

**DIRECTOR GUILLERMO T. DOMONDON, PETITIONER, VS. THE
HONORABLE SANDIGANBAYAN, SECOND DIVISION; HONORABLE
ANIANO A. DESIERTO, IN HIS OFFICIAL CAPACITY AS OMBUDSMAN;
HONORABLE FRAN...**

G.R. No. 129904. March 16, 2000

Ponente: BUENA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-129904/>

BUENA, J.:

Before this Court is a petition for certiorari and prohibition with prayer for the issuance of a writ of preliminary injunction seeking to nullify and set aside the Order[1] of the Office of the Special Prosecutor/Ombudsman, dated November 29, 1995, in Criminal Case No. 20574 (OMB-AFP-CRIM-93-0047), as having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction.

The factual and procedural antecedents are as follows:

On February and May 1994, four (4) separate informations[2] were filed against petitioner and several others before the Third Division of the Sandiganbayan, docketed as Crim. Case No. 20185 (OMB Case No. AFP-CRIM-93-0026), Crim. Case No. 20191 (OMB Case No. AFP-CRIM-93-0049, OMB-4-93-1476), Crim. Case No. 20192 (OMB Case No. 93-0050, OMB-4-93-1476) and Crim. Case No. 20576 (OMB-CRIM-AFP-93-0048).[3]

In May 1994, an additional information was filed against petitioner and several others before the First Division of the Sandiganbayan, docketed as Crim. Case No. 20574 (OMB-AFP-CRIM-93-0047).[4] The said case allegedly arose from a complaint filed on May 11, 1993 against certain officials of the Philippine National Police (PNP), including petitioner, "...due to the discovery of a chain of irregularities within the PNP Commands in CY 1992, ranging from the irregular issuance of Advices of Sub-Allotments, ghost purchases/deliveries, forged payrolls up to false issuances of the combat, clothing and individual equipment (CCIE) to the uniformed personnel of the PNP valued at P83,600,000.00"[5] Petitioner was included as an accused in Crim. Case No. 20574 on account of his approval for the Chief, PNP, as then Director of the Office of the Directorate for Comptrollership (ODC), of the release of Advice of Allotment (ASAs) Nos. 4363 and 4400 in the amount of P5 million and P15 million, respectively. The said ASAs were actually signed by his co-accused Superintendent Van Luspo, with authority from petitioner.[6]

On May 12, 1994, petitioner filed a motion for consolidation before the First Division of the Sandiganbayan seeking the consolidation of Crim. Case No. 20574 (OMB-AFP-CRIM-93-0047) with Crim. Case Nos. 20185, 20191, 20192 and 20576, all pending before the Third Division of the Sandiganbayan.[7]

On May 17, 1994, the First Division of the Sandiganbayan issued two (2) Orders, the first, ordering the prosecution, through prosecutor Erdulfo Q. Querubin, "...to demonstrate the probable complicity of the three (3) accused herein [referring to General Cesar Nazareno, General Joven Domondon and Senior Superintendent Van

Luspo] in the transaction described in the Information resulting in a violation of [the] Anti-graft Law under Sec. 3 (e) of R.A. 3019;"[8] considering its uncertainty as to the probable cause against the aforementioned accused,[9] and the second Order, deferring action on the motion for consolidation "[c]onsidering the uncertainty of this Court to even proceeding (sic) with this case at this time and considering further that the motion for consolidation is (sic) filed by only one of the fifteen (15) accused, and considering finally the statement of Prosecutor Erdulfo Q. Querubin that this case can stand independently of the proceeding in the other cases...until at least two (2) of the observations of this Court above on this matter shall have been responded to."[10]

On June 8, 1994, the First Division of the Sandiganbayan cancelled the scheduled arraignment in Crim. Case No. 20574 until further advice from the prosecution.[11]

On November 8, 1994, Erdulfo Q. Querubin, Special Prosecution Officer III of the Office of the Special Prosecutor/Ombudsman, issued an Order, approved by [then] Ombudsman Conrado M. Vasquez,[12] recommending that the information in Crim. Case No. 20574 be amended to exclude six (6) accused (not including the petitioner), and that the prosecution against the other remaining accused (including the petitioner) be continued.[13]

On May 17, 1995, petitioner filed a motion for reconsideration of the foregoing Order with prayer for the consolidation of Crim. Case No. 20574 with Crim. Case Nos. 20185, 20191, 20192, 20576 and 22098,[14] which are allegedly pending reinvestigation by the Office of the Ombudsman.[15]

On November 29, 1995, Joselito R. Ferrer, Special Prosecutor I of the Office of the Special Prosecutor / Ombudsman, issued an Order recommending that the Order of Special Prosecution Officer Erdulfo Q. Querubin, dated November 8, 1994, be modified to exclude petitioner from the information in Crim. Case No. 20574; and denying the prayer for consolidation.[16] However, the foregoing Order was disapproved by Ombudsman Aniano A. Desierto on February 19, 1997, on the basis of the recommendation of Overall Deputy Ombudsman Francisco A. Villa.[17] In his memorandum dated September 2, 1996 and addressed to the Ombudsman, Overall Deputy Ombudsman Francisco A. Villa proposed the setting of the arraignment and pre-trial conference in Crim. Case No. 20574.[18] Accordingly, a Motion to Admit Amended Information was filed with the Sandiganbayan on August 26, 1997.[19] The amended information excluded some of the accused but included petitioner among others as they were recommended for further prosecution by the Ombudsman.[20]

Hence, this petition. The following issues are raised:

- WHETHER THERE WAS GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THE RESPONDENTS VILLA AND DESIERTO DENIED THE PETITIONER'S MOTION FOR RECONSIDERATION;
- WHETHER THERE WAS GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THE RESPONDENTS VILLA, DESIERTO, AND TAMAYO DENIED THE PETITIONER'S MOTION FOR CONSOLIDATION;
- WHETHER THE RESPONDENT FIRST DIVISION, SANDIGANBAYAN SHOULD BE ENJOINED FROM PROCEEDING WITH THE HEARING AND OTHER INCIDENTS OF CRIMINAL CASE NO. 20574 AGAINST THE PETITIONER DURING THE PENDENCY OF THE PETITION.

Petitioner contends that respondents Villa and Desierto acted with grave abuse of discretion in denying his motion for reconsideration, arguing that there is no probable cause against him and that the said respondents disregarded the evidence he adduced.

Petitioner also alleges that respondents Desierto, Villa and Tamayo acted with grave abuse of discretion in

denying his motion for consolidation, claiming that since all of the pertinent cases have been remanded by the Sandiganbayan to the Office of the Special Prosecutor under the Office of the Ombudsman for reinvestigation, "jurisdiction has reverted" in the latter and "...it is grave abuse of discretion to refuse to perform the duty of consolidating these cases." [21]

The contentions are untenable.

As this Court stated in *Ocampo, IV vs. Ombudsman*: [22]

"Well settled is the rule that criminal prosecutions may not be restrained, either through a preliminary or final injunction or a writ of prohibition, except in the following instances:

(1)

To afford adequate protection to the constitutional rights of the accused;

(2)

When necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions;

(3)

When there is a prejudicial question which is sub-judice;

(4)

When the acts of the officer are without or in excess of authority;

(5)

Where the prosecution is under an invalid law, ordinance or regulation;

(6)

When double jeopardy is clearly apparent;

(7)

Where the Court has no jurisdiction over the offense;

(8)

Where it is a case of persecution rather than prosecution;

(9)

Where the charges are manifestly false and motivated by lust for vengeance;

(10)

When there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied;

(11)

Preliminary injunction has been issued by the Supreme Court to prevent the threatened unlawful arrest of petitioners."

Corollary to the foregoing rule, the courts cannot interfere with the discretion of the fiscal or Ombudsman to determine the specificity and adequacy of the averments of the offense charged. He may dismiss the complaint forthwith if he finds it to be insufficient in form or substance or if he otherwise finds no ground to continue with the inquiry; or he may proceed with the investigation if the complaint is, in his view, in due and proper form.[23] However, while the Ombudsman has the full discretion to determine whether or not a criminal case should be filed, this Court is not precluded from reviewing the Ombudsman's action when there is an abuse of discretion, by way of Rule 65 of the Rules of Court.[24]

Thus, we proceed to determine whether the respondents Ombudsman Desierto and Overall Deputy Ombudsman Villa acted with grave abuse of discretion. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[25] Such arbitrariness or despotism does not obtain here. Petitioner has not shown that respondents Desierto and Villa committed grave abuse of discretion in their determination to proceed with petitioner's prosecution in Crim. Case No. 20574. On the basis of their reinvestigation, respondents found sufficient probable cause to include petitioner in the indictment. As thoroughly discussed by respondents in the Comment and Rejoinder filed before this Court, petitioner's "complicity in the commission of the crime is clearly revealed by the facts and circumstances surrounding the case." [26] At this point we reiterate that "xxx [t]his is an exercise of the Ombudsman's powers based upon constitutional mandate and the courts should not interfere in such exercise. The rule is based not only upon respect for 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 will be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant." [27]

With regard to respondents' denial of petitioner's motion for consolidation of Crim. Case No. 20574 with Crim. Case Nos. 20185, 20191, 20192, 20576 and 22098, we find the same to be well-founded. While the Ombudsman has full discretion to determine whether or not a criminal case should be filed in the Sandiganbayan, once the case

has been filed with said court, it is the Sandiganbayan, and no longer the Ombudsman, which has full control of the case so much so that the informations may not be dismissed, or in the instant case, may not be consolidated with other pending cases, without the approval of the said court.[28]

Incidentally, petitioner filed a Manifestation[29] dated June 30, 1999 before this Court, stating that on June 11, 1999, the Office of the Ombudsman issued an Order[30] excluding petitioner from the information in Crim. Case No. 20185. In the said Manifestation, petitioner claims that "...the subject of the above-entitled petition includes Criminal Case No. 20185 as well as Criminal Cases Nos. 20574, 20191, 20192, 20576 and 22098." [31] Petitioner further claims that "...a perusal of the records of Criminal Cases Nos. 20574, 20191, 20192, 20576 and 22098 would show that the alleged complicity and participation of the petitioner is (sic) the same as in Criminal Case No. 20185; and concludes that "...with respect to petitioner, Criminal Cases Nos. 20574, 20191, 20192, 20576 and 22098 should be treated in the same manner as Criminal Case No. 20185." [32]

The exclusion of petitioner from the information as one of the accused in Crim. Case No. 20185 would not affect the outcome of this petition for the reason that we cannot, at this time, determine with certainty whether indeed the alleged complicity and participation of petitioner in Crim. Case No. 20185 are the same as in Crim. Case Nos. 20574, 20191, 20192, 20576 and 22098. Contrary to the assertion of petitioner, this petition concerns only Crim. Case No. 20574 insofar as it involves the propriety of the Ombudsman's action in proceeding with the said case. And as we have stated at the outset, this Court will not interfere with the Ombudsman's exercise of his investigatory and prosecutory powers in the absence of grave abuse of discretion on his part. Criminal Case Nos. 20185, 20191, 20192, 20576 and 22098 have come to the attention of this Court merely because petitioner has sought a review of the Ombudsman's denial of his motion for consolidation. If indeed the said cases have "common factual antecedents" and petitioner's "complicity and participation" in all of these cases are the same to warrant his exclusion from the other pertinent cases, petitioner's recourse is with the Sandiganbayan where the said cases are already pending.

In view of the foregoing, we do not find it necessary to address the other matters originally raised by petitioner in a motion[33] dated January 6, 2000, in which he informed this Court that the Fifth Division of the Sandiganbayan has issued an Order dated November 25, 1999, setting the arraignment of petitioner in Criminal Case No. 20191.

WHEREFORE, premises considered, the instant petition is hereby DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur. brando

[1] Rollo, pp. 21-26.

[2] Criminal Case Nos. 20191, 20192 and 20576 were for violation of section 3(e) of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act," as amended.

[3] Rollo, pp. 32-49.

[4] Ibid. at pp. 50-53.

[5] Ibid. at pp. 104-105.

[6] Ibid. at p. 105.

[7] Ibid. at pp. 58-60.

[8] Ibid. at p. 61.

[9] Ibid.

[10] Ibid. at p. 62.

[11] Ibid. at p. 64.

[12] The said Order was approved by Ombudsman Conrado M. Vasquez on April 27, 1995 and received by petitioner on May 12, 1995.

[13] Rollo, pp. 66-73.

[14] The Court notes that petitioner has added Crim. Case No. 22098 to the four (4) original cases pending before the Third Division of the Sandiganbayan.

[15] Rollo, pp. 74-83.

[16] Ibid. at pp. 21-26.

[17] Ibid. at pp. 26-31.

[18] Ibid. at p. 27.

[19] Ibid. at p. 108.

[20] Ibid.

[21] Ibid. at pp. 16-17.

[22] 225 SCRA 725, 729 (1993).

[23] Ocampo, IV. vs. Ombudsman, 225 SCRA 725, 729-730 (1993).

[24] Garcia-Rueda vs. Pascasio, 278 SCRA 769, 776 (1997).

[25] Cuison vs. Court of Appeals, 289 SCRA 159, 171 (1998).

[26] Rollo, p. 110.

[27] Ocampo, IV. vs. Ombudsman, 225 SCRA 725, 730 (1993).

[28] Ocampo, IV. vs. Ombudsman, 225 SCRA 725, 730 (1993).

[29] Rollo, pp. 195-196.

[30] Ibid. at pp. 198-200.

[31] Ibid. at p. 195.

[32] Ibid. at p. 196.

[33] Ibid. at pp. 216-219.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.