371 Phil. 1

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[G.R. Nos. 105965-70, August 09, 1999]

GEORGE UY, PETITIONER, VS. SANDIGANBAYAN, OMBUDSMAN AND ROGER C. BERBANO, SR., SPECIAL PROSECUTION OFFICER III, OFFICE OF THE SPECIAL PROSECUTOR, RESPONDENTS.

D E C I S I O N

PARDO, J.:

This petition for *certiorari* and prohibition seeks to annul and set aside the resolution[1] of the Sandiganbayan denying petitioner's motion to quash the six (6) informations charging him with violation of Section 3 (e), R.A. No. 3019, as amended, and to permanently enjoin the respondents from proceeding with the criminal cases insofar as petitioner is involved.

At times material hereto, petitioner was Deputy Comptroller of the Philippine Navy. He was designated by his immediate supervisor, Captain Luisito F. Fernandez, Assistant Chief of Naval Staff for Comptrollership, to act on the latter's behalf, during his absence, on matters relating to the activities of the Fiscal Control Branch, O/NG. This included the authority to sign disbursement vouchers relative to the procurement of equipment needed by the Philippine Navy.

On July 2, 1991, six (6) informations for estafa through falsification of official documents and one (1) information for violation of Section 3 (e), R.A. No. 3019, as amended, were filed with the Sandiganbayan against petitioner and nineteen (19) co-accused, namely: (Ret.) Bgen. Mario S. Espina (then Assistant Secretary for Installations and Logistics, Department of National Defense), (Ret.) Rear Admiral Simeon M. Alejandro (then Flag Officer in Command, Philippine Navy), CDR Rodolfo Guanzon, CDR Erlindo A. Erolin, CAPT. Manual Ison (then Commander of the Naval Supply Center, Philippine Navy), CAPT. Andres Andres, LCDR Gilmer B. Batestil, LCDR Jose Alberto I. Velasco, Jr., LTSG Edgar L. Abogado, LT. Teddy O. Pan, LT. Ronald O. Sison, Reynaldo Paderna (Chief Accountant), Antonio Guda (Supply Accountable Officer, Fort San Felipe, Cavite, Philippine Navy), Loida T. Del Rosario (Typist), Marissa Bantigue (owner of MAR GEN Enterprise), Avelina Avila (owner of Avelina Avila General Merchandise), Jenis B. Bantigue (owner of JAB GEN Merchandise), Maria M. Capule (owner of MM Capule Enterprise) and Andrea C. Antonio (owner of AC Antonio Enterprise).

On September 20, 1991, the Sandiganbayan issued an Order[2] directing a comprehensive re-investigation of the cases against all the twenty (20) accused.

After conducting the re-investigation, the Special Prosecutor issued an Order[3] dated November 14, 1991 recommending that the informations for estafa through falsification of official documents be withdrawn and in lieu thereof, informations for violation of Section 3 (e) of R.A. No. 3019, as amended, be filed against eleven (11)

accused,[4] which included the petitioner.

In a Memorandum[5] dated December 5, 1991, Special Prosecutor Aniano A. Desierto reduced the number of those to be charged under R.A. No. 3019, as amended, to five (5),[6] including petitioner.

Acting on the separate motions for reconsideration of the five (5) remaining accused, the Special Prosecutor issued an Order[7] dated February 18, 1992 dropping two (2) more names[8] from the five (5) officers recommended for prosecution, and recommending that six (6) separate informations for violation of Section 3(e), R.A. 3019, as amended, be filed against the petitioner, LCMDR. Rodolfo Guanzon and LT. Teddy Pan. Except for the variance in the Purchase Order numbers involved and the Payees,[9] the six (6) amended informations[10] filed by Special Prosecutor Officer III Roger C. Berbano, Sr. recite identical allegations, *viz*:

> "That on or about November 1985, and for sometime prior or subsequent thereto, in Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CDR. Rodolfo Guanzon, being then the Procurement Officer, Philippine Navy, LCDR. George Uy, being then the Assistant Chief of Naval Staff Comptrollership, Philippine Navy and Lt. Teddy O. Pan, being then the Naval Group Inspector, Philippine Navy, all public officials, and committing the offense in relation to their office, did then and there wilfully, unlawfully and criminally, through evident bad faith or gross inexcusable negligence, cause undue injury to the Government, and in the exercise of their separate official functions, to wit: accused Guanzon initiated/prepared the Abstract of Canvass and Recommendation of Awards, Certificate of Emergency Purchase and Reasonableness of Price, signed the PO, DV, validated PO No. x x x, accused Uy signed the DV in behalf of the Assistant Chief of Naval Comptrollership, accused Pan as N6 conducted the pre-audit and affixed his signature on the same P.O., the Sales Invoice and Technical Inspection Report -- which documents said accused had the duty to check/verify/examined, thereby `acting or omitting to act' in a situation where there is a duty to act, in that only 100 seal rings were ordered at a unit price of P98.70, yet 1,000 pieces appear to have been sold with total price of P98,700.00, hence there was gross error in multiplication as shown on the face of the aforesaid PO and other supporting documents, resulting to an overpayment of P88,930.00 to x x x, thereby depriving the Government/Philippine Navy of the use thereof until its remittance/return to the Government/Philippine Navy by x x x in December, 1991."

On April 21, 1992, the petitioner filed with the Sandiganbayan a motion to quash[11] the informations on the following grounds:

1. The Sandiganbayan has no jurisdiction over the offense charged or the person of the accused.

2. The officer who has filed the informations had no authority to do so.

3. The facts charged do not constitute an offense.

4. More than one (1) offense is charged.

On June 10, 1992, the Sandiganbayan issued the now-assailed Resolution denying petitioner's motion to quash for lack of merit. It passed upon the grounds set forth by petitioner in this wise:

> "On the first issue raised by accused-movant, we are not inclined to rule that this Court has no jurisdiction over the person of accused-movant or over the offenses charged herewith. As intimated by the prosecution, this Court has several cases pending before it involving crimes committed by military officers in relation to their office. Unless and until the Highest Tribunal rules otherwise, this Court has no judicious recourse but to entertain and try the various criminal cases filed by the Office of the Special Prosecutor involving military officers and men accused of committing crimes `in relation to their office,' and those involving violation of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act. Be that as it may, being prosecuted for violation of R.A. 3019, as amended, Accused-movant axiomatically is subject to the jurisdiction of this Court.
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> We cannot likewise sustain accused-movant's stance that the officer who has filed the informations in the cases at bar had no authority to do so. Both the offense charged and the person of accused-movant being within the exclusive jurisdiction of this Court, it stands to reason that the preliminary investigation and prosecution of the instant criminal charges belong to, and are the exclusive prerogatives of, the Office of the Ombudsman, as provided for in Section 15(1) of Republic Act No. 6770.
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> Neither are we impressed with the asseveration that the acts charged in the amended informations at bar do not constitute an offense. Such a claim cannot stand in the face of unequivocal rulings of the Supreme Court, thus:
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> > `The fundamental rule in considering a motion to quash on the ground that the averments of the information are not sufficient to constitute the offense charged is whether the facts alleged, if hypothetically admitted, would meet the essential elements of the offense, as defined in the law. (People v. Segovia, 103 Phil. 1162).'
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> > `As a general proposition, too, a motion to quash on the ground that the allegations in the information do not constitute the offense charged, or of any offense for that matter, should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted. (People v. Navarro, 75 Phil. 516).'
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> > `The general rule is that in resolving the motion to quash a criminal complaint or information, the facts alleged therein should be taken as they are. This is especially so if the motion to quash is based on the ground that the facts charged do not

> constitute an offense, but he court may consider additional facts which the fiscal admits to be true. (People v. Navarro, *supra*).'
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> In consonance with the foregoing doctrinal pronouncements, the quashal of the informations at bar cannot be sustained since they are sufficient in form and substance to charge indictable offenses. Parenthetically, some of the arguments relied upon by accused-movant refer more to evidentiary matters, the determination of which are not yet legally feasible at this juncture and should only be raised during the trial on the merits.
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> Finally, We find no merit in the argument that more than one offense is charged in the criminal informations at bar. Precisely, the prosecution split the original information into six (6) distinct amended informations pertaining to six (6) criminal violations of Section 3 (e) of R.A. 3019, as amended. Such is but proper under the premises considering that the acts subject of the criminal cases at bar were allegedly committed on six (6) different purchase orders and there is no showing that they were committed on similar dates or singular occasion."

In the instant petition, petitioner raises the following issues:

> 1) Whether or not the Sandiganbayan has jurisdiction over the subject criminal cases or the person of the petitioner;
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> 2) Whether or not the respondents Ombudsman and Special Prosecutor have the authority to file the questioned amended information;
>
> 3) Whether or not the act or omission charged constitutes an offense.

On the issue of jurisdiction, petitioner and the Solicitor General submit that it is the court-martial, not the Sandiganbayan, which has jurisdiction to try petitioner. Emphasizing the fundamental doctrine that the jurisdiction of a court is determined by the statute in force at the time of the commencement of the action, they claim that at the time the amended informations were filed on July 2, 1991, the controlling law on the jurisdiction over members of the Armed Forces of the Philippines is P.D. 1850, "Providing for the trial by courts-martial of members of the Integrated National Police and further defining the jurisdiction of courts-martial over members of the Armed Forces of the Philippines" (which took effect on October 4, 1982), as amended by P.D. 1952 (which took effect in September of 1984), more particularly Section 1(b) thereof provides:

> "Section 1. Court Martial Jurisdiction over Integrated National Police and Members of the Armed Forces. -- Any provision of law to the contrary notwithstanding, (a) uniformed members of the Integrated National Police who commit any crime or offense cognizable by the civil courts shall henceforth be exclusively tried by courts-martial pursuant to and in accordance with Commonwealth Act No. 408, as amended, otherwise known as the Articles of War; (b) all persons subject to military law under Article 2 of the aforecited Articles of War who commit any crime or offense shall be exclusively tried by courts-martial or their case disposed of under the said Articles of War; Provided, that, in either of the