

SECOND DIVISION

[G.R. No. 226420, March 04, 2020]

ABDON A. IMINGAN, PETITIONER, VS. THE OFFICE OF THE HONORABLE OMBUDSMAN, THE HONORABLE SANDIGANBAYAN, AND THE NATIONAL BUREAU OF INVESTIGATION-CORDILLERA ADMINISTRATIVE REGION, RESPONDENTS.

DECISION

INTING, J.:

This resolves a Petition for *Certiorari* under Rule 65, with Prayer for Temporary Restraining Order (TRO) and Preliminary Injunction^[1] assailing the Office of the Ombudsman's (Ombudsman) finding of probable cause to charge Abdon A. Imingan (petitioner) with violation of Section 3(e) of Republic Act No. (RA) 3019.^[2] Petitioner prays for the annulment of the Resolution^[3] dated November 4, 2014 of the Ombudsman in OMB-C-C-11-0107-C.

Complainant Harry C. Dominguez (Dominguez) executed an Affidavit^[4] dated February 6, 2007 charging the persons mentioned under paragraph 1 thereof with multiple counts of *Estafa* through Falsification of Public Documents, violations of RA 6713,^[5] and RA 3019.

The affidavit reads:

I, HARRY C. DOMI[N]GUEZ, of legal [age], single, Filipino citizen and a resident of Tadian, Mt. Province, after having been duly sworn to in accordance to law, do hereby depose and state the following, to wit:

1. THAT, I am filing a complaint against the herein listed individuals, who acted jointly and confederated with one another, for ESTAFA THROUGH FALSIFICATION OF PUBLIC DOCUMENTS (multiple counts); Violations of Republic Acts 6713 and 3019;
 - i. GOV. MAXIMO B. DALOG, Provincial Governor, Mt. Province;
 - ii. RONALD C. KIMAKIM, Proprietor, RONHIL Trading;
 - iii. THEODORE B. MARRERO, Provincial Accountant;
 - iv. NENITA D. LIZARDO, M.D., Provincial Health Officer;
 - v. HELEN MACLI-ING, Provincial Nurse;
 - vi. ATTY BARTOLOME MACLI-ING. Notary Public;
 - vii. PAULO P. PAGTEILAN, BAC Chairman;

- viii. LILY ROSE T. KOLLIN, BAC Vice-Chairman;
- ix. FLORENCE GUT-OMEN, BAC Member;
- x. EDWARD LIKIGAN, BAC Member;
- xi. SOLEDAD THERESA F. WANAWAN, BAC Member;
- xii. JEROME M. FALINGAO, BAC-TWG;
- xiii. ABDON A. IMINGAN, BAC Secretariat;
- xiv. ABELARD T. PACHINGEL, Inspector of Vehicle;
- xv. THE[O]DORE L. DALOG, Engineer IV (Inspector of Vehicle); and,
- xvi. CAWED A. GAMMONAC, Provincial Treasurer.

2. THAT, except for RONALD KIMAKIM and ATTY. BARTOLOME MACLI-ING, I am likewise filing an administrative complaint for GRAVE MISCONDUCT and DISHONESTY against the same persons mentioned at Paragraph 1, items (i) to (xvi) of this same Affidavit, who are all government employees;
3. THAT, sometime in the month of February 2006 up to March 2006, the abovementioned persons, acting jointly and confederating with one another, and on various occasions during the span of said period, did then caused the preparations of various documents allegedly pertaining to the purchase of one unit Mitsubishi L300 Versa Van with Engine No. 4D56AR6686 and Serial No. PAEL65NV168001509, which was made to appear to have been officially procured by the Provincial Government of Mt. Province represented by GOV. DALOG in the amount of Php999,000.00 from RONALD KIMAKIM;
4. THAT, however, I learned that the said Mitsubishi L300 Versa van with the same engine and serial numbers mentioned at the preceding paragraph was actually privately purchased in cash by HELEN MACLI-ING from the Motorplaza, Inc., Baguio City, in the amount of Php756,000.00 only;
5. THAT, for this reason, there is no official transaction that transpired between GOV. DALOG and KIMAKIM regarding the acquisition of the said one unit Mitsubishi L300 Versa Van with Engine No. 4D56AR6686 and Serial No. PAEL65NV168001509;

x x x x

7. THAT, relative to this complaint, I likewise caused the initiation of complaints for Violations of Republic Acts 3019 and 9184, also known as ANTI-GRAFT AND CORRUPT PRACTICES ACT and AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION FOR THE PROCUREMENT ACT[IVITIES FOR THE GOVERNMENT AND OTHER PURPOSES, respectively, with the Office of the Deputy Ombudsman for Luzon, Quezon City, docketed as OMB Case No. L-C-07-0106-A;^[6]

The complaint was referred to the National Bureau of Investigation (NBI) for investigation. Thereafter, the NBI Reporting Investigator issued a Case Report^[7] dated August 21 , 2007.

To provide a backgrounder, portions of the NBI Case Report are hereunder quoted as follows:

01. This case stemmed from the LETTER COMPLAINT dated February 5, 2007 (Annex A) of HARRY C. DOMI[N]GUEZ, Bontoc, Mt. Province, requesting the NBI-CAR to investigate the alleged anomalous transaction regarding the purchase of one (1) unit Mitsubishi Van acquired by the Provincial Government of Mountain Province x x x.

x x x x

Perusal of the DEED OF SALE OF A MOTOR VEHICLE including the issued RECEIPT therefor shows that the vehicle in question was allegedly sold by RONALD KIMAKIM to the Provincial Government of Mt. Province represented by GOV. DALOG on 29 March 2006 in the amount of PhP999,000.00, as evidenced by their respective signatures appearing therein. x x x

On the contrary, scrutiny of the Motorplaza's VSI and DR [Delivery Receipt] revealed that the Mitsubishi van was sold to RONALD KIMAKIM by the Motorplaza Inc., represented by its Sales Manager ADELON T. ESPIRITU on March 29, 2006, in the amount of PhP756,000.00 only. x x x

Per se, the aforementioned DEED OF SALE contradicts with the aforesaid Motorplaza's VSI and DR. The probability of the authenticity of the sale of said Mitsubishi vehicle to GOV. DALOG by KIMAKIM and the sale of the same vehicle to KIMAKIM by the Motorplaza, Inc., both executed on the same day and occurring in two different places, is dubious.

x x x x

08. In view of KIMAKIM's assertions, substantiated by the declaration of ADELON ESPIRITU, it is safe to conclude that the transaction between KIMAKIM and GOV. DALOG re the sale of the subject van never really transpired, thus, the narrations contained at said DEED OF SALE OF MOTOR VEHICLE are absolutely false x x x.

09. x x x for reason that the narrations contained in the said DEED OF SALE OF MOTOR VEHICLE are untrue, all the herein listed preceding documents that were issued in support to the same DEED OF SALE OF MOTOR VEHICLE are deemed fabricated and/or falsified, to wit:

- a. Undated PURCHASE REQUEST No. 30-06 x x x, *re the purchase of L-300 Versa van, x x x*;
 - b. BIDS AND AWARDS COMMITTEE (BAC) LETTER x x x, *requesting for approval/ and approving the purchase of one (1) unit VERSA VAN, x x x*;
 - c. INVITATION TO APPLY FOR ELIGIBILITY AND TO BID x x x, *for the procurement of ONE (1) UNIT MITSUBISHI VAN, x x x*;
 - d. KIMAKIM'S accomplished BID FORM x x x, *quoting therein the price of Php999,000.00 for 1 unit L300 Mitsubishi Versa Van, Brand New with aircon and markings*;
 - e. ABSTRACT OF BIDS x x x, *containing the description of (1) UNIT Mitsubishi Van, x x x*;
 - f. POST-QUALIFICATION EVALUATION REPORT x x x, *RE PROCUREMENT OF MITSUBISHI VAN, x x x*;
 - g. POST-QUALIFICATION EVALUATION SUMMARY REPORT x x x, *RE PROCUREMENT OF MITSUBISHI VAN, x x x*;
 - h. BID EVALUATION REPORT x x x, *RE PROCUREMENT OF MITSUBISHI VAN, x x x*;
 - i. BAC RESOLUTION NO. G-06 x x x *DECLARING LOWEST CALCULATED AND RESPONSIVE BID (LCRB) AND RECOMMENDING APPROVAL, FOR THE PROCUREMENT OF ONE (1) UNIT MITSUBISHI VAN, x x x*;
 - j. NOTICE OF AWARD/ACCEPTANCE x x x, *RE PROCUREMENT OF ONE (1) UNIT MITSUBISHI VAN, x x x*;
 - k. PURCHASE ORDER x x x, *for (1) unit MITSUBISHI VAN in the amount of Php999,000.00, x x x*;
10. In the same manner, all the subsequent documents issued in support of the same DEED OF SAL OF MOTOR VEHICLE are likewise believed falsified and made up purposely to justify the disbursement of the payment of the said Mitsubishi van in the amount of Php999,000.00, to wit:
- a. RONHIL TRADING Statement of Account x x x, *for the payment of one unit MITSUBISHI VAN in the amount of Php999,000.00, signed by a representative of KIMAKIM*;
 - b. ACCEPTANCE AND INSPECTION REPORT x x x, *of 1 unit MITSUBISHI VAN, BRAND NEW, x x x*;
 - c. INSPECTION REPORT x x x, *on MITSUBISHI L300 VAN, BRAND NEW COLOR WHITE WITH ENGINE NO. 4D56AR6686, x x x*

- d. DISBURSEMENT VOUCHER x x x, *for the payment of ONE UNIT MITSUBISHI VAN in the amount of PhP999,000.00, signed by GOV. MAXIMO B. DALOG; THEODORE B. MARRERO, Provincial Accountant; and RONALD KIMAKIM;*

x x x x

11. The Mitsubishi L300 van that was made to appear to have been officially purchased in the amount of PhP999,000.00 by the Mt. Province Provincial Government was actually the same Mitsubishi L300 van that was privately purchased by the Spouses BARTOLOME and HELEN MACLI-ING from the Motorplaza, Inc., Baguio City, in the amount of PhP756,000.00 only;
12. In view that no transaction re the sale of the said van between KIMAKIM and GOV. DALOG transpired and through the concerted efforts of the latter including the abovementioned government employees signatories on the documents itemized at Paragraphs 9 (a to k) and 10 (a to d) of this Report, the Provincial Government of Mt. Province was defrauded in the entire amount of PhP999,000.00 only.

x x x x

17. Perusal of various documents (not certified true copies) attached to the Counter-Affidavit of GOV. DALOG are the following, to wit:

- a. Undated and unnumbered PURCHASE REQUEST x x x, *re the purchase of L-300 Versa van (Brand New) Body Painting-white color, fully air-conditioned, 2.5 Diesel, with Ambulance Equipment and Accessories, x x x;*
- b. BIDS AND AWARDS COMMITTEE (BAC) LETTER x x x, *requesting for approval/ and approving the purchase of Mitsubishi Van with Ambulance Equipments and other Accessories, x x x;*
- c. INVITATION TO APPLY FOR ELIGIBILITY AND TO BID x x x, *for the procurement of ONE (1) UNIT MITSUBISHI VAN with AMBULANCE EQUIPMENT AND OTHER ACCESSORIES, x x x;*

x x x

- e. MINUTES OF THE PRE-BID CONFERENCE HELD AT THE BAC OFFICE, PROVINCIAL CAPITOL BONTOC, MT. PROVINCE ON MARCH 3, 2006 x x x, *stating that the same was FOR THE CONSTRUCTION OF BONTOC COMMERCIAL CENTER PHASE 1 HELD AT THE BAC OFFICE, CALLED TO ORDER AT 10:02AM MARCH 3, 2006 AND WAS PRESIDED BY MR. PAULO PAGTEILAN;*
- f. ABSTRACT OF BIDS x x x, *containing the description of (1)*