

THIRD DIVISION

[G.R. No. 210488, January 27, 2020]

**JOSE MIGUEL T. ARROYO, PETITIONER, VS. THE HON.
SANDIGANBAYAN FIFTH DIVISION AND PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

LEONEN, J.:

Absent any clear showing of grave abuse of discretion, this Court will not interfere with the Office of the Ombudsman's finding of probable cause in its investigation of criminal complaints.

This resolves a Petition for *Certiorari*^[1] assailing the Resolutions dated August 15, 2013^[2] and November 6, 2013^[3] issued by the Sandiganbayan in Criminal Case No. SB-12-CRM-0164, denying Jose Miguel T. Arroyo's (Arroyo) Motion for Judicial Determination of Probable Cause and subsequent Motion for Reconsideration. The assailed Resolutions^[4] of the Sandiganbayan, promulgated on August 15, 2013, affirmed the Ombudsman's finding of probable cause for filing the charge against petitioner for the violation of Section 3(e) of Republic Act No. 3019^[5], otherwise known as the Anti-Graft and Corrupt Practices Act.

On October 13, 2011, the Office of the Ombudsman issued Office Order No. 494, designating a Panel of Investigators composed of the Ombudsman personnel who were with the Field Investigation Office. It was mandated to investigate anomalies in the purchase of Light Operational Police Helicopters by the Philippine National Police in 2009.^[6]

In a Complaint, the Office of the Ombudsman, through its Field Investigation Office, charged Arroyo, his brother Ignacio "Iggy" Arroyo (Iggy), Hilario De Vera (De Vera), and other officials of the Philippine National Police with violation of several administrative and penal laws, particularly:

- (1) Section 3, par. (e) and (g) of the Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practice Act;^[7]
- (2) Articles 171 and 172 (Falsification by Public Officers) of the Revised Penal Code;^[8] and
- (3) Section 52 (A) paragraph 1 (Dishonesty), paragraph 2 (Gross Neglect of Duty) and Section 20 (Conduct Prejudicial to the Best Interest of Service) of the Civil Service Commission Resolution No. 9919636, otherwise known as the "Uniform Rules on Administrative Cases in the Civil Service."^[9]

It was alleged in the Complaint that sometime in 2009, the Philippine National Police purchased from Manila Aerospace Products Trading Corporation (Manila Aerospace Corporation) one (1) fully-equipped Robinson R44 Raven II Light Police Operational Helicopter for P42,312,913.10 and two (2) standard Robinson R44 Raven I Light Police Operational Helicopters for P62,672,086.90, for a total of P104,985,000.00.

[10] However, despite the requirements prescribed by the National Police Commission that the helicopters should be brand new, Manila Aerospace Corporation delivered only one (1) brand new Robinson Raven II helicopter while the two (2) standard Robinson Raven I helicopters it delivered were actually pre-owned by Arroyo, thereby causing undue injury to the government and giving unwarranted benefits to certain individuals.[11]

In response to the filing of the Complaint, the Ombudsman created a Special Investigating Panel to conduct a preliminary investigation. Subsequently, the Special Investigating Panel issued a Joint Resolution[12] recommending the filing of criminal and administrative cases against Arroyo and his co-accused.[13]

In an Information,[14] the Office of the Ombudsman charged Arroyo, among others, for alleged conspiracy with several Philippine National Police officers and personnel and other private persons in the commission of the crime, violating Section 3(e) of Republic Act No. 3019. The Information stated that the sale of the two (2) used helicopters, which were allegedly owned by Arroyo, caused undue injury to the Philippine National Police and the government in the amount of at least P34,632,187.50, representing the overpriced amount paid by the Philippine National Police.[15]

The Sandiganbayan Second Division, where the case was first raffled, granted the request of Arroyo to file a Motion for Reconsideration after leave of court.[16] In his Motion for Reconsideration, Arroyo alleged that he is not the owner of the two (2) helicopters and that he already divested himself of all shares in Lourdes T. Arroyo, Inc. (Arroyo, Inc.), the alleged corporation who benefitted from the anomalous sale. However, Ombudsman denied this Motion for Reconsideration.[17]

Arroyo voluntarily surrendered before the Sandiganbayan and posted the bail bond to obtain his provisional liberty.[18] During arraignment, he pleaded not guilty as a condition precedent in obtaining authority to travel abroad. Subsequently, the criminal case was re-raffled to the Fifth Division.[19]

In an Order, the Office of the Ombudsman/Office of the Special Prosecutor resolved to deny Arroyo's motion for lack of merit.[20]

On May 27, 2013, Arroyo filed with the Sandiganbayan Fifth Division a Motion for Judicial Determination of Probable Cause,[21] praying for the dismissal of the criminal case on the ground of lack of probable cause. In this motion, he alleged that: (1) there is no evidence supporting the conclusion that he owned the two (2) helicopters; (2) the evidence on record shows that it was Archibald Po (Po) and/or his companies who owned the helicopters; (3) there is no evidence that points him as a party or participant, in any manner or degree, to the purchase of the helicopters; (4) there is absolutely no proof of conspiracy; (5) the denial of his Motion for Reconsideration has no valid basis; and (6) the lack of probable cause against him justifies the dismissal of the case.[22]

The Sandiganbayan issued a Resolution,^[23] denying Arroyo's motion. It concluded that the prosecution sufficiently showed that, based on the evidence adduced, there is probable cause that Arroyo participated in the transaction. A part of the Resolution states:

Based on the foregoing discussion, the existence of the elements of Section 3(e) of R.A. No. 3019 is undisputed. It is evident that: (1) all the accused are public officers, being members of the PNP, while Arroyo and De Vera are private individuals charged in conspiracy with the PNP officers; (2) the alleged acts were committed in relation to their public positions; (3) the transactions in question allegedly caused undue injury to the PNP vis-a-vis the accused public officers and the Government; (4) that the transaction gave unwarranted benefits, advantage and preference to Arroyo and De Vera; and, (5) the accused acted with manifest partiality, evident bad faith or, at the very least, gross inexcusable negligence in the purchase of two (2) units standard Robinson R44 Raven I helicopter and one (1) unit fully-equipped Robinson R44 Raven II helicopter.^[24]

The Sandiganbayan explained that Arroyo cannot, as a matter of right, insist on a hearing for judicial determination of probable cause.^[25] Arroyo cannot determine beforehand how cursory or exhaustive the judge's examination of the records should be, since the extent of the judge's examination depends on the exercise of his sound discretion as the circumstances of the case require. The Sandiganbayan further ruled that the proper procedure was followed in determining probable cause for filing the Informations and that, absent evidence to the contrary, it cannot reverse or overturn the Ombudsman's findings.^[26]

Arroyo filed a Motion for Reconsideration,^[27] but this motion was denied.^[28]

On January 20, 2014, petitioner filed this Petition for Certiorari and Prohibition under Rule 65 of the Rules of Court with prayer for temporary restraining order and/or preliminary injunction assailing the Resolutions issued by the Sandiganbayan Fifth Division.^[29]

In a March 3, 2014 Resolution, this Court required the respondents to comment on Petition and on the prayer for temporary restraining order.^[30]

Subsequently, respondent filed a Motion for Extension of Time to File Comment, which was granted by this Court.^[31]

On June 23, 2014, respondent filed its Comment on the Petition for Certiorari and Prohibition.^[32]

Subsequently, this Court issued a Resolution giving due course to the petition and requiring the parties to submit their respective memorandum.^[33] Petitioner^[34] and respondent^[35] then filed their memoranda.

Petitioner argues that respondent committed grave abuse of discretion in disregarding the lack of evidence that he owned the two (2) Robinson R44 Raven helicopters with serial numbers 1372 and 1374.^[36] He claims that it is erroneous for respondent to rely on the bare testimony of Po as to the helicopters' ownership.^[37]

He claims that the helicopters were neither owned by him nor by his family corporation, Arroyo, Inc. Rather, they actually belonged to Po's companies, LIONAIR and Asian Spirit. He adds that, based on the documents and testimonies of the witnesses, the sale of the helicopters was done without his slightest participation.

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Further, petitioner explains that the then First Family's use of the helicopters was due to a Fleet Lease Agreement entered into by Po's Company and Arroyo Inc., through petitioner's late brother, Iggy.[39]

He adds that Arroyo, Inc. advanced the money for the purchase of five (5) helicopters by way of loan in favor of Po and LIONAIR. Po's company and Arroyo, Inc. purportedly agreed to apply the rentals for Arroyo, Inc.'s use of the helicopters and the income earned from other lessees as payment of the loan advanced to LIONAIR.[40]

Moreover, petitioner argues that the Ombudsman failed to distinguish him from Arroyo, Inc. He alleges that during the material dates of the illegal sale, he did not have any interest in Arroyo, Inc.[41] Petitioner highlights Po's testimony, wherein he clarified at the Senate hearing that it was Arroyo, Inc., and not petitioner, who made the initial deposit.[42] The records show:

7. In paragraph 8 of your first Affidavit you said that you required that an initial deposit of \$95,000.00 for each helicopter or a total of \$475,000.00 for the five (5) helicopters be made. Who made the deposit to Robinson?

In my first affidavit, I made mention that it was FG thru Lionair who made the deposit. I wish to stress that I made a correction on this statement in my Supplemental Affidavit. It was LTA, Inc. who made the initial deposit of \$500,000.00 to Robinsons Helicopter. The payment was made thru wire transfer; a copy of the BDO Foreign Telegraphic Transfer was faxed to our office on December 11, 2003 by LTA, Inc.[43] (Emphasis in the original)

Long before the purchase of the helicopters by LIONAIR, petitioner had divested himself of any interest in Arroyo, Inc. Petitioner presents the March 15, 2001 Deed of Assignment of Shares of Stock which he executed in favor of Benito R. Araneta. A certification of divestment of interest was also issued by Regino Q. Ferraren, Jr., Arroyo, Inc.'s Corporate Secretary, evidencing that petitioner was neither a director, an officer, nor a stockholder of Arroyo, Inc. Petitioner adds that it was only on November 24, 2010, long after the sale to the Philippine National Police transpired, when he repurchased the shares from Benito R. Araneta.[44]

Petitioner also questions the purported trust relationship which allegedly governed him and Po, wherein petitioner was the supposed beneficial owner of the helicopters. In a criminal case, the speculative assumption of trusteeship suggested by complainant cannot be given credence over the overwhelming evidence of ownership of Po, LIONAIR, and Asian Spirit.[45] Petitioner argues that the criminal case must fail because he is neither the legal nor the beneficial owner of the helicopters sold to the Philippine National Police.[46]

He claims that the allegation of conspiracy rests on mere surmises and speculative conclusions. There is certainly no substantial proof that: (1) he instructed particular persons to perform particular acts leading to the anomalous procurement; (2) he wielded enormous influence on certain Philippine National Police personnel; or (3) that he performed acts that can be characterized as part of the scheme.^[47]

There could be no conspiracy between him and De Vera because it was not shown that he has ever met or even talked to De Vera. From De Vera's narration, he only dealt with Po when the helicopters were sold to the Philippine National Police.^[48] There being no proof of conspiracy, it was an error on the Investigating Panel's part to have found probable cause against petitioner.^[49]

Finally, petitioner questions the application of *Leviste v. Alameda*^[50] to his case. He argues that the Sandiganbayan erred in dismissing his motion because jurisprudence dictates that an accused may assail a finding of probable cause when there is a clear grave abuse of discretion.^[51]

In its Comment, respondent asserts that there was nothing capricious, whimsical, or even arbitrary in the findings and conclusions of the Office of the Ombudsman.^[52] Respondent maintains that petitioner's arguments before the Sandiganbayan and this Court showed absolutely no evidence of any irregularity in the proceedings before the Ombudsman.^[53]

A perusal of the records of the case will readily show that after a careful consideration of the complaint under oath, the supporting documents, and the counter-affidavits and controverting evidence submitted by petitioner, Ombudsman found probable cause to file the corresponding Information against him.^[54]

Respondent argues that Ombudsman's finding of probable cause against petitioner is supported by the evidence presented during the conduct of the preliminary investigation. It was found that petitioner had control over the helicopter and it appears that he only instructed Po to purchase the helicopters. Particularly, the investigation revealed that the flight dispatcher took instructions with regard to the flight of the helicopter either from petitioner or petitioner's immediate family members. The consent of petitioner was also sought by Po with respect to the supply of helicopters for the Philippine National Police. When the helicopters were sold to the Philippine National Police, Po allegedly remitted the proceeds to petitioner.^[55]

Respondent further argues that petitioner still had interest in Arroyo, Inc. at the time of the transaction. Petitioner presented a Deed of Assignment dated March 15, 2001, indicating that he had assigned his shares of stock in Arroyo, Inc. to Benito Araneta. However, respondent stresses that the Deed of Assignment is not an evidence of a valid transfer, except between him and Araneta, inasmuch as the transfer of the shares of stock was not duly registered in the books. Thus, insofar as third parties are concerned, there is no valid transfer or divestment of petitioner's interest in Arroyo, Inc. in accordance with Section 63 of the Corporation Code.^[56]

Moreover, respondent points out that there is a provision in the Deed of Assignment wherein petitioner merely appointed Benito Araneta as his proxy or representative.^[57]