

THIRD DIVISION

[G.R. NO. 161067, March 14, 2008]

DOMINADOR C. FERRER, JR., Petitioner, vs. SANDIGANBAYAN, HON. EDILBERTO G. SANDOVAL, HON. FRANCISCO H. VILLARUZ, JR., and HON. RODOLFO G. PALATTAO, as Members of the Sandiganbayan, Second Division, ANNA MARIA L. HARPER, ESPERANZA G. GATBONTON, and People of the Philippines, Respondents.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Does a finding of lack of administrative liability of a respondent government official bar the filing of a criminal case against him for the same acts?

Before the Court is a Petition for *Certiorari* under Rule 65 of the Rules of Court, seeking to annul the Resolutions of the *Sandiganbayan*, Second Division (public respondent) dated July 2, 2003^[1] and October 22, 2003^[2] in Criminal Case No. 26546. The Resolution of July 2, 2003 denied the Motion for Re-determination of Probable Cause filed by accused Dominador G. Ferrer (petitioner), while the Resolution of October 22, 2003 denied petitioner's Motion for Reconsideration and/or Motion to Quash.

The following are the factual antecedents:

On January 29, 2001, an Information^[3] for violation of Section 3 (e) of Republic Act (R.A.) No. 3019 was filed against petitioner, as follows:

That on or about August 20, 1998 or for sometime prior or subsequent thereto, in Manila, Philippines, and within the jurisdiction of this Honorable Court, DOMINADOR C. FERRER, JR., being the Administrator of the Intramuros Administration (IA), Manila, while in the performance of his official and administrative functions as such, and acting with manifest partiality, evident bad faith and gross inexcusable negligence, did then and there, willfully, unlawfully and criminally give unwarranted benefits to Offshore Construction and Development Company, by causing the award of the Lease Contracts to said company, involving Baluarte de San Andres, Ravellin de Recoletos, and Baluarte de San Francisco de Dilao, Intramuros, Manila, without conducting any public bidding as required under Joint Circular No. 1 dated September 30, 1989 of the Department of Budget and Management, Department of Environment and Natural Resources and Department of Public Works and Highways, and by allowing the construction of new structures in said leased areas without any building permit or clearance required under the Intramuros Charter (P.D. 1616) and the National Building Code, to the damage and prejudice

of public interest.

CONTRARY TO LAW.

Manila, Philippines, January 29, 2001.^[4]

and assigned to the *Sandiganbayan's* Second Division.

On April 4, 2001, petitioner filed a Motion for Reinvestigation, alleging that the Office of the Ombudsman disregarded certain factual matters which, if considered, will negate the finding of probable cause.^[5]

On July 13, 2001, public respondent issued a Resolution denying petitioner's Motion for Reinvestigation.^[6] It held that petitioner's contentions are all evidentiary in nature and may be properly considered only in a full-blown trial.

On September 12, 2001, petitioner filed a Motion for Reconsideration.^[7] Shortly thereafter, he filed a Supplemental Motion for Reconsideration, asserting that the complainants were guilty of forum shopping, due to the earlier dismissal of the administrative case against him.^[8]

On December 11, 2001, public respondent issued a Resolution denying the Motion for Reconsideration.^[9]

Petitioner filed a Motion for Leave to File a Second Motion for Reconsideration.^[10] Again, he cited as his ground the alleged forum shopping of the private complainants.

On April 29, 2002, public respondent issued a Resolution denying the Motion for Leave to File a Second Motion for Reconsideration.^[11] It held that there was no forum shopping since the administrative and criminal cases are two different actions, so neither resolution on the same would have the effect of res judicata on the other. The public respondent dismissed the second motion for reconsideration as a *pro forma* and prohibited motion.

Petitioner then filed a Petition for *Certiorari* with this Court, docketed as G.R. No. 153592, which assailed the Resolution of public respondent dated April 29, 2002 as having been issued with grave abuse of discretion amounting to lack of jurisdiction. On July 1, 2002, the Court dismissed the petition for having been filed out of time and for failure to pay the required docket fees.^[12]

Petitioner filed a Motion for Reconsideration^[13] which the Court denied with finality in its Resolution dated September 4, 2002.^[14]

On May 19, 2003, before he can be arraigned, petitioner filed yet another motion with public respondent, this time a Motion for Re-determination of Probable Cause,^[15] invoking the ruling of the Office of the President (OP), dated February 29, 2000,^[16] which absolved petitioner of administrative liability. The OP reviewed the administrative case filed against petitioner with the Presidential Commission Against

Graft and Corruption (PCAGC) and held that petitioner acted in good faith and within the scope of his authority.

On July 2, 2003, the *Sandiganbayan* issued herein assailed Resolution denying the Motion for Re-determination of Probable Cause, stating as follows:

The Court resolves to deny the motion for re-determination of probable cause, the argument advanced therein having been passed upon and resolved by this Court in accused's motion to dismiss as well as motion for reconsideration and where the resolution of this Court was sustained by the Supreme Court.^[17]

On August 4, 2003, upon his receipt of the Resolution, petitioner filed a Motion for Reconsideration and/or to Quash Information,^[18] arguing that the Supreme Court's dismissal of his petition for *certiorari* was based on a mere technicality. He reiterated his argument that since he has been cleared of administrative liability, the criminal case that was pending against him should likewise be dismissed.

The public respondent denied the motion in the other assailed Resolution dated October 22, 2003, stating as follows:

Finding no merit in the accused [sic] Motion for Reconsideration and/or Motion to Quash dated August 4, 2003 and considering the Opposition of the prosecution, the same is DENIED.

Indeed, the dismissal of the administrative complaint does not negate the existing criminal case pending before the Court. Moreover the grounds and arguments raised thereat could be considered matter of defense that is more and properly to be considered during a full blown trial.

WHEREFORE, the Motion for Reconsideration and/or Motion to Quash by the accused is denied for lack of merit.

x x x x

SO ORDERED.^[19]

Hence, the present Petition for *Certiorari*, seeking to annul the Resolutions of the *Sandiganbayan* for having been issued with grave abuse of discretion and in excess of and/or without jurisdiction.

Petitioner insists that the *Sandiganbayan* should have dismissed the criminal case filed against him, since the alleged wrongful acts complained of in the case are the same as those alleged in the administrative case against him which have been dismissed.

Both the public and private prosecutors contend that the issues raised by petitioner have already been raised and passed upon; and that the assailed Resolutions of the *Sandiganbayan* merely reiterate its earlier Resolutions denying petitioner's motion for reinvestigation and various motions for reconsideration questioning the Ombudsman's finding of probable cause.^[20] They claim that the issue became settled and final as early as the December 11, 2001 Resolution of the public

respondent, which denied petitioner's motions for reinvestigation.^[21] They further argue that this Court's denial of petitioner's earlier petition for *certiorari* (G.R. No. 153592) barred petitioner from filing the present petition.

The respondents cite jurisprudence, which states that the dismissal of an administrative case does not necessarily bar the filing of a criminal prosecution for the same or similar acts.^[22]

The petition is devoid of merit.

In *Paredes, Jr. v. Sandiganbayan*,^[23] the Court denied a similar petition to dismiss a pending criminal case with the *Sandiganbayan* on the basis of the dismissal of the administrative case against the accused. The Court ratiocinated, thus:

Petitioners call attention to the fact that the administrative complaint against petitioner Honrada was dismissed. They invoke our ruling in *Maceda v. Vasquez* that only this Court has the power to oversee court personnel's compliance with laws and take the appropriate administrative action against them for their failure to do so and that no other branch of the government may exercise this power without running afoul of the principle of separation of powers.

But one thing is administrative liability. Quite another thing is the criminal liability for the same act. Our determination of the administrative liability for falsification of public documents is in no way conclusive of his lack of criminal liability. As we have held in *Tan v. Comelec*, **the dismissal of an administrative case does not necessarily bar the filing of a criminal prosecution for the same or similar acts which were the subject of the administrative complaint.**^[24] (Emphasis supplied.)

It is clear from *Paredes* that the criminal case against petitioner, already filed and pending with the *Sandiganbayan*, may proceed despite the dismissal of the administrative case arising out of the same acts.

The same rule applies even to those cases that have yet to be filed in court. In *Tan v. Commission on Elections*,^[25] it was held that an investigation by the Ombudsman of the criminal case for falsification and violation of the Anti-Graft and Corrupt Practices Act and an inquiry into the administrative charges by the Commission on Elections (COMELEC) are entirely independent proceedings, neither of which results in or concludes the other. The established rule is that an absolution from a criminal charge is not a bar to an administrative prosecution, or vice versa.^[26] The dismissal of an administrative case does not necessarily bar the filing of a criminal prosecution for the same or similar acts which were the subject of the administrative complaint.^[27]

The Court finds no cogent reason to depart from these rules.

Petitioner argues that the criminal case against him requires a higher quantum of proof for conviction -- that is, proof beyond reasonable doubt -- than the administrative case, which needs only substantial evidence. He claims that from this

circumstance, it follows that the dismissal of the administrative case should carry with it the dismissal of the criminal case.

This argument, however, has been addressed in jurisprudence. In *Valencia v. Sandiganbayan*,^[28] the administrative case against the accused was dismissed by the Ombudsman on a finding that the contract of loan entered into was in pursuance of the police power of the accused as local chief executive,^[29] and that the accused had been re-elected to office.^[30] The Ombudsman, however, still found probable cause to criminally charge the accused in court.^[31] When the accused filed a petition with the Supreme Court to dismiss the criminal case before the *Sandiganbayan*, the Court denied the petition, thus:

In the final analysis, the conflicting findings of the Ombudsman boil down to issues of fact which, however, are not within our province to resolve. As has been oft-repeated, this Court is not a trier of facts. This is a matter best left to the *Sandiganbayan*.

Petitioners argue that the dismissal by the Ombudsman of the administrative case against them based on the same subject matter should operate to dismiss the criminal case because the quantum of proof in criminal cases is proof beyond reasonable doubt, while that in administrative cases is only substantial evidence. While that may be true, it should likewise be stressed that the basis of administrative liability differs from criminal liability. The purpose of administrative proceedings is mainly to protect the public service, based on the time-honored principle that a public office is a public trust. On the other hand, the purpose of the criminal prosecution is the punishment of crime.

Moreover, one of the grounds for the dismissal of the administrative case against petitioners is the fact that they were re-elected to office. Indeed, a re-elected local official may not be held administratively accountable for misconduct committed during his prior term of office. The rationale for this holding is that when the electorate put him back into office, it is presumed that it did so with full knowledge of his life and character, including his past misconduct. If, armed with such knowledge, it still re-elects him, then such re-election is considered a condonation of his past misdeeds.

However, the re-election of a public official extinguishes only the administrative, but not the criminal, liability incurred by him during his previous term of office x x x.

x x x x

There is, thus, no reason for the *Sandiganbayan* to quash the Information against petitioners on the basis solely of the dismissal of the administrative complaint against them.^[32]

To sustain petitioner's arguments will be to require the *Sandiganbayan* and the Ombudsman to merely adopt the results of administrative investigations which