THIRD DIVISION

[G.R. No. 198366, June 26, 2019]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, PETITIONER, VS. THE HONORABLE OMBUDSMAN, RAMON C. LEE, JOHNNY TENG, ANTONIO DM. LACDAO, AND CESAR R. MARCELO (AS MEMBERS OF THE BOARD OF DIRECTORS AND OF ALFA INTEGRATED TEXTILE MILLS, INC.), CESAR ZALAMEA, ALICIA LL. REYES, J.V. DE OCAMPO, JOSEPH LL. EDRALIN, AND RODOLFO MANALO (FORMER MEMBERS OF THE BOARD OF GOVERNORS OF THE DEVELOPMENT BANK OF THE PHILIPPINES), RESPONDENTS.

DECISION

LEONEN, J.:

Generally, this Court does not interfere when the Office of the Ombudsman has made its finding on the existence of probable cause. This exercise is an executive function, and is pursuant to its constitutionally-granted investigatory and prosecutorial powers. For this Court to review its findings in criminal cases, there must be a clear showing of grave abuse of discretion on its part.

This Court resolves a Petition for Certiorari[1] under Rule 65 of the Rules of Court, assailing the July 31, 2006 Resolution[2] and January 21, 2011 Order[3] of the Office of the Ombudsman in OMB-C-C-03-0271-D.

The Office of the Ombudsman found no probable cause to charge the officers of the Development Bank of the Philippines (Development Bank) and ALFA Integrated Textile Mills, Inc. (ALFA Integrated Textile) for violation of Section 3(e) and (g) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act. It held that the six (6) loans obtained by ALFA Integrated Textile from Development Bank were not behest loans.

Administrative Order No. 13, series of 1992, issued by then President Fidel V. Ramos (President Ramos), created the Presidential Ad Hoc Fact-Finding Committee on Behest Loans (Committee on Behest Loans) to investigate "allegations of loans, guarantees, and other forms of financial accommodations granted, directly or indirectly, by government-owned or controlled bank or financial institutions, at the behest, command, or urging by previous government officials to the disadvantage and detriment of the Philippine Government and the Filipino people[.]"[4]

Presidential Memorandum Order No. 61 laid down the factors that the Committee on Behest Loans used to determine if certain loans were behest:

> a) The borrower corporation in undercollateralized[.]

b) The borrower corporation is undercapitalized.

c) Direct or indirect endorsement (of the loan or accommodation) by high government officials like presence of marginal notes.

d) Stockholders, officers or agents of the borrower corporation are identified as cronies.

e) Deviation of use of loan proceeds from the purpose intended.

f) Use of corporate layering.

g) Non-feasibility of project for which financing is being sought.

h) Extra-ordinary speed in which loan release was made[.][5]

To assist the Committee on Behest Loans, a Technical Working Group was organized, consisting of officers and employees of government financial institutions.[6]

On February 27, 1987, Development Bank transferred its rights, interests, and titles in certain loans and assets to the government. In exchange, the government assumed some of Development Bank's obligations.[7] Among these loans and assets was the account of textile company ALFA Integrated Textile,[8] which was then examined by the Technical Working Group.

The Technical Working Group's findings, including on ALFA Integrated Textile's account, were later adopted by the Committee on Behest Loans in an Executive Summary.[9]

In a March 15, 1993 Fortnightly Report to President Ramos, the Committee on Behest Loans found that certain loans and accommodations that ALFA Integrated Textile had obtained from Development Bank had "positive characteristics of behest loans[.]"[10] These loans were:

Loan Amount	Purpose of the Loan	Date Approved and DBP Board Resolution Number	Approving Officers
a) US$10 Million	To refinance ALFA's short-term obligations and partially finance ALFA's working capital requirements	Approved under DBP Board Resolution No. 2025 dated June 27, 1979.	DBP Acting Chairman Rafael A. Sison and DBP Executive Officer Alicia Ll. Reyes
b) US$20 Million	To refinance ALFA's obligations with other commercial banks	Approved per DBP Board Resolution No. 3796 dated November 21, 1979.	DBP Acting Chair Rafael A. Sison and DBP Exec. Officer Alicia Ll. Reyes

c) P11.4 Million	Supposed to cover ALFA's procurement of locally-grown cotton.	Approved in 1980 under DBP Board Resolution No. 2655.	DBP Vice Chairman J.V. De Ocampo and DBP Acting Exec. Officer Joseph Ll. Edralin
d) P25 Million	To finance ALFA's working capital requirements for 6 months.	Approved under DBP Board Resolution No. 4096 dated 10 December 1980.	DBP Vice-Chairman J.V. De Ocampo and DBP Acting Executive Officer Joseph Ll. Edralin.
e) US$2,666,667	To cover ALFA's operations for one (1) month.	Approved in 1981 under DBP Board Resolution No. 947.	Acting DBP Chairman Rafael A. Sison; DBP Vice-Chairman Jose R. Tengco, Jr. and DBP Exec. Officer R.D. Manalo
f) P137 Million	1) Acquisition of plant equipment; 2) Payment of rehabilitation loan earlier extended to ALFA by DBP; and 3) Working capital.	Approved in 1981 under DBP Board Resolution No. 1811.	DBP Acting Chairman Rafael A. Sison and DBP Executive Officer R.D. Manalo[11]

The Committee on Behest Loans alleged that the collaterals offered as security for the US$10 million loan were the land, buildings, and machinery with a collective value of P294,993,000.00.[12] The same collaterals were used to secure the US$20 million loan. After securing these loans, ALFA Integrated Textile's paid-up capital was P65,746,900.00 as of December 1979.[13]

The third and fourth loans were also secured with the same collaterals used for the first two (2) loans, although the paid-up capital did not increase. As for the fifth loan, other assets, machinery, and equipment valued at P98,811,000.00 were offered as security in addition to the same collaterals as the first three (3) loans. By this time, ALFA Integrated Textile's paid-up capital increased to P71,746,900.00.[14]

Then, in 1981, despite incurring a net loss of P649,345,035.00, which resulted in a

P458,187,453.00 capital deficiency, ALFA Integrated Textile was able to secure from Development Bank its sixth loan, using the same collaterals it had offered for its five (5) other loans.[15]

In sum, as of September 30, 1982, ALFA Integrated Textile had a total outstanding obligation of P634,800,000.00 to Development Bank.

According to the Committee on Behest Loans, Development Bank President Cesar Zalamea (Zalamea) wrote to former President Ferdinand Marcos (President Marcos), recommending a rehabilitation plan that would stifle the bank's chances of recouping the amounts that ALFA Integrated Textile had borrowed. In a marginal note to the letter, President Marcos approved the plan.[16]

The Committee on Behest Loans further reported that in 1986, Development Bank agreed to sell ALFA Integrated Textile's fixed assets worth P462,323,000.00 to Cape Industries, Inc., a company owned by Eduardo Cojuangco, Jr. (Cojuangco), who was "a known crony of former President Ferdinand E. Marcos."[17] The assets were sold for only P100 million.[18]

At the time of these transactions, the corporate officers of ALFA Integrated Textile were: (1) Ramon C. Lee (Lee), its president; (2) Johnny Teng (Teng), the vice president for finance; (3) Antonio Dm. Lacdao (Lacdao), the vice president and general manager; and (4) Cesar R. Marcelo (Marcelo), the vice president and comptroller. The relevant Development Bank officers were: (1) Zalamea, its president; (2) Rafael A. Sison (Sison), the acting chair; (3) Alicia Ll. Reyes (Reyes), the executive officer; (4) J.V. de Ocampo (de Ocampo), the vice chair; (5) Joseph Ll. Edralin (Edralin), an acting executive officer; and (6) Rodolfo D. Manalo (Manalo), an executive officer.[19]

Based on these findings, the Presidential Commission on Good Government filed before the Office of the Ombudsman an Affidavit-Complaint[20] for violation of Section 3(e) and (g) of the Anti-Graft and Corrupt Practices Act against the officers of ALFA Integrated Textile and Development Bank.

The Presidential Commission on Good Government alleged that the loans that Development Bank had extended to ALFA Integrated Textile caused gross disadvantage to the government and the Filipino people because these loans were made under unfavorable circumstances. There was also a rehabilitation plan that supposedly made it difficult for Development Bank to recover its exposure from ALFA Integrated Textile.[21]

On July 31, 2006, the Office of the Ombudsman issued a Resolution[22] dismissing the Complaint. Its dispositive portion read:

> WHEREFORE, it is hereby recommended that the instant complaint for violation of Section 3(e) and (g) of R.A. 3019, as amended, against Public Respondents, namely: Cesar Zalamea, Rafael Sison, Alicia Reyes, J.V. De Ocampo, Joseph Edralin and Rodolfo Manalo, all officers of the DBP, as well as Private Respondents, namely: Ramon Lee, Johnny Teng, Antonio DM. Lac[d]ao, and Cesar Marcelo, all officers of ALFA, be

DISMISSED.

SO RESOLVED.[23]

Preliminarily, the Office of the Ombudsman found that the Complaint had not been barred by prescription, citing *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*,[24] in which this Court held that prescription of the offense in behest loans started to run from the day of discovery, not commission. Here, the period of prescription commenced on March 15, 1993, when the Fortnightly Report was issued. The Presidential Commission on Good Government filed the Complaint on March 12, 2003, which was still within the 10-year prescriptive period under the Anti-Graft and Corrupt Practices Act.[25]

Nonetheless, the Office of the Ombudsman found that there was no reasonable ground to indict the ALFA Integrated Textile and Development Bank officers.[26]

The Office of the Ombudsman held[27] that not all the elements under Section 3(e)[28] of the Anti-Graft and Corrupt Practices Act existed, citing *Quibal v. Sandiganbayan*:[29]

1. The accused is a public officer discharging official administrative or judicial functions or private persons in conspiracy with them;

2. The public officer committed the prohibited act during the performance of his official duty in relation to his public position;

3. The public officer acted with manifest partiality, evident bad faith or gross inexcusable negligence; and

4. His actions caused undue injury to the Government or any private party, or gave any party unwarranted benefit, advantage or preference.[30] (Citation omitted)

The Office of the Ombudsman pointed out that the Committee on Behest Loans itself stated in its Fortnightly Report that it "did not find any characteristics to classify ALFA [Integrated Textile]'s loans as behest."[31]

Furthermore, the Office of the Ombudsman found that the Presidential Commission on Good Government failed to establish with certainty that the value of the real estate, buildings, machinery, and equipment offered by ALFA Integrated Textile to secure its loans were insufficient.[32]

For the P25 million loan, the additional security of P45,470,700.00 in chattel mortgages and equipment was given, covered by a trust receipts agreement. The US$2,666,667.00 loan was applied for and released when ALFA Integrated Textile was already managed by a Development Bank-controlled board, and was secured by real estate and chattel mortgages valued at P418,290,800.00.[33]

Similarly, the P137 million loan was applied for and released by the bank-controlled