases against petitioner to the Office of the Ombudsman for reinvestigation inasmuch as:
 - a) the Information in Criminal Case No. 14134 was ordered dismissed in compliance with the ruling of the Supreme Court in *Cojuangco, Jr. vs. PCGG et al.*, G.R. Nos. 92319-20, October 2, 1990, which declared null and void the preliminary investigations conducted by the PCGG in all criminal cases involving matters which were the subject matter of civil cases earlier filed; and

b) the Information in Criminal Case No. 14252 was correctly assailed by petitioner as having been filed without the proper preliminary investigation. x x x

6. During the preliminary investigation conducted anew by the Office of the Ombudsman, petitioner submitted his counter-affidavit and supporting documents. After the completion of said investigation, Prosecutor Leonardo P. Tamayo of the Office of the Ombudsman prepared a Resolution dated February 11, 1992, which recommended the withdrawal of the Information in Criminal Case No. 14252. x x x

7. Respondent Ombudsman, however, despite the above recommendation of the investigating prosecutor ordered the prosecution to proceed under the existing Information in Criminal Case No. 14252 on his observation, viz:

"Let us not do the defending for the accused. The explanations offered are too strained to be believed. At best they are matters of defense for the accused to prove at the trial.

"The alleged character of the funds involved being confidential and requires no auditing is totally immaterial. It could even explain why this anomaly was committed. x x x."

8. Petitioner thus filed with respondent Sandiganbayan (First Division) an Omnibus Motion to Quash the Information, dated September 17, 1992, wherein he prayed ". . . for the production of (the) record of the preliminary investigation), and that the information be quashed outright or the disapproval of the Ombudsman set aside, or in the alternative, that the Office of the Ombudsman be ordered to conduct further proceedings, particularly the handwriting analysis prayed for by the petitioner which would establish who committed the alleged falsification. x x x"

On February 17, 1993, respondent Sandiganbayan promulgated a Resolution dated February 15, 1993, the dispositive portion of which reads:

"WHEREFORE, the Omnibus Motion of accused Roman A. Cruz, Jr. is DENIED for lack of merit. x x x."

10. A Motion for Reconsideration, dated April 12, 1993, of the aforequoted Resolution was filed by petitioner x x x.

11. On May 12, 1993, respondent Sandiganbayan promulgated a Resolution, the dispositive portion of which reads:

"WHEREFORE, the Motion for Reconsideration of accused Roman A. Cruz, Jr. of this Court's Resolution dated February 17, 1993 is DENIED for lack of merit. x x x"

12. Hence, petitioner filed the instant petition.[3]

Petitioner contends that respondent Sandiganbayan committed a grave abuse of discretion:

1. In not dismissing the information considering that the Ombudsman's approval of the order dismissing the complaint did not state the factual or legal basis therefor;
2. In not requiring the production of the record of the preliminary investigation in wanton disregard of petitioner's right to due process;
3. In not dismissing the information considering that, as found by the investigating prosecutor, the money received by petitioner was a cash advance; and
4. In not requiring the Office of the Ombudsman to conduct further proceedings.

We do not find the instant petition to be impressed with merit as to warrant the extraordinary writs prayed for.

The information filed against herein petitioner charging him with estafa through falsification of public documents and for which he stands to be tried before respondent court alleges:

That on or about or during the period from March 26, 1984 to May 11, 1984, or sometime prior or subsequent thereto, at the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, Roman Cruz, Jr., then President and General Manager of the Government Service Insurance System (GSIS) and likewise President of the Manila Hotel, hence a public official having been duly appointed/elected and qualified as such, taking advantage of his position, by means of deceit, committing an offense in relation to his office, did then and there wilfully, unlawfully and feloniously falsify Manila Hotel Invoices, Transportation, Charge, Cash, Budget for Food and Drinks vouchers in the aggregate amount of P350,000.00 and then make it appear that the GSIS management and staff had a five-day coordination meeting at the Manila Hotel from March 23 to 30, 1984 at the cost of P350,000.00, for which reason the GSIS paid/issued its check with No. 039511 dated May 11, 1984 in the amount of P350,000.00 which check was deposited to the account of the Manila Hotel, and thereafter cause the Manila Hotel to issue its check with No. 007272 dated May 11, 1984 in the amount of P350,000.00 payable to Roman Cruz, Jr. or himself, when in truth and in fact, as the accused well knew that there was no such five-day GSIS management and staff coordination meeting conducted/held at the Manila Hotel; and further thereafter convert and appropriate to his own personal use and benefit/deposit the said check to his own personal account with the Far East Bank and Trust Co. the said check/amount of P350,000.00 to the damage and prejudice of the GSIS and/or Manila Hotel and/or the government in the said amount of P350,000.00.[4]

I. Petitioner initially submits that respondent Sandiganbayan acted with grave abuse of discretion in not dismissing the information considering that the Ombudsman's disapproval of the order dismissing the complaint did not state the factual or legal basis therefor, in violation of the cardinal rules set forth in *Ang Tibay, et al. vs. CIR, et al.*[5] The submission is premised on the theory that said rules apply to a preliminary investigation which is to be considered quasi-judicial in nature. Petitioner avers that it is the duty of the Ombudsman to assess the evidence and defenses of the respondent in deciding a case, a failure wherein constitutes a violation of one's right to due process of law. He further claims that "while the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support the decision. The Ombudsman in this case not only failed to decide right but has nothing at all to support his decision." [6]

Respondents, on the other hand, aver that the Office of the Ombudsman is not exercising quasi-judicial or quasi-legislative powers because "it does not act as a court" when it conducts preliminary investigation of cases falling under its jurisdiction.

It is settled that the conduct of a preliminary investigation, which is defined as "an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial," [7] is, like court proceedings, subject to the requirements of both substantive and procedural due process. This is because, a preliminary investigation is considered as a judicial proceeding wherein the prosecutor or investigating officer, by the nature of his functions, acts as a quasi-judicial officer. As we held in *Cojuangco, Jr. vs. PCGG, et al.*: [8]

x x x It must be undertaken in accordance with the procedure provided in Section 3, Rule 112 of the 1985 Rules of Criminal Procedure. This procedure is to be observed in order to assure that a person undergoing such preliminary investigation will be afforded due process.

As correctly pointed out by petitioner, an indispensable requisite of due process is that the person who presides and decides over a proceeding, including a preliminary investigation, must possess the cold neutrality of an

impartial judge.

Although such a preliminary investigation is not a trial and is not intended to usurp the function of the trial court, it is not a casual affair. The officer conducting the same investigates or inquires into the facts concerning the commission of the crime with the end in view of determining whether or not an information may be prepared against the accused. Indeed, a preliminary investigation is in effect a realistic judicial appraisal of the merits of the case. Sufficient proof of the guilt of the accused must be adduced so that when the case is tried, the trial court may not be bound as a matter of law to order an acquittal. A preliminary investigation has then been called a judicial inquiry. It is a judicial proceeding. An act becomes judicial when there is opportunity to be heard and for the production and weighing of evidence, and a decision is rendered thereon.

The authority of a prosecutor or investigating officer duly empowered to preside or to conduct a preliminary investigation is no less than that of a municipal judge or even a regional trial court judge. While the investigating officer, strictly speaking is not a "judge," by the nature of his functions he is and must be considered to be a quasi-judicial officer.

In the present case, petitioner asserts that his right to due process was violated in that respondent Ombudsman failed to assess and consider the evidence presented by petitioner in disapproving the recommendation for dismissal of the case by the investigating prosecutor, and his ruling is not supported by the evidence on record. The argument is specious.

His submission that he was deprived of his right to due process hinges on the erroneous assumption that the order of the Ombudsman for the filing of the necessary information is lacking in any factual or legal basis. Such a conclusion, however, stems from the fact that said order did not entail a discussion of the rationale for the Ombudsman's action.

It may seem that the ratio decidendi for the Ombudsman's order may be wanting but this is not a case of a total absence of factual and legal bases nor a failure to appreciate the evidence presented. What is actually involved here is merely a review of the conclusion arrived at by the investigating prosecutor as a result of his study and analysis of the complaint, counter-affidavits, and the evidence submitted by the parties during the preliminary investigation. The Ombudsman here is not conducting anew another investigation but is merely determining the propriety and correctness of the recommendation given by the investigating prosecutor, that is, whether probable cause actually exists or not, on the basis of the findings of fact of the latter. Verily, it is discretionary upon the Ombudsman if he will rely mainly on the findings of fact of the investigating prosecutor in making a review of the latter's report and recommendation, as the Ombudsman can very well make his own findings of fact. There is nothing to prevent him from acting one way or the other. As a matter of fact, Section 4, Rule 112 of the Rules of Court provides that "where the investigating assistant fiscal recommends the dismissal of the case but his findings are reversed by the provincial or city fiscal or the chief state prosecutor on the ground that a probable cause exists, the latter may, by himself, file the corresponding information against the respondent or direct any other assistant fiscal or state prosecutor to do so, without conducting another preliminary investigation.[9]

With more reason may the Ombudsman not be faulted in arriving at a conclusion different from that of the investigating prosecutor on the basis of the same set of facts. It cannot be said that the Ombudsman committed a grave abuse of discretion simply because he opines contrarily to the prosecutor that, under the facts obtaining in the case, there is probable cause to believe that herein petitioner is guilty of the offense charged.

As aptly pointed out by respondent court in its resolution denying petitioner's motion for reconsideration, "to the Ombudsman, the narration of facts by Prosecutor Tamayo, x x x demonstrated adequate cause to prosecute the accused Cruz." [10] Furthermore, public respondents, in their Memorandum, correctly observed that "(f)rom the tenor of respondent Ombudsman's statement, it is clear that he agreed with the findings of facts of the

investigating prosecutor but disagreed with the latter's conclusion on the import and significance of said findings. On the basis of the findings of facts of the investigating prosecutor, which were not disputed by petitioner, respondent Ombudsman believed that there was sufficient ground to engender a well-founded belief that a crime had been committed and that petitioner is probably guilty thereof." [11]

Petitioner argues that the indication of disapproval by the Ombudsman which consists merely of two paragraphs fails to point out the issues and relevant facts and is consequently whimsical, capricious and arbitrary. Such proposition is fallacious. The mere fact that the order to file an information against petitioner consists only of two paragraphs is not sufficient to impute arbitrariness or caprice on the part of the Ombudsman, absent a clear showing that he gravely abused his discretion in disapproving the recommendation of the investigating prosecutor. Neither is it tainted with vindictiveness or oppression. He disapproved the recommendation of the special prosecutor because he sincerely believed that there is sufficient evidence to indict the accused. This is an exercise of the Ombudsman's power based upon constitutional mandate, and the courts should not interfere in such exercise.

The rule is based not only upon the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant. [12]

II. Petitioner next avers that the error of respondent court in not requiring the production of the record of the preliminary investigation is two-fold. First, it was in violation of the constitutional right against arbitrary arrests because probable cause was not "personally determined by the judge," considering that the records of the preliminary investigation were not elevated to the judge for examination. Second, it was in violation of petitioner's right to due process of law since he was deprived of the opportunity to examine the evidence against him and prepare his defense.

On the first issue, petitioner relies on the ruling in *Lim, Sr., et al. vs. Felix, et. al.* [13] which held that -

If a judge relies entirely on the certification of the prosecutor as in this case where all the records of the investigation are in Masbate, he or she has not personally determined probable cause. The determination is made by the Provincial Prosecutor. The constitutional requirement has not been satisfied. The judge commits a grave abuse of discretion.

The conduct of a preliminary investigation should be distinguished as to whether it is an investigation for the determination of a sufficient ground for the filing of the information or one for the determination of a probable cause for the issuance of a warrant of arrest. The first aspect of preliminary investigation is executive in nature. It is part of the prosecution's job. The second kind of preliminary investigation, which is more properly called preliminary examination, is judicial in nature and is lodged with the judge. [14]

For the latter, in the exercise of the exclusive and personal responsibility of the issuing judge to satisfy himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in

arriving at a conclusion as to the existence of probable cause.[15]

Coming now to the case at bar, contrary to petitioner's thesis, respondent court, in its resolution promulgated on February 17, 1993 denying petitioner's motion to quash the information, found the existence of probable cause after making a deliberate and exhaustive review of the facts obtaining in the case. Thus:

All of the above logical process, which is supported both by the finding of fact in the Resolution and by admissions in the Motion of the accused, lead to the conclusion that probable cause exists against accused Roman Cruz, Jr., for acts described in the Information in the instant case.

The narration of facts culled from the record (as affirmed by both parties) support the narration of facts in the Information. The superficial analysis of the admissions made above indicate that the elements of Article 315 of the Revised Penal Code as well as of Articles 171 and 172 thereof may probably be established.

It is true that the Manila Hotel eventually treated the P350,000.00 as a "cash advance" to him. Accused Cruz, however, does not claim that there were cash advances made by him as a consequence of which he received this sum. Nor has accused Roman Cruz said that he had obtained a loan or cash advance from the Manila Hotel for a particular purpose for which he was expected to subsequently render an accounting. All that Manila Hotel's subsequent description of this amount as a "cash advance," in fact, says is that when it turned out that P350,000.00 could not be properly accounted for, it had to be treated as an amount which accused Cruz had to pay back; thus, accountingwise, a cash advance.

For accused to have received such a large amount from a company of which he was the President required him to sign a receipt which would specify clearly what he was receiving it for. If he received the sum as a cash advance for some future expense, the Manila Hotel documents would clearly so demonstrate. If he received it as a cash advance (against his salaries or other benefits), it would appear as a loan in Manila Hotel's books. Accused Cruz, however, has said no such thing in any of his pleadings nor apparently has he so stated during the preliminary investigation.

In other words, accused Cruz as President of the Manila Hotel -- and, therefore, in a position of great fiduciary nature -- received P350,000.00 in 1984 either for a non-existent reason or for a false reason.

He may have an explanation. As of this time, however, if the evidence on record is actually presented at trial, enough evidence would exist to put accused Roman A. Cruz, Jr. at peril of his liberty and would require him to explain his side of the matter.

A case has, therefore, been demonstrated in the record and in the averment of accused Cruz himself that the crime charged has probably been committed and that the accused is probably guilty thereof. (Emphases supplied.)[16]

Petitioner would have respondent court order the production of the records of the preliminary investigation in its determination of the existence of probable cause for the issuance of the warrant of arrest. First and foremost, as hereinabove stated, in a preliminary examination for the issuance of a warrant of arrest, the court is not tasked to review in detail the evidence submitted during the preliminary investigation. It is sufficient that the judge personally evaluates the report and supporting documents submitted by the prosecution in determining probable cause.[17] This is precisely what respondent court did. In resolving the issue of probable cause, respondent court made an in-depth analysis of the findings of fact of Prosecutor Tamayo, as well as the Omnibus Motion submitted by petitioner. The correctness of these facts was not even questioned by herein petitioner but, on the contrary was expressly affirmed in the latter's Omnibus Motion dated September 17, 1992 wherein it was stated that "(t)he Order issued by the investigating prosecutor x x x contains a lucid narration of the relevant facts."

The case of Lim cited by petitioner is not applicable to the present case because, in the former, a warrant of arrest

was issued by the respondent judge therein without conducting his own personal evaluation of the case even if only on the basis of the report submitted by the fiscal. Instead, the respondent therein simply declared: "Considering that both the two competent officers to whom such duty was entrusted by law have declared the existence of probable cause, each information is complete in form and substance, and there is no visible defect on its face, this Court finds it just and proper to rely on the prosecutor's certification in each information x x x. This is far from what actually transpired before the Sandiganbayan as reflected by the records in this case. Hence, the ruling in Lim cannot be properly invoked.

As to the second issue, petitioner relies on the provisions of Section 8, Rule 112 of the 1985 Rules on Criminal Procedure, to wit:

SEC. 8. Record of preliminary investigation. - The record of the preliminary investigation whether conducted by a judge or a fiscal, shall not form part of the record of the case in the Regional Trial Court. However, the said court, on its own initiative or that of any party, may order the production of the record or any part thereof whenever the same shall be necessary in the resolution of the case or any incident therein, or shall be introduced as evidence by the party requesting for its production.

Petitioner's prayer for the production of the record is intended not only for proper observance of the constitutional requirement that probable cause be determined personally by the judge, but also to enable him to examine the evidence and prepare his defenses and for trial.

Public respondents contend that the production of the record of the preliminary examination is not necessary since petitioner can always resort to any of the modes of discovery available to an accused under the Rules of Court, specifically citing Section 11 of Rule 116, which provides:

SEC. 11. Production or inspection of material evidence in possession of prosecution. - On motion of the accused showing good cause and with notice to all parties, the court, in order to prevent surprise, suppression, or alteration, may order the prosecution to produce and permit the inspection and copying or photographing, of any written statements given by the complainant and other witnesses in any investigation of the offense conducted by the prosecution or any other investigating officers, as well as of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not otherwise privileged, which constitute or contain evidence material to any matter involved in the case, and which are in the possession or under the control of the prosecution, the police, or any other law investigating agencies.

This rule refers to the right of the accused to move for production or inspection of material evidence in the possession of the prosecution. It authorizes the defense to inspect, copy or photograph any evidence of the prosecution in its possession after obtaining the permission of the court. A motion showing good reasons for the granting of the permission must be filed by the defense for this purpose, with notice to all parties.[18]

It will be noted at the outset that precisely, as suggested by public respondents, herein petitioner, in asking for the production of the records of the preliminary investigation in order to enable him to prepare for his defense and for trial, is actually trying to avail of this mode of discovery. There was good cause shown for the motion to produce the records, that is, so that they may be introduced as evidence by the party requesting for their production, which is one of the grounds provided for under Section 8, Rule 112 of the Rules of Court.

It is true that the granting of permission lies within the discretion of the court. However, respondent court in this case has failed to sufficiently justify its refusal to have the records of the preliminary investigation produced before it so that petitioner may use them for his defense, either in its resolutions denying petitioner's Omnibus Motion and Motion for Reconsideration, or in the pleadings and Memorandum filed by herein respondents before this Court. Consequently, we find no reason to deny petitioner the right to avail of such mode of discovery. If only

for the reason that petitioner should be given the opportunity to inspect the evidence presented during the preliminary investigation solely for the purpose of enabling him to prepare for his defense and for trial, this questioned resolution of respondent Sandiganbayan should be modified.

III. It is likewise contended that respondent court abused its discretion in not dismissing the information considering that, as found by the investigating prosecutor, the money received by petitioner was a cash advance for which he can only be held civilly liable, but which civil liability has already been extinguished. Citing the case of *Yong Chan Kim vs. People, et al.*,^[19] which held that a cash advance is in the form of a loan and, therefore, there can be no estafa committed, petitioner argues that he only incurred civil liability for the cash advance he obtained from the Manila Hotel. However, he contends that such liability had allegedly been extinguished when his leave credits and other benefits were withheld, the total of which was more than sufficient to liquidate the advance made.

Also, it is argued that petitioner was denied due process when respondent court failed to remand the case to the Ombudsman for further proceedings for the purpose of determining the persons who actually forged the questioned documents by conducting a handwriting analysis. This would have secured him from hasty and malicious prosecution, and would even have led to the discovery of the true culprit, if indeed documents had been fabricated.

It must here be stressed that a preliminary investigation is merely inquisitorial, and it is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the prosecutor to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof, and it does not place the persons against whom it is taken in jeopardy.^[20]

The established rule is that a preliminary investigation is not the occasion for the full and exhaustive display of the parties' evidence; it is for the presentation of such evidence only as may engender a well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.^[21]

Conformably therewith, the arguments raised by herein petitioner that the cash advance is actually in the form of a loan and therefore no criminal liability attaches, and that respondent court should have remanded the case for further investigation to determine the true identity of the forgers, are all matters of defense which are best presented during the trial before respondent court for its consideration.

The main function of the government prosecutor during the preliminary investigation is merely to determine the existence of probable cause, and to file the corresponding information if he finds it to be so. And, probable cause has been defined as the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted.^[22]

In the case at bar, the Ombudsman found that there was sufficient ground to believe that petitioner is guilty of the crime charged on the basis of the factual findings of Prosecutor Tamayo in the latter's Order dated February 11, 1992 which were arrived at after taking into consideration the evidence presented by the parties. A cursory perusal of the records of this case will show that the findings of fact by the Office of the Ombudsman are supported by substantial evidence, hence the same should be considered conclusive.^[23]

Furthermore, the Ombudsman's findings are essentially factual in nature. Accordingly, in assailing said findings on the contention that the Ombudsman committed a grave abuse of discretion in holding that petitioner is liable for estafa through falsification of public documents, petitioner is clearly raising questions of fact here.^[24] His

arguments are anchored on the propriety of or error in the Ombudsman's appreciation of facts. Petitioner cannot be unaware that the Supreme Court is not a trier of facts, more so in the consideration of the extraordinary writ of certiorari where neither questions of fact nor even of law are entertained, but only questions of lack or excess of jurisdiction or grave abuse of discretion.[25] Insofar as this third issue is concerned, therefore, we find that no grave abuse of discretion has been committed by respondents which would warrant the granting of the writ of certiorari.

WHEREFORE, the resolutions appealed from are hereby AFFIRMED, with the modification that respondent Ombudsman is DIRECTED to produce the pertinent records of the preliminary investigation before the Sandiganbayan at the proper juncture of the proceedings therein and on sufficient justification therefor.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Puno, and Mendoza, JJ., concur.

[1] Annex A, Petition; Rollo, 25.

[2] Annex B, id.; ibid., 37.

[3] Rollo, 93-98.

[4] Rollo, 174.

[5] 69 Phil. 635 (1940).

[6] Rollo, 14.

[7] Section 1, Rule 112, Rules of Court.

[8] G.R. Nos. 92319-20, October 2, 1990, 190 SCRA 226.

[9] Pursuant to Section 3, Rule V of the Rules of Procedure of the Office of the Ombudsman, the Rules of Court shall apply suppletorily.

[10] Rollo, 42.

[11] Rollo, 103.

[12] Ocampo IV vs. The Honorable Ombudsman, et al., G.R. No. 103446-47, August 30, 1993.

[13] G.R. Nos. 94054-57, February 19, 1991, 194 SCRA 292.

[14] People vs. Inting, et al., G.R. No. 88919, July 25, 1990, 187 SCRA 788.

[15] Soliven, et al. vs. Makasiar, etc., et al., G.R. No. 82585, November 14, 1988, 167 SCRA 393, jointly deciding G.R. Nos. 82827 and 83979.

[16] Rollo, 34-35.

[17] Enrile vs. Salazar, etc., et al., G.R. No. 92163, June 5, 1990, 186 SCRA 217.

[18] Martin, R.G., 1985 Rules on Criminal Procedure, 1985 ed., 372.

[19] G.R. No. 84719, January 25, 1991, 193 SCRA 344.

[20] Paderanga vs. Drilon, et al., G.R. No. 96080, April 19, 1991, 196 SCRA 86.

[21] Pangandaman, et al. vs. Cesar, etc., et al., G.R. No. 71782, April 14, 1988, 159 SCRA 599.

[22] Que vs. Intermediate Appellate Court, et al., G.R. No. 66865, January 13, 1989, 169 SCRA 137.

[23] Section 27, R.A. 6770 (Ombudsman Act of 1989).

[24] Cf. Sesbreno vs. Ala, et al., G.R. No. 95393, May 5, 1992, 208 SCRA 359.

[25] Commission on Audit vs. Tanodbayan, et al., G.R. No. 81476, July 26, 1991, 199 SCRA 622.

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