

SECOND DIVISION

[G.R. No. 144159, September 29, 2004]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS.
SANDIGANBAYAN AND MANUEL S. ALBA, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

This is a petition for certiorari under Rule 65 of the Rules of Court, as amended, for the nullification of the Resolution of the Sandiganbayan (SB) dated June 23, 2000, quashing the Information in Criminal Case No. 25653 and acquitting the respondent of the crime charged therein.

The Antecedents

On February 17, 1999, an Affidavit-Complaint was filed by Luis G. Pabalan in the Office of the Ombudsman against the respondent, then City Administrator Manuel S. Alba of Quezon City, and the Chairman of Iglesia Evangelica Metodista En Las Islas Filipinas (IEMELIF), Jeremias T. Cruz. The case was docketed as OMB-0-99-0346 and was assigned to the Evaluation and Preliminary Investigation Bureau (EPIB) which, in turn, assigned Graft Investigator Romeo M. Pamute to conduct an evaluation and a preliminary investigation.

Based on the records, the Graft Investigator found that the case stemmed from the following facts:

Respondent MANUEL S. ALBA is a high ranking government official being the City Administrator of Quezon City with a salary grade of 27 while respondent JEREMIAS T. CRUZ is a private person. The latter is the Chairman of the Evangelist Methodist Church in the Philippines Novaliches Congregation, Novaliches, Quezon City.

In his sworn complaint, complainant, LUIS PABALAN, stated that he is the owner of a lot located at Susano Road, Novaliches, Quezon City, where the Congregation of Evangelist Church of the Philippines (IEMELIF) headed by respondent Architect JEREMIAS T. CRUZ encroached when improvements on their structure were made sometime in February 1997. The construction was done without the necessary building permit. The Quezon City building official was, accordingly, informed and consequently after hearing, the Assistant Building Official ordered the demolition of the structure. The Order becomes final and executory upon failure of the religious congregation (IEMELIF) to appeal on time to the DPWH.

On November 4, 1998, however, IEMELIF, through respondent JEREMIAS T. CRUZ, wrote respondent City Administrator, Mr. MANUEL ALBA requesting the latter that said order be not enforced pending appeal to

the DPWH stating, among others, that the Order of the Assistant Building Official is illegal and the implementation of the same will cause irreparable damage and injury to the church (IEMELIF).

The letter of IEMELIF was received on November 5, 1998 by the Office of the respondent MANUEL ALBA but a Memorandum ordering the recall of the demolition order was dated November 4, 1998 or a day before the receipt of said letter.

The complainant objected and in a letter requested respondent ALBA to revoke the Order recalling the demolition, but respondent City Administrator refused and failed to respond and, as a result, the Building Official was not able to effect the demolition.

Complainant presented his title to the lot, the Resolution of the Building Official ordering the demolition of the structure; the Order granting the Motion for Execution; the letter of Appeal by respondent JEREMIAS T. CRUZ to the Mayor of Quezon City thru respondent MANUEL ALBA stamped received by the City Administrator's Office on November 5, 1998; the Memorandum of respondent MANUEL S. ALBA to Engr. Romualdo Santos showing that the date is November 4, 1998; and the letter of objection and request that the recall order on the demolition be corrected was, likewise, presented by the complainant.^[1]

In his Counter-Affidavit, the respondent alleged, *inter alia*, that he acted on the appeal of respondent Cruz and recalled the demolition order which was issued by the building official. He did so on the basis of the authority delegated to him under the January 12, 1994 Memorandum issued by the Mayor, as well as the guidelines implementing the said memorandum, where it was stated that no demolition shall be allowed pending an appeal to higher authorities.

The Graft Investigator found probable cause against the respondent for violation of Section 3(e) of Republic Act No. 3019 and recommended the filing of the Information against him. The Ombudsman approved the recommendation.

On September 9, 1999, an Information was filed with the SB, charging the respondent with violation of Section 3(e) of Rep. Act No. 3019. The accusatory portion of the Information reads:

That on or about November 5, 1998 or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, a public officer, being the City Administrator of Quezon City while in the performance of his official function and acting with evident bad faith and manifest partiality, did then and there, willfully, unlawfully and criminally, issue a Memorandum recalling the Order of Demolition issued by the Acting Building Official knowing fully well that he has no authority to do so, thus, giving unwarranted preference to Jeremias T. Cruz in the discharge (*sic*) of his official functions.

CONTRARY TO LAW.^[2]

Appended to the Information were the following: (a) the memorandum of the Legal Counsel, Office of the Ombudsman duly approved by the Ombudsman, which recommended the approval of the resolution of the EPIB, Office of the Ombudsman, finding probable cause against the respondent, as well as the prosecution of the crime charged; (b) the affidavit-complaint; (c) the counter-affidavit of the respondent; and (d) the Resolution of the EPIB. As ordered by the SB, the special prosecutor submitted Annexes "A" to "F" of the affidavit-complaint and Annexes "1" to "4" of the respondent's counter-affidavit on September 24, 1999.

On October 4, 1999, the respondent filed with the SB a Motion for Leave to Order Reinvestigation and/or Quash Information on the following grounds:

I

THE FINDING OF PROBABLE CAUSE IN THE RESOLUTION OF THE OFFICE OF THE OMBUDSMAN, WHICH WAS THE BASIS OF THE INFORMATION FILED AGAINST THE ACCUSED, WAS NOT SUPPORTED BY THE FACTS AND EVIDENCE OF THIS CASE.

II

THE FACTS RECITED IN THE INFORMATION ARE NOT SUFFICIENT IN SUBSTANCE TO INDICT THE ACCUSED CRIMINALLY, BECAUSE THEY WERE BASED ON ERRONEOUS PREMISES CONTAINED IN THE RESOLUTION OF THE OFFICE OF THE OMBUDSMAN.^[3]

During the hearing of the motion, the respondent, through counsel, agreed to convert his motion into a motion for reconsideration of the resolution of the Ombudsman finding probable cause against him. Since no objection was made by the special prosecutor to the motion for a reinvestigation, the SB issued an Order on October 8, 1998, granting the motion and ordering the special prosecutor to take appropriate action on the respondent's motion for reconsideration. It, likewise, directed the Special Prosecutor to inform the SB of its findings and recommendation, as well as the order of the Ombudsman, within sixty (60) days from the said date.^[4] On December 8, 1999, the respondent filed a Memorandum in support of his motion for reconsideration.

On January 25, 2000, the Special Prosecutor filed a Manifestation and Motion,^[5] informing the SB that, after a review of the case, the Office of the Ombudsman was affirming its finding of probable cause against the respondent and prayed for his arraignment. Appended to the motion was the memorandum duly approved by the Ombudsman, recommending that the resolution of the EPIB be affirmed.^[6] Accordingly, the SB set the arraignment of the respondent at 8:30 a.m. of February 18, 2000. On February 2, 2000, the respondent filed a Motion to Resolve the Opposition to the Manifestation and Motion of the Special Prosecutor dated January 21, 2000, with a motion to reset his arraignment. He later filed a motion for postponement/deferment of his arraignment and the pre-trial to enable him to file the appropriate motion with the SB. The arraignment of the respondent was reset to 8:30 a.m. of March 27, 2000.

In its Comment on the Opposition of the respondent to the Manifestation and

Motion^[7] dated January 28, 2000, the prosecution averred that the said opposition and motion had been mooted by the re-setting of the respondent's arraignment on March 27, 2000. On even date, the SB issued an Order^[8] holding in abeyance the arraignment of the respondent until after it shall have resolved the motion for leave to order reinvestigation and/or quash information filed by him.

Nevertheless, on April 10, 2000, the respondent, assisted by counsel, was arraigned and pleaded not guilty. On the same day, the SB issued an Order^[9] granting his motion for leave to travel abroad without prejudice to the resolution of his motion to quash information. On April 14, 2000, the Special Prosecutor filed her Comment/Opposition^[10] to the respondent's motion to quash.

On June 23, 2000, the SB issued a Resolution granting the motion to quash the information of the accused and acquitting the respondent of the charge.^[11] The SB held that based on the records, there was no probable cause to charge the respondent of the crime. It based its findings on the Memorandum of then Mayor Ismael A. Mathay to the respondent dated January 12, 1994, and a portion of the Resolution of Graft Investigator Romeo Pamute dated July 23, 1999 which was duly approved by the Ombudsman. The SB lifted the Hold Departure Order it earlier issued on June 26, 2000.^[12]

The Present Petition

On August 15, 2000, the People of the Philippines, through the Special Prosecutor's Office (SPO), filed a petition for certiorari under Rule 65 of the Rules of Court, as amended, for the nullification of the June 23, 2000 Resolution of the Sandiganbayan (SB). It anchors its petition on the following arguments:

1. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ACQUITTED MANUEL ALBA OF THE CRIME CHARGED IN CRIMINAL CASE NO. 25653 DESPITE THE FACT THAT HE HAS NOT YET BEEN ARRAIGNED OR THE PROSECUTION ALLOWED TO PROVE ITS CASE.
2. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED MANUEL ALBA'S MOTION TO QUASH ON THE BASIS OF A MEMORANDUM ISSUED BY THE QUEZON CITY MAYOR, WHICH MEMORANDUM HAS ALREADY BEEN SUPERSEDED.
3. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED THE PETITIONER ITS RIGHT TO DUE PROCESS.^[13]

On the first issue, the petitioner avers that the SB acted with grave abuse of discretion amounting to lack or excess of jurisdiction in quashing the information.

We agree with the petitioner. The records show that the SB quashed the information with the ruling that the respondent acted on the basis of the January 12, 1994 Memorandum to him of then Mayor Ismael Mathay, quoted *infra*:

MEMORANDUM

TO : DR. MANUEL ALBA
City Administrator

In view of the multifarious duties attendant to my dual position as Chairman, Metro Manila Authority and Mayor of Quezon City, the authority to issue orders for the demolition of illegal structures is hereby delegated to you. You may sign as follows:

BY AUTHORITY OF THE CITY MAYOR

MANUEL S. ALBA
City Administrator

It is understood that the aforementioned authority shall be exercised pursuant to the attached copy of guidelines issued by the undersigned. Periodic reports of demolition undertaken under this authority should be submitted to this Office.

This Memorandum takes effect immediately.

(Sgd.) ISMAEL A. MATHAY, JR.
City Mayor^[14]

The SB concluded that, having acted on the basis of the memorandum of the Mayor, the respondent could not be considered as having usurped the authority of the building official or of the Secretary of Public Works and Highways, or that he acted with manifest partiality, evident bad faith or gross inexcusable negligence. The SB also relied on the resolution of the Graft Investigator, Romeo Pamute, dated July 23, 1999, duly approved by the Ombudsman, which reads:

It is our view that the relief granted by respondent City Administrator in his Memorandum is only temporary in nature and will last only for a meantime that the legality or otherwise of the contested demolition order is being determined by the DPWH. We agree that greater injury could have been caused had the questioned demolition order was carried out but later on if it will be found that the property claimed by the complainant as his belongs not to him but to the religious congregation represented by the private respondent. We see nothing wrong if the complainant could wait a little while in the interest of justice and fair play. It has to be realized that the ownership issue should share equal attention as that of the demolition issue raised by the complainant. It is a reality in our system of government that resolving an issue via a judicial or administrative remedy, is a long and tedious process if we have to be meticulous in the just dispensation of justice. The government has not yet invented a system, a sure-fire formula wherein justice could be dispensed with in just a click of a finger. To hurry demolishing a structure where an appeal has been made and taken cognizance of by higher appellate agency of the government is recklessness and may result to grave injustice. We agree with the rationale in the assailed