

GOVERNOR AMOR D. DELOSO, PETITIONER, VS. HON. MANUEL C. DOMINGO, IN HIS CAPACITY AS DEPUTY OMBUDSMAN FOR LUZON AND PC/INP/CIS, RESPONDENTS.

G.R. No. 90591. November 21, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

By this petition for certiorari and prohibition Governor Amor D. Deloso of Zambales seeks to stop respondent Manuel C. Domingo, Deputy Ombudsman for Luzon, from conducting a preliminary investigation of the charge against him of multiple murder in IBP Case No. OSP-88-01770, entitled "PC/INP/CIS vs. Governor Amor Deloso," on the grounds that:

1. the Ombudsman has no jurisdiction to investigate the murder charge against the petitioner for its jurisdiction is confined to the investigation only of acts or omissions that are connected with the performance of his duties as governor; and
2. for the same reason, the Tanodbayan (Special Prosecutor) has no jurisdiction to prosecute the murder case against the petitioner.

Upon receipt of the petition, the Court issued a temporary restraining order on November 7, 1989 (p. 49, Rollo).

The case began in the evening of April 22, 1988, when Governor Deloso attended a basketball victory party in Cabangan, Zambales. From the party, he proceeded to a pre-wedding celebration in Danacbunga, Botolan, Zambales. He left Danacbunga at 1:30 A.M., April 23, 1988, on board his service car, and accompanied by his security force of military/police/civilian escorts on board two other motor vehicles.

While travelling on the barangay road a few kilometers from the venue of the pre-wedding celebration, the convoy of three (3) motor vehicles, with the governor's car in the middle, was allegedly ambushed. Governor Deloso jumped out of his car and took cover behind it. During a lull in the shooting, he was allegedly rushed home by his official staff. Later, he learned that three supposed ambushers - Patrolman Alberto Dullas, Jr., Don Dullas, and Edgar Vinco, Jr. - were killed. His own group suffered no casualties.

Based, however, on the testimonies of eyewitnesses, the PC/INP/CIS investigators reported that the Governor's group was not ambushed, but was the ambusher. The report stated:

"This case was prefaced by the report of Governor Amor Deloso of Zambales that on the morning of April 23, 1988, at about 1:30 o'clock in the morning, he and his escorts were ambushed by the group of Pat. Alberto Dullas, Jr. along the Provincial Road of Danacbunga, Botolan, Zambales. However, in the course of the investigation, it was established, through the testimonies of eyewitnesses, that it was the group of Pat. Dullas, Don Dullas and Edgar Vinco, Jr., then riding in a Toyota Corolla car with Plate No. CAG 419, who were ambushed by the group of Governor Deloso and his escorts, numbering more or less fifteen (15). Initial witnesses positively identified the military/police escorts of Governor Deloso as CIC Pacifico Uy, CIC Leonito Bandala PC, Cpl Cesar Madoh PC,

Cpl Elpidio Manding PC, Pat Pedro Dolojan INP and Pat Florante Dimaguibo INP. The above-named escorts were already charged of Multiple Murder before the Regional Staff Judge Advocate (RSJA), Regional Command (RECOM) No. 3, on May 5, 1988, pursuant to PD 1850. Said witnesses further identified the civilian escorts/companions of Governor Deloso at the time of the incident as Eto Epan, Dennis Reyes, Arthur Menes and Jaime Detona, et al., who were, likewise, charged of the same offense before the Office of the Provincial Fiscal of Zambales on May 6, 1988, docketed under I.S. No. 88-100-1.

"Follow-up investigation of this case further established the identities of the other military/police escorts of Governor Deloso who were also implicated in the said shooting incident, namely: Pat Warlito Quinto, Mario Dial, Jr., Crisostomo Diomino, Jr., Sarito Dedicatoria, Ernesto Isidoro, Delfin Deliquina, Ramon Pangilinan, Alex de Leon and Carlos Yabut. Consequently, these personalities had already been included as respondents in the original complaint earlier filed with RSJA, Recom 3, on June 27, 1988.

"Relevantly, the testimonies of additional witnesses, particularly those of the spouses Honorio and Araceli Dullas strongly inculpated Governor Amor Deloso of Zambales in the commission of the crime. On the other hand, Governor Deloso, when invited to give his version of the incident, opted instead in submitting a nineteen (19) page photocopy of his letter dated May 30, 1988 to Justice Secretary Sedfrey Ordonez." (pp. 63-64, Rollo.)

The military servicemen in the Governor's security force were charged with murder in the Judge Advocate General's office, while his civilian security men were investigated by the Provincial Fiscal of Zambales. The Governor was charged with multiple murder before the Special Prosecutor, Raul M. Gonzales, who, without a referral from the Ombudsman, supposedly handpicked prosecutor Juan Templonuevo to conduct the preliminary investigation of the case.

On February 20, 1989, Governor Deloso filed a motion to dismiss the case on the grounds that:

- 1) The Office of the Special Prosecutor has no jurisdiction over the subject matter of the case;
- 2) The said office is without authority to conduct the preliminary investigation of the case; and
- 3) The preliminary investigation of Governor Deloso was prohibited by law in view of the Barangay Elections scheduled on 28 March 1989.

Albeit reluctantly, it may be imagined, Special Prosecutor Gonzales referred the case to the Ombudsman for preliminary investigation.

On June 19, 1989, respondent Manuel C. Domingo, Deputy Ombudsman for Luzon, issued an order denying Governor Deloso's motion to dismiss because "the Constitution empowers the Ombudsman to investigate any act or omission of any public official x x x without any qualification that said act or omission must have been committed or incurred in relation to his office." (p. 8, Rollo.)

After the denial of his motion for reconsideration, Governor Deloso filed this petition for certiorari, reiterating the grounds of his motion to dismiss.

After careful consideration, the Court finds the petition to be without merit.

Sections 12 and 13, Article XI of the 1987 Constitution provide:

"SEC. 12. The Ombudsman and his deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof."

"SEC. 13. The office of the Ombudsman shall have the following powers, functions, and duties:

"(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employees, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

"xxx xxx xxx"

(Underscoring supplied; pp. 9-10, Rollo.)

The petitioner admits that "the office of the Ombudsman was created under the authority of the Constitution and was mandated to act as a champion of the citizens, the watchdog of the people, the official critic of public officials and the government mobilizer." (p. 9, Rollo.) But he theorizes that "the framers of our Constitution x x x intended to limit the powers of the Ombudsman to crimes related to or connected with an official's discharge of his public functions." (p. 15, Rollo.) Hence, the lone issue presented by the petition is whether or not the Ombudsman has jurisdiction to investigate the charge of multiple murder allegedly committed by the petitioner as provincial governor. The answer is yes.

As protector of the people, the office of the Ombudsman has the power, function and duty "to act promptly on complaints filed in any form or manner against public officials" (Sec. 12) and to "investigate x x x any act or omission of any public official x x x when such act or omission appears to be illegal, unjust, improper or inefficient." (Sec. 13[1].) The Ombudsman is also empowered to "direct the officer concerned," in this case the Special Prosecutor, "to take appropriate action against a public official x x x and to recommend his prosecution" (Sec. 13[3]).

The clause "any [illegal] act or omission of any public official" is broad enough to embrace any crime committed by a public official. The law does not qualify the nature of the illegal act or omission of the public official or employee that the Ombudsman may investigate. It does not require that the act or omission be related to, or be connected with, or arise from, the performance of official duty. Since the law does not distinguish, neither should we.

The reason for the creation of the Ombudsman in the 1987 Constitution and for the grant to it of broad investigative authority, is to insulate said office from the long tentacles of officialdom that are able to penetrate judges' and fiscals' offices, and others involved in the prosecution of erring public officials, and through the exertion of official pressure and influence, quash, delay, or dismiss investigations into malfeasances and misfeasances committed by public officers. It was deemed necessary, therefore, to create a special office to investigate all criminal complaints against public officers regardless of whether or not the acts or omissions complained of are related to or arise from the performance of the duties of their office. The Ombudsman Act makes perfectly clear that the jurisdiction of the Ombudsman encompasses "all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or, employee as mentioned in Section 13 hereof, during his tenure of office" (Sec. 16, R.A. 6770).

The murder of three persons is, without any doubt, an illegal act. Since it was allegedly committed by the petitioner as provincial governor of Zambales, the crime lies within the pale of the Ombudsman's investigative authority.

The Ombudsman Act of 1989 which took effect on December 7, 1989 (Sec. 15, R.A. 6770) vests in the Ombudsman primary jurisdiction over cases cognizable by the Sandiganbayan.

"SEC. 15. Powers, Functions and Duties. - The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases." (p. 74, Rollo.)

The Sandiganbayan has jurisdiction over offenses committed by public officials when the penalty prescribed by law for the offense is higher than prision correccional (Sec. 4, subpar. (c), P.D. 1606). The murder charge against the petitioner carries the penalty of reclusion temporal in its maximum period to death (Art. 248, Revised Penal Code), hence, it is cognizable by the Sandiganbayan, and the Ombudsman has primary jurisdiction to investigate it.

Indeed, the labors of the constitutional commission that created the Ombudsman as a special body to investigate erring public officials would be wasted if its jurisdiction were confined to the investigation of minor and less grave offenses arising from, or related to, the duties of public office, but would exclude those grave and terrible crimes that spring from abuses of official powers and prerogatives, for it is in the investigation of the latter where the need for an independent, fearless, and honest investigative body, like the Ombudsman, is greatest.

WHEREFORE, the petition for certiorari and prohibition is dismissed for lack of merit. Costs against the petitioner.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Medialdea, and Regalado, JJ., concur.

Feliciano, J., on leave.

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