

ENRIQUE B. INTING, PETITIONER, VS. THE TANODBAYAN, THE CITY FISCAL OF DAVAO, HONORABLE JUDGE MILAGROS C. NARTATEZ AND ANGELINA S. SALCEDO, RESPONDENTS.*G.R. Nos. 52446-48. May 15, 1980*

Ponente: ANTONIO, J.

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Petition for certiorari and prohibition with preliminary injunction or restraining order asking this Court: (1) to restrain and/or enjoin respondent Tanodbayan from further interfering with the proceedings in I.S. Nos. 36 and 131 of the Fiscal's Office of Davao City and in Criminal Cases Nos. 3193-D, 3194-D and 3195-D of the City Court of Davao; (2) to restrain and/or enjoin the respondent City Fiscal of Davao from pursuing or implementing the directive of the Tanodbayan to seek the dismissal of Criminal Cases Nos. 3193-D, 3194-D and 3195-D in the City Court of Davao, or from enforcing the resolutions of the Tanodbayan dated September 20 and December 4, 1979 and from further pursuing his motion to dismiss said cases; (3) to enjoin and/or restrain the respondent Presiding Judge of the City Court of Davao, Branch I, from acting on the "Motion to Dismiss" dated January 22, 1980, filed by the respondent City Fiscal of Davao in Criminal Cases Nos. 3193-D, 3194-D and 3195-D; and (4) to nullify the entire proceedings and resolutions of the respondent Tanodbayan on the preliminary investigation and resolutions of the City Fiscal of Davao in I.S. Nos. 36 and 131, with direction to said Tanodbayan to desist from further acting and/or interfering in said matters.

It appears that on December 9, 1977, petitioner endorsed to the City Fiscal of Davao complaints for perjury against respondent Angelina S. Salcedo on the ground that in the latter's sworn Personal Data Sheets (Civil Service Forms) of January 18, 1967, June 11, 1968, January 6, 1970 and January 5, 1976, she knowingly and falsely indicated that she completed the one-year Secretarial Science course at University of San Carlos in Cebu City from 1961 to 1962, although she was never enrolled in, and neither did she complete the Secretarial Science course from, the University of San Carlos.

After conducting a preliminary investigation, the City Fiscal of Davao, through Special Counsel Rodrigo R. Duterte, found a prima facie case for perjury and resolved to file three (3) separate counts of perjury under Article 183 of the Revised Penal Code against respondent Angelina S. Salcedo.

Pursuant to said resolution, three (3) corresponding Informations were filed against respondent Angelina S. Salcedo in the City Court of Davao, docketed as Criminal Cases Nos. 3193-D, 3194-D and 3195-D, all for perjury. These three (3) Informations were later amended in order to show that the Personal Data Sheets of said respondent were subscribed and sworn to before Atty. Barbara Pioquinto, Clerk of Court, City of Davao, a person authorized by law to administer oath.

In April, 1978, private respondent, through her counsel, interposed an appeal to the Ministry of Justice (formerly Department of Justice) for a review of the resolutions of the City Fiscal of Davao, finding prima facie case for perjury on three counts against her, and dismissing, for insufficiency of evidence, the cases filed by her against

petitioner for violations of Anti-Graft and Corrupt Practices Act, and for estafa thru falsification of public documents. The Ministry of Justice, however, forwarded the records of the appealed case to the Tanodbayan, pursuant to Section 10(f) of Presidential Decree No. 1630, which vests on the latter the power to file and prosecute offenses committed by public officers and employees in relation to their office.

In his letter dated September 20, 1979, addressed to the respondent City Fiscal of Davao City, Tanodbayan Vicente G. ERICTA reversed the resolution of the former in I. S. Nos. 36 and 131 finding a prima facie case for perjury on three counts against Angelina S. Salcedo and dismissing the cases of perjury, and sustained the resolution in I. S. No. 83 dismissing respondent Salcedo's complaint against petitioner for alleged violations of the Anti-Graft and Corrupt Practices Act and estafa thru falsification of public documents. In the same letter, Tanodbayan Vicente G. ERICTA directed the City Fiscal to immediately move for the dismissal of the three criminal cases for perjury against Angelina S. Salcedo.

In this petition, petitioner raises the issue of jurisdiction. According to him, the respondent Tanodbayan was without jurisdiction to review and nullify the resolutions of the City Fiscal of Davao in I.S. Nos. 36 and 131, and in ordering the latter to secure the dismissal of Criminal Cases Nos. 3193--D, 3194-D and 3195-D because the powers of the Tanodbayan as prescribed in Section 10 of Presidential Decree No. 1630 are:

"(a) He may investigate, on complaint by any person or on his own motion or initiative, any administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;

* * * * *

"(f) He may file and prosecute civil and administrative cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office."

And since "administrative agency" is defined in Section 9 of the same Decree as:

"Any department or other governmental unit including any government-owned or controlled corporation, any official, or any employee acting or purporting to act by reason of connection with the government but it does not include (1) any court or judge, or appurtenant judicial staff; (2) the members, committees, or staffs of the National Assembly; (3) the President or his personal staff; and (4) the members of the Constitutional Commissions and their personal staffs."

the subject act or acts of respondent Salcedo, whether viewed as an administrative or criminal offense, are not within the scope of the Tanodbayan's exercise of authority because she is an appurtenant of the judicial staff of the City Court of Davao. Petitioner further argues that the ruling of the Tanodbayan in his resolutions that the act of respondent Salcedo complained of was one "intimately connected with her employment" should not be sustained because the extent of the Tanodbayan's authority, according to the afore-cited provision, is limited to "civil" and "administrative" cases and in offenses made "in relation" to the office. Also, the crimes of perjury charged against her were committed not in relation to her office as an Assistant Docket Clerk because the accomplishment of a Personal Data Sheet is not a peculiar or specific duty entrusted to the office of the Docket Clerk.

We find no merit to these contentions. It is not true that the Tanodbayan's authority to file and prosecute is limited to civil and administrative cases and in offenses made in relation to the office. Presidential Decree No. 1630 provides that "he may file and prosecute civil and administrative cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office," (*Italics supplied.*) The same Presidential Decree also provides:

"Sec. 18. Prosecution of Public Personnel or Other Person. If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall conduct the necessary investigation and shall file and prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency."

As correctly observed by the Tanodbayan, the accomplishment of the Personal Data Sheet, being a requirement under the Civil Service Rules and Regulations in connection with employment in the government, the making of an untruthful statement therein was, therefore, intimately connected with such employment and private respondent was already in the government service when the other Personal Data Sheets, subject matter of the Informations for perjury filed against her, were accomplished by her. The Tanodbayan is an administrative body whose main purpose is to give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency in the government service. Section 6 of Article XIII of the Constitution specifically provides that the National Assembly shall create an office of the Ombudsman, to be known as Tanodbayan, which "shall receive and investigate complaints relative to public office, including those in government-owned or controlled corporations, make appropriate recommendations, and in case of failure of justice as defined by law, file and prosecute the corresponding criminal, civil or administrative case before the proper court or body." This provision and the laws creating and conferring upon the Tanodbayan investigative authority over certain offenses are sufficiently broad enough as to include the power now in question.

To construe the law otherwise would be to emasculate the authority of the Tanodbayan and disable it from discharging his duties effectively.

WHEREFORE, in view of the foregoing, the petition is DISMISSED for lack of merit.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Concepcion, Jr., Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

Abad Santos, J., concurs in the result.

Teehankee, J., reserves his vote.

Aquino, J., took no part.

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