

RODOLFO G. VALENCIA, PEDRITO REYES, REMEDIOS MARASIGAN, BAYANI ANASTACIO, RUMULADO BAWASANTA, JOSE ENRIQUEZ, NELSON GABUTERO, JOSE GENILO, JR., JOSE LEYNES AND ALFONSO UMALI, JR...

G.R. No. 141336. June 29, 2004

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On April 8, 1997, petitioners Rodolfo G. Valencia, Pedrito Reyes, Remedios Marasigan, Bayani Anastacio, Rumulado Bawasanta, Jose Enriquez, Nelson Gabutero, Jose Genilo, Jr., Jose Leynes and Alfonso Umali were charged with Violation of Section 3 (e) in relation to Section 3 (g) of Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act, in an Information which reads:

That on or about January 12, 1994 or sometime prior or subsequent thereto, in Calapan, Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, accused Rodolfo G. Valencia, then Provincial Governor of Oriental Mindoro, Pedrito A. Reyes, then Vice-Governor and Presiding officer of the Sangguniang Panlalawigan of Oriental Mindoro, Bayani Anastacio, Romualdo J. Bawasanta, Emmanuel B. Buenaventura, Cesareo M. Cueto, Violeta D. Dakis, Jose A. Enriquez, Nelson B. Cabutero, Jose G. Genilo, Jr., Jose C. Leynes, Dante A. Manao, Remedios E. Marasigan, all members of the Sangguniang Panlalawigan of Oriental Mindoro, and Alfonso V. Umali, Jr., then Provincial Administrator, all of whom are public officials of the provincial government of Oriental Mindoro, while in the performance of their official and/or administrative functions, and acting in evident bad faith and manifest partiality, conspiring and confederating with private accused Engr. Alfredo M. Atienza, and mutually helping one another, did then and there willfully, unlawfully and criminally give said accused Alfredo M. Atienza unwarranted benefit, privilege and advantage by entering into a grossly disadvantageous contract of loan, whereby the provincial funds of Oriental Mindoro in the sum of P2,500,000.00 was given to Alfredo M. Atienza to finance the cost of repair, operation and maintenance of his vessel, thereby causing the provincial government of Oriental Mindoro damage and undue injury.

CONTRARY TO LAW.[1]

The Information was filed with the Sandiganbayan and docketed as Criminal Case No. 23624.

On April 11, 1997, petitioners filed a “Motion Seeking an Order to Allow Accused to File with the Ombudsman Motion for Reconsideration/Reinvestigation and to Defer Issuance of Warrant of Arrest.”[2] This was followed by a “Motion to Quash” filed by petitioner Valencia on April 14, 1997.[3]

The prosecution manifested that it had no objection to a reinvestigation of the case. Hence, on October 23, 1997, the Sandiganbayan granted petitioners’ motion for reinvestigation and directed the Office of the Special Prosecutor to conduct a reinvestigation.[4]

On March 23, 1998, the Office of the Special Prosecutor/Ombudsman issued a Joint Resolution wherein Ombudsman Aniano A. Desierto and Prosecution Bureau Director Victorio U. Tabanguil approved the

recommendation of Special Prosecution Officer II Manuel A. Corpuz that the motion for reinvestigation be denied but that the complaint as against Emmanuel B. Buenaventura, Violeta A. Daquis and Dante A. Manzo be dismissed for insufficiency of evidence. However, Deputy Special Prosecutor Robert E. Kallos and Special Prosecutor Leonardo P. Tamayo recommended the dismissal of the complaint against all accused on the ground that their liability is civil in nature.[5]

Accordingly, the prosecution filed an Amended Information.[6]

Petitioners filed with the Sandiganbayan a Motion for Leave to File Motion for Reconsideration of the Joint Resolution of the Office of the Special Prosecutor/Ombudsman,[7] which was denied in the first assailed Resolution dated June 23, 1999.[8]

In the meantime, petitioners learned that in the administrative case against them docketed as OMB-ADM-1-96-0316, which involved the same subject matter as the criminal case, the Ombudsman dismissed the complaint against them after finding that the contract of loan was entered into in pursuance of the police power of the local chief executive.[9] Invoking this Resolution, petitioners filed with the Sandiganbayan a Motion for Reconsideration of the Order dated June 23, 1999 and/or Motion to Resolve Motion to Quash Information.[10] In the second assailed Resolution dated September 27, 1999, the Sandiganbayan denied the Motion.[11]

Hence, this petition for certiorari under Rule 65 of the Rules of Court, based on the following grounds:

Respondent Sandiganbayan committed grave abuse of discretion amounting to lack of jurisdiction in not dismissing the information or in not granting the Motion to Quash information despite the fact that:

a)

Respondent ombudsman had already dismissed the administrative case against the petitioners regarding the same subject matter of the criminal case against the petitioners;

b)

The facts alleged in the information have already become moot and academic and no longer constitute an offense;

c)

No satisfactory reason was given by the respondent Ombudsman in delaying inordinately (close to three [3] years) the filing of the information against the petitioners.

Similarly, respondent Sandiganbayan committed grave abuse of discretion amounting to lack of jurisdiction in the Resolution dated September 27, 1999 in holding that the dismissal of the administrative case against all the petitioners is not determinative of the outcome of the criminal case despite the facts following:

a) The subject matter in both criminal and administrative cases against the same petitioners are one and the same;

b) The degree of proof in criminal case is proof beyond reasonable doubt. Whereas, in administrative case the proof required is only substantial evidence; and

c) Two of the reviewing prosecutors, namely: Deputy Prosecutor Roberto Kallos and Special Prosecutor Leonardo Tamayo held in the Joint Resolution dated March 23, 1999 that the criminal case against the petitioners should be dismissed, and they both concurred with the findings of GIO I Medwin Dizon, Dir. Angel Mayoralgo, Jr., and Hon. Assistant Ombudsman Abelardo Aportadera, Jr., in their Resolution dated October 8, 1996, which recommended the dismissal of the case as they found that the contract of loan entered into by the petitioners with a certain Alfredo Atienza was in pursuance of the General Welfare Clause of Section 16 of the

Local Government Code.[12]

In a Minute Resolution dated January 31, 2000, the petition was dismissed for failure to show grave abuse of discretion on the part of the Sandiganbayan.[13]

Petitioners filed a Motion for Reconsideration[14] as well as a Supplemental thereto.[15] The respondents were required to comment on the Motion for Reconsideration and the Supplement.[16] The prosecution filed a Comment on the petition for certiorari.[17] Thereafter, petitioners filed their Reply.[18]

In the meantime, on May 29, 2000, a Temporary Restraining Order was issued enjoining respondents “from further proceeding with the pre-trial and trial in Criminal Case No. 23624 entitled ‘People of the Philippines vs. Rodolfo G. Valencia, et al.,’ scheduled [on] May 22, 23, 24 and 25, 2000 and from acting on the motion to suspend petitioners pendente lite.”[19]

On November 27, 2000, petitioners’ Motion for Reconsideration was granted and the petition was reinstated.[20]

The petition lacks merit.

The grounds on which a complaint or information may be quashed are:

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged;
- (c) That the court trying the case has no jurisdiction over the person of the accused;
- (d) That the officer who filed the information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;
- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.[21]

Save where the Rules expressly permit the investigation of facts alleged in a motion to quash, the general rule is that in the hearing of such motion only such facts as are alleged in the information, and those admitted by the prosecutor, should be taken into account in the resolution thereof. Matters of defense can not be produced during the hearing of such motions, except where the rules expressly permit, such as extinction of criminal liability, prescription and former jeopardy.[22] Otherwise put, facts which constitute the defense of the accused against the charge under the information must be proved by them during trial. Such facts or circumstances do not constitute proper grounds for a motion to quash the information on the ground that the material averments do not constitute the offense.[23]

As a general proposition, a motion to quash on the ground that the allegations of the information do not constitute the offense charged, or any offense for that matter, should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted. The informations need only state the ultimate facts; the reasons therefor could be proved during the trial.[24]

The fundamental test in reflecting on the viability of a motion to quash under this particular ground is whether or

not the facts asseverated, if hypothetically admitted, would establish the essential elements of the crime defined in the law. In this examination, matters aliunde are not considered.[25] However, inquiry into facts outside the information may be allowed where the prosecution does not object to the presentation thereof.[26] In the early case of *People v. Navarro*,[27] we held:

Prima facie, the facts charged are those described in the complaint, but they may be amplified or qualified by others appearing to be additional circumstances, upon admissions made by the people's representative, which admissions could anyway be submitted by him as amendments to the same information. It would seem to be pure technicality to hold that in the consideration of the motion the parties and the judge were precluded from considering facts which the fiscal admitted to be true, simply because they were not described in the complaint. Of course, it may be added that upon similar motions the court and the fiscal are not required to go beyond the averments of the information, nor is the latter to be inveigled into a premature and risky revelation of his evidence. But we see no reason to prohibit the fiscal from making, in all candor, admissions of undeniable facts, because the principle can never be sufficiently reiterated that such official's role is to see that justice is done: not that all accused are convicted, but that the guilty are justly punished. Less reason can there be to prohibit the court from considering those admissions, and deciding accordingly, in the interest of a speedy administration of justice.

It should be stressed, however, that for a case to fall under the exception, it is essential that there be no objection from the prosecution. Thus, the above rule does not apply where the prosecution objected to the presentation of extraneous facts and even opposed the motion to quash.[28]

In the case at bar, petitioners are charged with violation of Section 3 (e), in relation to 3 (g), of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. The pertinent provisions read:

Sec. 3. 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:

xxx xxx xxx.

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of officers or government corporations charged with the grant of licenses or permits or other concessions.

xxx xxx xxx.

(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.

xxx xxx xxx.

The elements of the crime of violation of Section 3 (e) are the following:

- The accused is a public officer discharging administrative, judicial or official functions;
- He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- His action has caused undue injury to any party, including the Government, or has given any party any unwarranted benefit, advantage or preference in the discharge of his functions.[29]

On the other hand, the elements of the crime of violation of Section 3 (g) are:

- The offender is a public officer;

- He enters into a contract or transaction on behalf of the government; and
- The contract or transaction is grossly and manifestly disadvantageous to the government.[30]

A careful scrutiny of the Information shows that all the above elements are averred therein. It sufficiently alleges that petitioners are public officials discharging official or administrative functions who, in evident bad faith and with manifest partiality, entered into a grossly disadvantageous contract on behalf of the government with a private person which gives the latter unwarranted benefit and advantage.

Petitioners invoke the earlier Resolution of the Ombudsman which recommended the dismissal of the case against them. There, the Graft Investigation Officer opined that the contract of loan extended by petitioners to Engr. Alfredo M. Atienza for the repair, maintenance and operation of the latter's motor vessel was necessary for the transportation needs of the inhabitants of the Province of Oriental Mindoro, which had just suffered three successive typhoons. The loan of provincial funds was supposedly extended by the Sangguniang Panlalawigan of Oriental Mindoro under Section 468[31] of R.A. 7160 (The Local Government Code of 1991), pursuant to the General Welfare provision embodied in Section 16 thereof, which states:

SEC. 16. General Welfare. — Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

As enunciated above, however, the Resolution must be established as their defense during the trial. It was not even offered and admitted as evidence by the Sandiganbayan. It was merely attached to petitioners' "Supplemental Pleading in Support of Motion to Quash Information." [32] Furthermore, the Resolution does not bear the approval of the Ombudsman.[33]

In any event, the Ombudsman subsequently denied petitioners' motion for reinvestigation. The fact that Special Prosecutor Leonardo P. Tamayo and Deputy Special Prosecutor Robert E. Kallos recommended the dismissal of the case against petitioners is of no moment, especially since the same Special Prosecutor and Deputy Special Prosecutor signed the Comment filed before this Court wherein they extensively argued against the instant petition. The continuing objection and opposition of the prosecution to petitioners' motion to quash the Information removes this case from the exception to the above-cited rule that in the determination of whether the facts alleged constitute an offense, only the allegations in the Information, whose truth and veracity are hypothetically admitted, should be considered.

Indeed, the findings of the Graft Investigation Officer are contradicted by the following disquisition by the Ombudsman in the Resolution finding probable cause to charge petitioners, to wit:

The subject loan does not fall within the context of the "general welfare clause" under Section 16 of the Local Government Code. The loan in question was more inclined to promote the personal or business interest of Engr. Atienza rather than to boost the common welfare of the people in Mindoro. In the "credit agreement" itself, while the problem of transport system was addressed in passing under its "whereas clause" (introductory part) of the said contract, however, the same was not mentioned in the body of the said agreement. There is no provision in the contract to obligate Engr. Atienza towards the improvement of transport service for the people of Oriental Mindoro. In short, it is not clear in the said agreement that Engr. Atienza is mandated to render

transport service for the general welfare of the people in Mindoro. xxx xxx xxx.

xxx xxx xxx.

As embodied in the credit agreement, the purpose of the loan being stated therein was to finance the cost of the repair, operation and maintenance of Atienza's vessel. This in essence is indeed a private affair. It suits Atienza's personal aggrandizement. In synthesis, the subject loan has the attributes of a private interest as opposed to public purpose. Consequently the subject loan does not rhyme with the requirement that "government funds shall be used/spent strictly for public purpose." xxx xxx xxx.[34]

In the final analysis, the conflicting findings of the Ombudsman boil down to issues of fact which, however, are not within our province to resolve. As has been oft-repeated, this Court is not a trier of facts.[35] This is a matter best left to the Sandiganbayan.

Petitioners argue that the dismissal by the Ombudsman of the administrative case against them based on the same subject matter should operate to dismiss the criminal case because the quantum of proof in criminal cases is proof beyond reasonable doubt, while that in administrative cases is only substantial evidence. While that may be true, it should likewise be stressed that the basis of administrative liability differs from criminal liability. The purpose of administrative proceedings is mainly to protect the public service, based on the time-honored principle that a public office is a public trust. On the other hand, the purpose of the criminal prosecution is the punishment of crime.[36]

Moreover, one of the grounds for the dismissal of the administrative case against petitioners is the fact that they were reelected to office. Indeed, a reelected local official may not be held administratively accountable for misconduct committed during his prior term of office. The rationale for this holding is that when the electorate put him back into office, it is presumed that it did so with full knowledge of his life and character, including his past misconduct. If, armed with such knowledge, it still reelects him, then such reelection is considered a condonation of his past misdeeds.[37]

However, the re-election of a public official extinguishes only the administrative, but not the criminal, liability incurred by him during his previous term of office, thus:

The ruling, therefore, that – "when the people have elected a man to his office it must be assumed that they did this with knowledge of his life and character and that they disregarded or forgave his faults or misconduct if he had been guilty of any" – refers only to an action for removal from office and does not apply to a criminal case, because a crime is a public wrong more atrocious in character than mere misfeasance or malfeasance committed by a public officer in the discharge of his duties, and is injurious not only to a person or group of persons but to the State as a whole. This must be the reason why Article 89 of the Revised Penal Code, which enumerates the grounds for extinction of criminal liability, does not include reelection to office as one of them, at least insofar as a public officer is concerned. Also, under the Constitution, it is only the President who may grant the pardon of a criminal offense.[38]

There is, thus, no reason for the Sandiganbayan to quash the Information against petitioners on the basis solely of the dismissal of the administrative complaint against them.

Finally, petitioners invoke the ruling in *Tatad v. Sandiganbayan*,[39] where this Court dismissed the criminal cases against petitioner for the inordinate delay of three years in the conduct of preliminary investigations which violated his right to due process and the constitutional guarantee of speedy disposition of cases. In the case at bar, petitioners allege that while the letter-complaint against them was dated March 10, 1994, the Ombudsman resolved to file the Information against them three years later, on February 14, 1997, and in fact the Information was filed with the Sandiganbayan on April 8, 1997.

By way of explanation for the perceived delay, the Special Prosecutor, in his Comment to the petition, enumerated the chronology of events beginning from the receipt of the letter-complaint to the filing of the Information. It appears therefrom that in most cases the extended periods of time were devoted to verifications and investigations, first by the National Bureau of Investigation and then by the Ombudsman. Within the Office of the Ombudsman, the complaint had to undergo separate investigations by the Fact-Finding Investigation Bureau and the Evaluation and Preliminary Investigation Bureau. During the preliminary investigation itself, petitioners sought extensions of time before they filed their counter-affidavits.

Thus, the ruling in *Tatad* does not apply here. In that case, the delay was exacerbated by the fact that the charges against petitioner were found to be politically motivated. In the case at bar, there is no indication that the complaint against petitioners was filed to serve political ends. Neither is the delay vexatious, capricious or oppressive. On the contrary, what appears is that the prosecutors exercised extreme care in verifying, evaluating and assessing the charges against petitioners before making a finding of probable cause.

For certiorari to lie, it must be shown that the Sandiganbayan acted with grave abuse of discretion,[40] or more specifically, that it exercised its power arbitrarily or despotically by reason of passion or personal hostility; and such exercise was so patent and gross as to amount to an evasion of positive duty, or to a virtual refusal to perform it or to act in contemplation of law.[41] Petitioners failed in this respect.

WHEREFORE, in view of the foregoing, the petition for certiorari is DISMISSED. The Temporary Restraining Order issued by this Court on May 16, 2000 is LIFTED. The Sandiganbayan is DIRECTED to conduct proceedings in Criminal Case No. 23624 with deliberate dispatch.

SO ORDERED.

Davide, Jr., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Record, Vol. I, pp. 2-3.

[2] *Id.*, pp. 39-41.

[3] *Id.*, pp. 42-52.

[4] *Id.*, p. 204.

[5] *Id.*, pp. 244-247.

[6] *Id.*, p. 267-269.

[7] *Id.*, pp. 271-279.

[8] Record, Vol. II, pp. 60-64.

[9] *Id.*, pp. 79-81.

[10] *Id.*, pp. 66-78.

[11] *Id.*, pp. 136-141.

[12] Rollo, pp. 13-15.

[13] *Id.*, pp. 132-133.

[14] *Id.*, pp. 134-147.

- [15] Id., pp. 148-162.
- [16] Id., p. 163.
- [17] Id., pp. 191-210.
- [18] Id., pp. 242-248.
- [19] Id., pp. 182-183.
- [20] Id., p. 258.
- [21] Revised Rules of Criminal Procedure, Rule 117, Sec. 3.
- [22] Cruz, Jr. v. Court of Appeals, G.R. No. 83754, 18 February 1991, 194 SCRA 145, 151-152, citing *People v. Cadabis*, 97 Phil. 829, 832 [1955].
- [23] Torres v. Garchitorena, et al., G.R. No. 153666, 27 December 2002, 394 SCRA 494, 503.
- [24] Domingo v. Sandiganbayan, et al., G.R. No. 109376, 20 January 2000, 322 SCRA 655, 664-665.
- [25] Ingco, et al., v. Sandiganbayan, G.R. No. 112584, 23 May 1997, 272 SCRA 563, 573.
- [26] Garcia v. Court of Appeals, G.R. No. 119063, 27 January 1997, 266 SCRA 678, 692.
- [27] 75 Phil. 516, 518-519 [1945].
- [28] Torres v. Garchitorena, et al., *supra*.
- [29] Katigbak v. Sandiganbayan, G.R. No. 140183, 10 July 2003.
- [30] Morales v. People, G.R. No. 144047, 26 July 2002, 385 SCRA 259, 273.
- [31] SEC. 468. Powers, Duties, Functions and Compensation. — (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code xxx.
- [32] Rollo, pp. 64-82.
- [33] Id., p. 82.
- [34] Rollo, p. 215.
- [35] Añonuevo v. Court of Appeals, G.R. No. 152998, 23 September 2003.
- [36] Caña v. Gebusion, A.M. No. P-98-1284, 30 March 2000, 329 SCRA 132, 145.
- [37] Garcia v. Mojica, G.R. No. 139043, 10 September 1999, 314 SCRA 207, 227.
- [38] Conducto v. Monzon, A.M. No. MTJ-98-1147, 2 July 1998, 291 SCRA 619, 630; citing *Ingco v. Sanchez*, 21 SCRA 1292, 1295 [1967].
- [39] G.R. No. L-72335-39, 21 March 1988, 159 SCRA 70.
- [40] Microsoft Corporation v. Best Deal Computer Center Corporation, G.R. No. 148029, 24 September 2002.
- [41] Go v. Tong, G.R. No. 151942, 27 November 2003.

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