

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. JESSIE B. CASTILLO AND FELICITO R. MEJIA, RESPONDENTS.

G.R. No. 171188. June 19, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition seeks a review of the Resolution[1] dated October 10, 2005 of the Sandiganbayan in Criminal Case No. 27789, dismissing the criminal complaint against the respondents, and its Resolution[2] dated January 18, 2006 denying petitioner's motion for reconsideration.

The facts are as follows:

Complainant Cesar Sarino is one of the registered owners of a piece of land covered by Transfer Certificate of Title No. T-450278[3] of the Registry of Deeds of Cavite, located in front of SM Bacoar, Cavite. The property is leased to Pepito B. Aquino and Adriano G. Samoy who are in turn subleasing it to several stallholders.

In September 1999, respondent Felicito R. Mejia, Municipal Building Official of Bacoar, sent to the stallholders Notices of Violation[4] of the National Building Code on the grounds that the structures they were occupying were erected without building permits and occupied by them without the necessary certificates of occupancy having been first secured.

On January 17, 2000, Mejia's office sent letters[5] dated January 10, 2000 to the stallholders informing them that because of their repeated failure to comply with the National Building Code and its implementing rules and regulations and the Business Permit and Licensing Office Requirements, their stalls will be closed down on January 24, 2000.

On February 16, 2000, a task force from the Bacoar Municipal Hall effected the closure of the stalls through the installation of galvanized iron fences.

Lessees Aquino and Samoy thereafter filed before the Office of the Ombudsman a complaint against respondent Jessie B. Castillo, in his capacity as Bacoar Municipal Mayor, respondent Mejia and two other municipal officials for violation of Section 3(e) and (f) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.[6] The case was docketed as OMB-1-00-0537.

On October 20, 2000, the Office of the Ombudsman dismissed OMB-1-00-0537, ruling that the respondent local officials acted in good faith in effecting the closure of the stalls.[7]

On September 6, 2001, Sarino filed a Complaint[8] against respondents Castillo and Mejia before the Office of the Ombudsman charging them criminally for violation of Section 3(e) and (f) of Rep. Act No. 3019 and Rep. Act No. 6713,[9] and administratively for oppression, grave misconduct and for committing acts contrary to law. According to Sarino, the construction of the galvanized fence in February 2000 is tantamount to an unlawful taking of their property causing them undue injury and that despite his verbal and written demands, respondents

refused to remove said fence.

Respondents countered that Sarino's complaint was anchored on the same set of facts that had been the subject of OMB-1-00-0537 that was dismissed by the Ombudsman.

On March 10, 2003, the Ombudsman dismissed the administrative complaint for being moot and academic due to Castillo's re-election as mayor in the May 2001 elections and pursuant to Section 20 of Rep. Act No. 6770[10] because the act complained of happened more than one year before the complaint was filed.[11]

On May 7, 2003, the Office of the Ombudsman, through the Office of the Special Prosecutor, filed an Information[12] against respondents for violation of Section 3(e) of Rep. Act No. 3019 before the Sandiganbayan. The case was docketed as Criminal Case No. 27789. The Information reads:

That in or about February 2000, and for sometime prior or subsequent thereto, in Bacoor, Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JESSIE B. CASTILLO, a high ranking public officer, being the Municipal Mayor, and FELICITO R. MEJIA, the Municipal Building Official, of Bacoor, Cavite, as such taking advantage of their positions and committing the offense in relation to office, conspiring and confederating together, with evident bad faith and manifest partiality, or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to one CESAR SARINO by blocking and fencing off the latter's property by installing and erecting a galvanized iron sheet fence on the front portion of the said property facing the SM Bacoor thereby depriving him of the full use and enjoyment of his property, and despite repeated demands from the said land owner, the accused, without valid justification, refuse to remove the said fence to the damage and prejudice of said Cesar Sarino in the amount of Seven Hundred Ninety Thousand and Nine Hundred Twenty Pesos (Php 790,920.00), more or less, representing lost income from the rentals of the stalls and parking fees derived therefrom.

CONTRARY TO LAW.[13]

In a Resolution[14] dated August 15, 2003, the Sandiganbayan declared that probable cause exists against respondents for violation of Section 3(e). Accordingly, it directed the issuance of the corresponding warrants of arrest and hold departure orders against respondents.

On August 20, 2003, respondents voluntarily surrendered to the Sandiganbayan and posted their respective bonds for their provisional liberty.[15] Respondents moved for the reinvestigation of the case which the Sandiganbayan gave due course.

After the reinvestigation, the Office of the Special Prosecutor, upon approval of the Ombudsman, filed a Motion for Leave to Admit Attached Amended Information.[16] The respondents then filed a Comment thereon with Motion for Judicial Determination of Probable Cause.[17]

In a Resolution[18] dated November 3, 2004, the Sandiganbayan admitted the Amended Information which reads:

That in or about February 2000, and for sometime prior or subsequent thereto, in Bacoor, Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JESSIE B. CASTILLO, a high ranking public officer, being the Municipal Mayor, and FELICITO R. MEJIA, the Municipal Building Official, of Bacoor, Cavite, as such taking advantage of their positions and committing the offense in relation to office, conspiring and confederating together, with evident bad faith and manifest partiality, or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally cause undue injury to CESAR N. SARINO, EVELYN S. MANIQUIS, FLORA JANET S. GARCIA, CLAUDETTE N. SARINO, STEPHEN N. SARINO and PRISCILLA N. SARINO, by blocking and fencing off their property described in Transfer Certificate of Title No. T-450278, which was then being leased by PEPITO B. AQUINO and ADRIANO G. SAMOY for TWELVE THOUSAND PESOS (P12,000.00) a month, by installing and erecting a galvanized

iron fence on the front portion of the said property facing the SM Bacoar, thereby depriving them of the full use and enjoyment of their property and effectively decreasing its value for commercial purposes, and despite lawful demand from CESAR N. SARINO, the accused, without valid justification, refuse to remove the said fence to the undue damage and prejudice of said landowners in the amount of SEVEN HUNDRED NINETY THOUSAND and NINE HUNDRED TWENTY PESOS (Php 790,920.00), more or less, representing (1) lost rentals of said property, (2) unpaid compensation for the portion of the property on which the fence was installed, and (3) the decrease in value of the property for commercial purposes.

CONTRARY TO LAW.[19]

In a Resolution[20] dated May 9, 2005, the Sandiganbayan denied the respondents' Motion for Judicial Determination of Probable Cause.

On October 10, 2005, the Sandiganbayan, upon motion for reconsideration filed by respondents, reversed its May 9, 2005 Resolution and dismissed the case. The Sandiganbayan likewise set aside the arrest warrants it previously issued. It held that the instant criminal case is a mere rehash of the previously dismissed criminal case filed by complainant's lessees against respondents. It also ruled that there was no evident bad faith, manifest partiality or inexcusable negligence that can be attributed to respondents. Neither did complainant's claim of undue injury have any leg to stand on.

The Office of the Special Prosecutor filed a motion for reconsideration, but it was denied on January 18, 2006. Hence this petition, with the following issues:

I.

[WHETHER OR NOT] THE HONORABLE SANDIGANBAYAN GRAVELY ERRED AND DECIDED A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH LAW AND JURISPRUDENCE IN CONDUCTING A SECOND JUDICIAL DETERMINATION OF PROBABLE CAUSE IN CRIMINAL CASE NO. 27789, LONG AFTER IT ISSUED THE WARRANTS OF ARREST AGAINST THE RESPONDENTS.

II.

[WHETHER OR NOT] THE HONORABLE SANDIGANBAYAN GRAVELY ERRED AND DECIDED A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH LAW AND JURISPRUDENCE WHEN IT CONSIDERED EVIDENTIARY MATTERS SUPPORTING RESPONDENTS' DEFENSE WHEN IT CONDUCTED THE SECOND JUDICIAL DETERMINATION OF PROBABLE CAUSE.

III.

[WHETHER OR NOT] THE HONORABLE SANDIGANBAYAN GRAVELY ERRED AND DECIDED A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH LAW AND JURISPRUDENCE WHEN IT RULED THAT THE RESPONDENTS ACTED IN GOOD FAITH WHEN IN TRUTH RESPONDENTS HAD NO LEGAL BASIS IN FENCING OFF THE PRIVATE PROPERTY OF THE COMPLAINANT AND HIS SIBLINGS.

IV.

[WHETHER OR NOT] THE HONORABLE SANDIGANBAYAN GRAVELY ERRED AND DECIDED A QUESTION OF SUBSTANCE IN A MANNER NOT IN ACCORD WITH LAW AND JURISPRUDENCE WHEN IT IGNORED AND DID NOT DISCUSS IN ITS RESOLUTIONS OF OCTOBER 10, 2005 AND JANUARY 18, 2006 THE ISSUE RAISED BY THE PROSECUTION THAT COMPLAINANT AND HIS SIBLINGS SUFFERED UNDUE INJURY BECAUSE, AMONG OTHERS, A PORTION OF THEIR PROPERTY WAS EFFECTIVELY TAKEN BY THE RESPONDENTS WITHOUT JUST COMPENSATION AND THE VALUE OF THE SUBJECT PROPERTY FOR PURPOSES OF COMMERCE

WAS GREATLY REDUCED IN VIEW OF THE HIGH GALVANIZED IRON FENCE THAT COVERED AND HID THE PROPERTY FROM THE HIGHWAY AND THE PUBLIC.[21]

The foregoing issues simply boil down to whether the Sandiganbayan erred in overturning the Ombudsman's determination of probable cause resulting in the dismissal of the case against respondents.

Petitioner contends that after the Sandiganbayan issued the arrest warrants against respondents, the responsibility of making a new determination of probable cause shifted back to the Ombudsman as prosecutor when respondents moved for the reinvestigation of the case and such motion was granted by the court. The Ombudsman must then decide whether respondents shall continue to be held for trial in light of any additional evidence presented during reinvestigation. This responsibility, petitioner submits, belongs to the Ombudsman alone and the court is bereft of authority to overturn the former's findings as the judicial determination of probable cause is only for the purpose of determining whether the arrest warrant should be issued. Petitioner further argues that there are only two instances when the court can intervene in the Ombudsman's action - first, when the Ombudsman acted with grave abuse of discretion; and second, when the prosecution makes substantial amendments to the information - both of which are wanting in the instant case.

Respondents counter that the amendments made to the information are substantial in nature and not merely formal as they pertain to the inclusion of additional injured parties and specification of the amount of damages. And even assuming the amendments were merely formal, the Sandiganbayan was correct in exercising its judicial prerogative when it determined for itself the existence of probable cause considering the inconsistency of the positions taken by the Ombudsman in OMB-1-00-0537 and the instant case.

After seriously considering the submission of the parties, we are in agreement that the petition is meritorious.

There are two kinds of determination of probable cause: executive and judicial. The executive determination of probable cause is one made during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial. Otherwise stated, such official has the quasi-judicial authority to determine whether or not a criminal case must be filed in court.[22] Whether or not that function has been correctly discharged by the public prosecutor, i.e., whether or not he has made a correct ascertainment of the existence of probable cause in a case, is a matter that the trial court itself does not and may not be compelled to pass upon.[23]

The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice.[24] If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.[25]

Corollary to the principle that a judge cannot be compelled to issue a warrant of arrest if he or she deems that there is no probable cause for doing so, the judge in turn should not override the public prosecutor's determination of probable cause to hold an accused for trial on the ground that the evidence presented to substantiate the issuance of an arrest warrant was insufficient. It must be stressed that in our criminal justice system, the public prosecutor exercises a wide latitude of discretion in determining whether a criminal case should be filed in court, and that courts must respect the exercise of such discretion when the information filed against the person charged is valid on its face, and that no manifest error or grave abuse of discretion can be imputed to the public prosecutor.[26]

Thus, absent a finding that an information is invalid on its face or that the prosecutor committed manifest error or grave abuse of discretion, a judge's determination of probable cause is limited only to the judicial kind or for the

purpose of deciding whether the arrest warrants should be issued against the accused.

In the instant case, there is no question that both the original[27] and amended[28] Informations were valid on their face because they complied with Section 6,[29] Rule 110 of the Rules of Court. Also, a scrutiny of the Resolution[30] dated August 22, 2002 of the Ombudsman which precipitated the filing of the original Information and the subsequent Memorandum dated August 4, 2004 recommending the amendment of the Information would likewise show that the finding of probable cause against the respondents were sufficiently supported by substantial evidence. As a matter of fact, in the Resolution dated August 22, 2002, the Ombudsman took pains to mention each element of the crime of violation of Section 3(e) of Rep. Act No. 3019 and then one by one adequately explained how and why those elements were satisfied. Hence, as the amended Information was valid on its face and there is no manifest error or arbitrariness on the part of the Ombudsman, the Sandiganbayan erred in making an executive determination of probable cause when it overturned the Ombudsman's own determination. And this is true even if the Sandiganbayan was no longer satisfied with the evidence presented to sustain the effectivity of the arrest warrants previously issued for the original Information. The Sandiganbayan could have just revoked the previously issued arrest warrants and required the Ombudsman to submit additional evidence for the purpose of issuing the arrest warrants based on the amended Information.

Moreover, it was clearly premature on the part of the Sandiganbayan to make a determinative finding prior to the parties' presentation of their respective evidence that there was no bad faith and manifest partiality on the respondents' part and undue injury on the part of the complainant. In *Go v. Fifth Division, Sandiganbayan*,[31] we held that "it is well established that the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be best passed upon after a full-blown trial on the merits." [32] Also, it would be unfair to expect the prosecution to present all the evidence needed to secure the conviction of the accused upon the filing of the information against the latter. The reason is found in the nature and objective of a preliminary investigation. Here, the public prosecutors do not decide whether there is evidence beyond reasonable doubt of the guilt of the person charged; they merely determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof, and should be held for trial.[33]

The Sandiganbayan and all courts for that matter should always remember the judiciary's standing policy on non-interference in the Office of the Ombudsman's exercise of its constitutionally mandated powers. This policy 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, considering that otherwise, the functions of the courts will be grievously hampered by innumerable petitions regarding complaints filed before it, and in much the same way that the courts would be extremely swamped if they were to be compelled to review the exercise of discretion on the part of the prosecutors each time they decide to file an information in court or dismiss a complaint by a private complainant.[34]

WHEREFORE, the petition is GRANTED. The Sandiganbayan's challenged Resolutions dated October 10, 2005 and January 18, 2006 are REVERSED and SET ASIDE. The Information against the respondents is hereby REINSTATED. Let the records of this case be REMANDED to the Sandiganbayan for further proceedings.

SO ORDERED.

Ynares-Santiago, Chico-Nazario, Leonardo-De Castro, and Brion, JJ., concur.

* Designated member of the Second Division per Special Order No. 645 in place of Associate Justice Conchita

Carpio Morales who is on official leave.

** Designated member of the Second Division per Special Order No. 658.

*** Designated member of the Second Division per Special Order No. 635 in view of the retirement of Associate Dante O. Tinga.

[1] Rollo, pp. 14-22.

[2] Id. at 30-32.

[3] Id. at 160.

[4] Records, Vol. II, pp. 72-93, 95-127.

[5] Id. at 70-71.

[6] Section 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:

x x x x

(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 offices or government corporations charged with the grant of licenses or permits or other concessions.

(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

x x x x

[7] Records, Vol. I, pp. 118-122.

[8] Id. at 11-16.

[9] An Act Establishing A Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and for Other Purposes, approved on February 20, 1989.

[10] An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman and for Other Purposes.

x x x x

SEC. 20. Exceptions.--The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:

(1) The complainant has an adequate remedy in another judicial or quasi-judicial body;

(2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;

- (3) The complaint is trivial, frivolous, vexatious or made in bad faith;
- (4) The complainant has no sufficient personal interest in the subject matter of the grievance; or
- (5) The complaint was filed after one year from the occurrence of the act or omission complained of.

[11] Records, Vol. I, pp. 114-117.

[12] Id. at 1-3.

[13] Id. at 1-2.

[14] Id. at 76-77.

[15] Id. at 83-90.

[16] Rollo, pp. 278-283.

[17] Records, Vol. I, pp. 345-373.

[18] Id. at 442-443.

[19] Rollo, pp. 303-305.

[20] Records, Vol. II, pp. 11-19.

[21] Rollo, pp. 67-69.

[22] Paderanga v. Drilon, G.R. No. 96080, April 19, 1991, 196 SCRA 86, 90.

[23] Roberts, Jr. v. Court of Appeals, G.R. No. 113930, March 5, 1996, 254 SCRA 307, 350.

[24] Ho v. People, G.R. Nos. 106632 & 106678, October 9, 1997, 280 SCRA 365, 380.

[25] People v. Court of Appeals, G.R. No. 126005, January 21, 1999, 301 SCRA 475, 488.

[26] Schroeder v. Saldevar, G.R. No. 163656, April 27, 2007, 522 SCRA 624, 628-629.

[27] Rollo, pp. 207-209.

[28] Id. at 303-305.

[29] SEC. 6. Sufficiency of complaint or information.--A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense, and the place wherein the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

[30] Rollo, pp. 199-205.

[31] G.R. No. 172602, April 13, 2007, 521 SCRA 270.

[32] Id. at 289. See also Andres v. Cuevas, G.R. No. 150869, June 9, 2005, 460 SCRA 38, 52.

[33] People v. Court of Appeals, supra note 25.

[34] Go v. Fifth Division, Sandiganbayan, supra note 31, at 293; Andres v. Cuevas, supra note 32.

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