

LIBERATO M. CARABEO, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN (FOURTH DIVISION) AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 190580-81. February 21, 2011

Ponente: ABAD, J.

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ABAD, J.:

These cases pertain to a) the authority of Heads of Offices to investigate erring public officers and employees and file charges against them before the Office of the Ombudsman and b) the scope of the responsibility of such Heads of Offices to examine the Statement of Assets, Liabilities, and Net Worth (SALN) of their subordinates and require them to correct formal errors in them.

The Facts and the Case

Pursuant to Executive Order (E.O.) 259, investigators of the Department of Finance (DOF) Revenue Integrity Protection Service (RIPS) made lifestyles check of DOF officials and employees. As a result of these investigations, the DOF charged petitioner Liberato Carabeo, Parañaque City Treasurer, before the Office of the Ombudsman for violations of Section 7 in relation to Section 8 of Republic Act (R.A.) 3019 and Article 171 of the Revised Penal Code. The informations filed with the Sandiganbayan totaled eight in all. These, in essence, accused Carabeo of failing to disclose several items in his sworn SALN filed over the years.

Two informations, docketed as Criminal Cases SB-09-CRM-0034 and 0039, were raffled to the Sandiganbayan's Fourth Division. They charged Carabeo with failing to disclose personal properties consisting of three motor vehicles, misdeclaring the acquisition cost of a real property in Laguna, and falsely declaring his net worth in his SALN for 2003.

At the pre-trial of these cases, Carabeo submitted his Pre-Trial Brief, proposing the following issues for trial:

1. Whether or not the accused was allowed to previously exercise his right to be informed beforehand and to take the necessary corrective action on questions concerning his Statement of Assets, Liabilities and Network (SALN, for brevity), as provided under Section 10 of Republic Act No. 6713 before the instant charges were filed against him;
2. Whether or not the accused committed the crime of falsification of Public Documents under Paragraph 4, Article 171, Revised Penal Code, as amended;
3. Whether or not the accused committed a violation of Section 7, Republic Act No. 3019, as amended, in relation to Section 8, Republic Act. No. 6713; and
4. Whether or not the filing of the instant case is premature in the light of the pending Petition for Certiorari before the Supreme Court entitled: "Liberato M. Carabeo, vs. Court of Appeals, Simeon V. Marcelo, et al., (docketed as "G.R. No. 178000"), questioning: (1) the legality, validity and constitutionality of Executive Order 259, upon which the present charges arose; and (2) whether the accused's right to be informed

"beforehand" and to take the "necessary corrective action" on questions regarding his SALN, as clearly mandated under Section 10 of RA 6713, was blatantly disregarded and set aside during the course of the investigation by the Office of the Ombudsman.[1]

But the Pre-Trial Order of the Sandiganbayan dated August 14, 2009[2] did not include the issues as crafted by Carabeo. This prompted him to seek on September 1, 2009 the correction of the pre-trial order to include such issues.

On September 15, 2009 the Fourth Division issued a Resolution, stating that the issues in the pre-trial order already covered Carabeo's second and third proposed issues. As to the first and fourth issues, the Sandiganbayan said that Carabeo's head office's review was irrelevant and cannot bar the Office of the Ombudsman from conducting an independent investigation of his alleged offenses. Carabeo filed a motion for reconsideration with respect to his first and fourth issues but the Sandiganbayan denied this on October 29, 2009, hence, this special civil action of certiorari.

The Issues Presented

The petition presents the following issues:

1. Whether or not the Sandiganbayan may hear the criminal action against Carabeo pending this Court's resolution of his petition to annul E.O. 259 under which the DOF-RIPS' filed the pertinent complaint against him before the Office of the Ombudsman; and
2. Whether or not the Sandiganbayan gravely abused its discretion in excluding from the trial his proposed issues 1 and 4.

The Court's Rulings

One. Carabeo claims that the Office of the Ombudsman prematurely filed the criminal cases against him considering that a question was pending before this Court in G.R. 178000 concerning the validity of E.O. 259, which authorized the conduct of lifestyles check on official and employees of the executive department.

But such issue has since been rendered moot and academic when the Court held on December 4, 2009 that the validity of E.O. 259 is immaterial to the question of the propriety of the charges filed against Carabeo. Indeed, the Court pointed out that any concerned citizen may file charges of corruption or illegal conduct against any government official or employee if the evidence warrants. Thus, the DOF-RIPS investigators were within their right to charge Carabeo before the Office of the Ombudsman regarding his case with or without E.O. 259.[3]

Two. Carabeo asserts that he was entitled to be informed of any error in his SALN and given the opportunity to correct the same pursuant to Section 10 of R.A. 6713, which provides:

Section 10. Review and Compliance Procedure. - (a) The designated Committees of both Houses of the Congress shall establish procedures for the review of statements to determine whether said statements have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committees of both houses of the Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval of the affirmative vote of the majority of the particular House concerned.

The individual to whom the opinion is rendered, and any other individual involved in a similar factual

situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.

Carabeo claims that his head office, the DOF, should have alerted him on the deficiency in his SALN and given him the chance to correct the same before any charge is filed against him in connection with the same. But, the Sandiganbayan, citing *Pleyto v. Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG)*,^[4] held that the review of the SALN by the head of office is irrelevant and cannot bar the Office of the Ombudsman from conducting an independent investigation for criminal violations committed by the public official or employee.

Carabeo contends, however, that the head of office has a mandatory obligation to inform him of defects in his SALN and give him the chance to correct the same. Further, he cannot be subjected to any sanction until such obligation has been complied with. Carabeo points out that *Pleyto* could not apply to him because the authority that reviewed the SALN in *Pleyto* was not the head of office. Although the respondents involved in that case were employees of the Department of Public Works and Highways, it was the Philippine National Police that investigated and filed the complaints against them. Carabeo points out that, in his case, it was the DOF-RIPS, headed by the Secretary of Finance, which filed the complaints against him with the Office of the Ombudsman. As city treasurer, Carabeo reports to the Bureau of Local Government Finance under the Secretary of Finance.

But what Carabeo fails to grasp is that it was eventually the Office of the Ombudsman, not the DOF-RIPS, that filed the criminal cases against him before the Sandiganbayan. That office is vested with the sole power to investigate and prosecute, *motu proprio* or on complaint of 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.^[5] The Office of the Ombudsman could file the informations subject of these cases without any help from the DOF-RIPS.

True, Section 10 of R.A. 6713 provides that when the head of office finds the SALN of a subordinate incomplete or not in the proper form such head of office must call the subordinate's attention to such omission and give him the chance to rectify the same. But this procedure is an internal office matter. Whether or not the head of office has taken such step with respect to a particular subordinate cannot bar the Office of the Ombudsman from investigating the latter.^[6] Its power to investigate and prosecute erring government officials cannot be made dependent on the prior action of another office. To hold otherwise would be to diminish its constitutionally guarded independence.

Further, Carabeo's reliance on his supposed right to notice regarding errors in his SALNs and to be told to correct the same is misplaced. The notice and correction referred to in Section 10 are intended merely to ensure that SALNs are "submitted on time, are complete, and are in proper form." Obviously, these refer to formal defects in the SALNs. The charges against Carabeo, however, are for falsification of the assets side of his SALNs and for declaring a false net worth. These are substantive, not formal defects. Indeed, while the Court said in *Pleyto* that heads of offices have the duty to review their subordinates' SALNs, it would be absurd to require such heads to run a check on the truth of what the SALNs state and require their subordinates to correct whatever lies these contain. The responsibility for truth in those SALNs belongs to the subordinates who prepared them, not to the heads of their offices.

Thus, the Sandiganbayan did not gravely abuse its discretion in excluding from its pre-trial order the first and

fourth issues that Carabeo proposed.

WHEREFORE, the Court DISMISSES the petition and AFFIRMS the Resolutions of the Fourth Division of the Sandiganbayan in Criminal Cases SB-09-CRM-0034 and 0039 dated September 15, 2009 and October 29, 2009.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Mendoza, JJ., concur.

[1] Rollo, pp. 29-30.

[2] Id. at 36-47.

[3] Carabeo v. Court of Appeals, G.R. Nos. 178000 and 178003, December 4, 2009, 607 SCRA 394, 405.

[4] G.R. No. 169982, November 23, 2007, 538 SCRA 534.

[5] Vergara v. Ombudsman, G.R. No. 174567, March 12, 2009, 580 SCRA 693, 708.

[6] Pleyto v. PNP-CIDG, supra note 4, at 592.

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