

CARMENCITA O. REYES, PETITIONER, V. SANDIGANBAYAN (FIRST DIVISION), OFFICE OF THE SPECIAL PROSECUTOR, OFFICE OF THE OMBUDSMAN, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 203797-98. June 27, 2018

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REYES, JR., J:

This is a Petition for Certiorari[1] under Rule 65 of the Rules of Court with Prayer for Preliminary Injunction and/or Temporary Restraining Order, seeking to set aside the Resolutions dated February 29, 2012[2] and August 13, 2012[3] of the First (1st) Division of the Sandiganbayan in Case Nos. SB-11-CRM-0089 to 0101 and SB-11-CRM-0111 to 0113. The said Resolution dated February 29, 2012 denied petitioner's Urgent Omnibus Motion dated July 19, 2011,[4] while the Resolution dated August 13, 2012[5] denied the Motion for Reconsideration thereof.

THE ANTECEDENTS

This case stemmed from the investigation of various transactions of the famous P728,000,000.00 fertilizer fund allegedly involving public officers from the Department of Agriculture (DA) and others.

On July 9, 2008, the Task Force Abono, Field Investigation Office (FIO) of the Office of the Ombudsman filed a Complaint[6] with the Office of the Ombudsman against some persons which included petitioner Carmencita O. Reyes (Reyes).

Reyes was charged for alleged violation of Article 220 (Illegal Use of Public Funds or Property, commonly known as Technical Malversation) of Act 3135, otherwise known as the "Revised Penal Code of the Philippines" (RPC); and Section 3(e) and (g) of Republic Act (R.A.) No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act." Thereafter, Reyes then filed a consolidated counter affidavit[7] upon which Task Force Abono filed its Reply[8] on November 26, 2008.

Based on the said Complaint, the Ombudsman filed two (2) Informations against Reyes, one for violation of Section 3(e) of R.A. No. 3019[9] docketed as Criminal Case No. SB-11-CRM-0100; and the other for violation of Article 220 of the RPC[10] docketed as Criminal Case No. SB-11-CRM-0113, both of which were allegedly committed during the incumbency of Reyes as Provincial Governor of Marinduque. The Informations were consolidated into one case with the First (1st) Division of the Sandiganbayan (Sandiganbayan). The accusatory portion of the said Informations read as follows:

Criminal Case No. SB-11-CRM-0100

That on or about the period covering 30 April to 08 December 2004, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the accused CARMENCITA O. REYES, a high ranking official being then the Governor of the Province of Marinduque, DENNIS B. ARAULLO, a high ranking official being a Regional Executive Director with Salary Grade 28, RODOLFO M.

GUIEB, MARIE PAZ JASMINE M. CABUCOL, RAYMUNDO E. BRAGANZA, GROVER L. DINO, DORY A. IRANZO, ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGALANG; all of the Department of Agriculture Regional Field Unit IV (DA-RFU IV), while in the performance of their official functions and committing the offense in relation to their office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, acting with manifest partiality and evident bad faith or through gross inexcusable negligence, at the very least, did then and there willfully, unlawfully and criminally cause undue injury to the government, through the issuance of Bids and Awards Committee (BAC) Resolution No. 290, dated 30 April 2004, upon the order of accused REYES as evidenced by her letter and purchase requests dated 30 April 2004 and 03 May 2004, respectively, which requests have induced the accused DA-RFU IV employees to transact with LCV Design and Fabrication Corporation (LCV), with accused REMUS C. VILLANUEVA as president, in whose favor the purchase order and payment for one (1) unit Shredding Machine, one (1) unit Hammermill/Shifter, one (1) unit Pelletizer and one (1) unit Tornado Brush Chipper/Shredder as listed under Purchase Order No. 119-04, dated 05 May 2004, duly signed by accused MARIE PAZ JASMINE M. CABUCOL, amounting to Five Million Pesos (Php5,000,000.00), Philippine currency, charged against the Farm Input Fund for the Ginintuang Masaganang Ani Program of the DA as covered by SARO No. E-04-00164, has been awarded by accused BAC Members ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGALANG; without the conduct of a public bidding, thereby resorting to Direct Contracting, thus, giving said corporation unwarranted benefit, preference or advantage, knowing fully well that at the time of procurement, the patent application of said corporation for the equipment purchased has not yet been approved as evidenced by a notation "Subject to the condition that the patent will be approved by the Bureau of Patent. Patent of the ff: 12) Shredding Machine 2) Hammermill 3) Pelletizer 4) Brush Chipper" appearing on Disbursement Voucher Nos. 2004-07-2941 dated 30 July 2004, and 2004-12-6056 dated 08 December 2004, duly signed by accused DENNIS B. ARAULLO, RODOLFO M. GUIEB and RAYMUNDO E. BRAGANZA, hence, said corporation cannot as yet then be considered as the exclusive distributor of the equipment purchased and public bidding should have been conducted, aside from the fact that the purchase of said equipment was not in accordance with the purpose for which said funds as covered by SARO No. E-04-00164 has been appropriated, to the damage and prejudice of the government in the amount of Five Million Pesos(Php5,000,000.00), Philippine currency, covered by check nos. 270843-CL dated 30 July 2004 as signed by accused DORY A. IRANZO and DENNIS B. ARAULLO and 274415-CL dated 08 December 2004 as signed by accused GROVER L. DINO and DENNIS B. ARAULLO.

CONTRARY TO LAW.[11]

Criminal Case No. SB-11-CRM-0113

That from the period covering 30 April to 08 December 2004, or for some time prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused CARMENCITA O. REYES, a high ranking public officer being then the Governor and now the Representative of the Province of Marinduque, DENNIS B. ARAULLO, also a high ranking public officer being the Regional Executive Director (Salary Grade 28), Department of Agriculture-Regional Field Unit No. IV, RODOLFO M. GUIEB, MARIE PAZ JASMINE M. CABUCOL, RAYMUNDO E. BRAGANZA, GROVER L. DINO, DORY A. IRANZO, ABELARDO BRAGAS, FELIX RAMOS, OFELIA MONTILLA and GREGORIO SANGALANG, all employees of the Department of Agriculture Regional Field Unit IV (DA-RFU IV), being the OIC-Regional Executive Director (Salary Grade 26), Chief Accountant (Salary Grade 15), Regional Accountant (Salary Grade 18), Cashier I, Cashier IV-B (Salary Grade 14), members of the Bids and Awards Committee-CALABARZON, respectively, and as such is responsible/accountable for the P5,000,000.00 which they received from DA-Central Office by reason of their office, which amount is part of the P728 Million Fertilizer Fund released by the Department of Budget and Management to the Department of Agriculture under SARO No. E-04-00164 dated February 3, 2004 and allocated by Republic Act No. 8435, otherwise known as the "Agricultural and Fisheries Modernization Act (AFMA) for the purchase of fertilizer by the identified

beneficiaries/proponent in different regions of the country in line with the "Ginintuang Masaganang Ani Program" of the Department of Agriculture, while in the performance of their official functions and committing the offense in relation to their office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, either by awarding the transaction to LCV Design and Fabrication Corporation through Bids and Awards Committee Resolution No. 290, dated 30 April 2004, signing, certifying, or approving, Purchase Request 119-04, dated 05 May 2004, Disbursement Voucher Nos. 2004-07-2941, dated 30 July 2004, and 2004-12-6056, dated 08 December 2004, and Check Nos. 270843-CL, dated 30 July 2004, or accepting the items delivered by LCV Design and Fabrication Corporation, did then and there willfully, unlawfully and feloniously allow/cause the diversion/conversion of the said P5,000,000.00 fertilizer fund for the purpose for which it was intended, i.e. purchase of fertilizer, by purchasing, upon request/inducement of accused Reyes and in fact she received, one (1) unit Shredding Machine, one unit (1) unit Hammermill/Shifter, one (1) unit Pelletizer and one (1) unit Tornado Brush Chipper/Shredder from LCV Design and Fabrication Corporation, without the benefit of public bidding and knowing fully well that the equipment purchase was not in accordance with the purpose for which the fund was appropriated under Republic Act No. 8435, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.[12]

On July 19, 2011, Reyes filed an Urgent Omnibus Motion (For Judicial Determination of Probable Cause and Deferment of Arraignment set for 28 July 2011)[13] in the anti-graft case, and another Urgent Omnibus Motion (For Judicial Determination of Probable Cause; and Deferment of/Holding in Abeyance the Arraignment) on September 12, 2011[14] in the technical malversation case.

The Office of the Special Prosecutor (OSP) filed a Consolidated Opposition/Comment dated August 18, 2011[15] and an Opposition/Comment dated October 5, 2011[16] upon which Reyes filed her Consolidated Reply.[17]

In a Resolution dated February 29, 2012,[18] the Sandiganbayan resolved the said Urgent Omnibus Motions denying both motions. The said Resolution dated February 12, 2012 disposed thus:

WHEREFORE, in the light of all the foregoing, the Court hereby resolves as follows:

x x x x

7. To FIND THAT PROBABLE CAUSE EXISTS to issue warrant of arrest against accused Reyes [herein Petitioner] in Crim. Cases No. SB-11-CRM-0100 and No. SB-11-CRM-0113; x x x.

However, considering that the accused had already posted their bail bonds, the Court will no longer issue a warrant of arrest against them.

x x x x

SO ORDERED." [19]

On March 29, 2012, Reyes filed a Motion for Reconsideration[20] of the said Resolution dated February 29, 2012. However, it was denied in a Resolution dated August 13, 2012.

Hence, this petition.

Issues

Reyes submits the following issues for Our Resolution:

- Does the evidence, relied on by the Ombudsman, justify the conclusion that there is probable cause to charge the petitioner for the violation of Section 3 (e) of R.A. No. 3019, as amended?

- Does the evidence, relied on by the Ombudsman, justify the conclusion that there is probable cause to charge the petitioner for the Illegal Use of Public Funds/Technical Malversation under Article 220 of the RPC?
- Did the respondent court commit grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the assertion of the petitioner that no probable cause exists for either case?
- Is the petitioner entitled to injunctive relief?[21]

In the petition, Reyes argues that there is no probable cause to charge her for the violation of Section 3(e) of R.A. No. 3019.[22] She claims that among the elements to hold a person criminally liable under Sec. 3(e) of R.A. No. 3019, no other element is present in this case except that she was a public officer.[23] She explains that the primary evidence as per Information, i.e. the letter request[24] and the purchase request,[25] merely show the letter is simply a request and the purchase request shows on its face that it was the DA officials who made the same. Reyes likewise claims that no real evidence of conspiracy was found or established by the evidence.[26]

Moreover, Reyes argues that there is no probable cause to charge her under Article 220 of the RPC.[27] She claims that she is not the administrator of the funds in question with whom it remains.[28] She further claims that nothing of inducement is stated in the letter request[29] She concluded in accordance with Article 220 of the RPC, it is already clear that not all the elements of the crime charged are met.[30]

Reyes further argues that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied her assertion that no probable cause exists for either case. Reyes assails the Sandiganbayan's reliance on the Senate Blue Ribbon Committee Report being not part of the record of the case and considers it hearsay, as well as the finding that the "arguments propounded by the accused-movants reveal that they are matters of defense." [31]

Ruling of this Court

The petition is without merit.

At the outset, it bears to stress that a certiorari proceeding is limited in scope and narrow in character. The special civil action for certiorari lies only to correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion. Certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court.[32]

After a careful and thorough review of the facts and the issue at hand, as well as the law and jurisprudence pertinent thereto, this Court finds that the First Division of the Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it the denied petitioner's Urgent Omnibus Motion/s (For Judicial Determination of Probable Cause).

As to the first two issues, Reyes contends that the letter request and purchase request are incomplete to show that the elements are present for charges of violation of Section 3(e) of R.A. No. 3019 and Article 220 of the RPC, further claiming no evidence to show conspiracy.

We are not persuaded.

In this case, Reyes's contentions are matters of defense that should be resolved in a trial.

As public respondent correctly contends:

At first glance and on its face, petitioner Reyes' request had the appearance of being regular. But after a careful analysis, her request was actually inducing and/or even ordering the DA to procure the subject equipments from the LCV as the latter, according to petitioner Reyes, was "the inventor, manufacturer and exclusive

distributor" thereof. Indeed, petitioner Reyes' mere mention in her letter of the name "LCV" as the alleged "inventor; manufacturer and exclusive distributor" of the equipment could be considered as a strong indication that she seriously wanted DA to procure the equipments with LCV. As a matter of fact, in the Purchase Request dated May 3, 2004, and the Requisition and Issue Slip dated May 5, 2004, petitioner Reyes had categorically mentioned the brand name "TORNADO" Brush Chipper/ Shredder, which was the brand claimed to be exclusively distributed by LCV. Moreover, no less than her co-respondents in the case, the DA FRFU-IV employees, in their Joint-Counter-Affidavit, openly alleged that the proponents, petitioner Reyes included, had a direct hand in the purchase of the equipments, viz:

11.) With respect to paragraph 13, it must be pointed out that the four (4) proponents (Congressmen Nanette Daza, Federico Sandoval, and Oscar Gozos, and Governor Carmencita Reyes) not only had direct hand in the questioned transactions but much more than that. They were not only ordinary proponents or endorsers of the farm implements in question, but they actually initiated the transactions in question as borne out by their respective letters to Respondent Dennis B. Araullo, then the Regional Executive Director of the DA RFU No. IV. The four (4) elective public officials concerned categorically and unmistakably manifested in their respective letters the extent of their participation and the fact their sole determination of the specifications (and even the supplier) of the items purchased, purpose and justification why the various farm implements or machines were purchased for their constituencies, ...[33]

From the foregoing, it is shown that the letter request and purchase request are enough to engender a well-founded belief that the crime charged may have been committed by Reyes and that any assertion by Reyes that negates the complication of the documents are matters of defense. Besides, the Requisition and Issue Slip[34] dated May 5, 2004, as alluded to by the Ombudsman, would show that petitioner Reyes had categorically mentioned the brand name "TORNADO" Brush Chipper/Shredder, which was the brand claimed to be exclusively distributed by LCV Design and Fabrication Corporation. On this score, said connections can also establish probable cause which the Sandiganbayan may disprove during the trial. Under these circumstances, We concur with the Sandiganbayan as it aptly found, thus:

A judicious reading of the arguments propounded by the accused-movants reveal that they are matters of defense which should be ventilated during the trial proper. Indubitably, whether or not undue injury was caused or unwarranted benefits, advantage or preference was extended to any party when direct contracting was resorted to instead of public bidding in the acquisition of the subject equipment from LCV in the case of DA RFU IV, and whether or not said supplier was indeed its exclusive distributor of the equipment which could be considered as farm inputs/farm implements to fall under the category provided under the GMA program, and which in effect would help settle the issue if there was illegal use of public funds or not, are matters of defense which are not relevant considerations during the initial stage of the proceedings.[35]

As to the third issue, Reyes contends that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied her assertion that no probable cause exists for both cases. In addition to her previous contentions, Reyes assails the Sandiganbayan's reliance on the Senate Blue Ribbon Committee Report being not part of the record of the case and considers it hearsay. She considers such as highly irregular and improper for the Sandiganbayan to have used the findings of such report as bases for upholding the existence of probable cause.[36]

Reyes's contention is misplaced.

It must be emphasized that the Ombudsman itself conducted its own preliminary investigation in this case. It was during this investigation that the Ombudsman, faced with the facts and circumstances extant herein, was led to believe that (1) a crime has been committed; and (2) there is probable cause that Reyes was guilty thereof. That the Ombudsman referred to the Senate Blue Ribbon Committee Report as additional basis for its findings does

nothing to refute the validity of the preliminary investigation, the evidence gathered therein, or the conclusion of the Ombudsman after that investigation.

Thus, We once more find favor in the Resolution of the Sandiganbayan, viz:

The Court finds no grave abuse of discretion on the part of the Office of the Ombudsman when it found probable cause to file the Information against the accused in these cases. x x x It is noteworthy that aside from its own exhaustive investigation, the Office of the Ombudsman also referred to the Senate Blue Ribbon Committee Report to supplement its findings of probable cause, on the basis of which the investigating prosecutors were able to determine that an offense had probably been committed and that the accused probably perpetrated it.[37]

On the basis of these findings, the Sandiganbayan cannot be said to have committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied Reyes's assertion that no probable cause exists for both cases.

In a petition for certiorari, the public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction. Mere abuse of discretion is not enough.[38] Here, there is none.

WHEREFORE, the Petition is DENIED. The Resolutions dated February 29, 2012 and August 13, 2012 of the First (1st) Division of the Sandiganbayan in Case Nos. SB-11-CRM-0089 to 0101, and SB-11-CRM-0111 to 0113 insofar as the petitioner in this case is concerned, are AFFIRMED.

SO ORDERED.

Carpio,[*]Peralta, Perlas-Bernabe, and Caguioa, JJ., concur.

[*] Senior Associate Justice (Per Section 12, R.A. No. 296 The Judiciary Act of 1948, as amended)

[1] Rollo, pp. 3-28.

[2] Penned by Chairperson/Associate Justice Efren N. De la Cruz with Associate Justices Rodolfo A. Ponferrada and Rafael R. Lagos; id. at 33-72.

[3] Id. at 74-86.

[4] Id. at 440-445.

[5] Id. at 74-86.

[6] Id. at 98-109.

[7] Id. at 305-308.

[8] Id. at 309-316.

[9] Id. at 89-92.

[10] Id. at 93-97.

[11] Id. at 89-90.

- [12] Id. at 94-95.
- [13] Id. at 440-445.
- [14] Id. at 447-453.
- [15] Id. at 454-479.
- [16] Id. at 480-500.
- [17] Id. at 501-508.
- [18] Id. at 33-72.
- [19] Id. at 69, 71-72.
- [20] Id. at 509.
- [21] Id. at 11.
- [22] Id. at 12-13.
- [23] Id. at 13.
- [24] Id. at 87.
- [25] Id. at 520.
- [26] Id. at 18.
- [27] Id. at 19.
- [28] Id. at 22.
- [29] Id. at 22.
- [30] Id. at 22.
- [31] Id. at 23-25.
- [32] Civil Service Commission v. Asensi, 477 Phil. 401, 405 (2004).
- [33] Id. at 559-560.
- [34] Id. at 572.
- [35] Rollo, p. 66.
- [36] Id. at 25.
- [37] Rollo, pp. 65-66.
- [38] 475 Phil. 568, 576 (2004).

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