

SECOND DIVISION

[G.R. NO. 167973, February 28, 2007]

TEOTIMO M. REDULLA, PETITIONER, VS. THE HON. SANDIGANBAYAN (FIRST DIVISION), THE OFFICE OF THE OMBUDSMAN, AND THE OFFICE OF THE SPECIAL PROSECUTOR, RESPONDENTS.

DECISION

CARPIO MORALES, J.:

Pursuant to an audit^[1] conducted by the Commission on Audit (COA) on several reforestation contracts, five complaints, OMB-MIN 96-0336, 96-0339, 96-0365, 96-0367, and 96-0369,^[2] were filed against petitioner Teotimo M. Redulla (Redulla) and several others with the Office of the Ombudsman for violation of Republic Act (R.A.) No. 3019.

After an investigation conducted by Prosecutor Florita S. Linco (Prosecutor Linco),^[3] the Office of the Ombudsman filed before the Sandiganbayan three Informations for violation of R.A. No. 3019, Section 3(e). In one of the Informations,^[4] Redulla, along with six others, was indicted. The information reads:

That on or about the period from March 7, 1991 to March 15, 1991, and for sometime immediately prior or subsequent thereto, in Ipil, Zamboanga del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Hilarion Ramos, a high ranking public officer being then Provincial Environment and Natural Resources Officer (PENRO); Eusebio Ybanez, being then Certifying Officer; Cirilo Salamanca, being then Forestry Specialist; **Teotimo Redulla, being then Countersigning Officer**; Antonio Marquez, being then countersigning officer; Laksmi Palomares, being then a private contractor, while in the performance of their official and administrative functions as such public officers, taking advantage of their official positions, acting with evident bad faith and manifest partiality, conspiring and confederating with accused Luis Tan, did then and there, willfully, unlawfully and criminally give unwarranted benefits, advantage, and preference to accused Luis Tan, by facilitating with undue haste, the payment to said accused, the sum of P518,654.01 for the seedlings production project, out of P600,000.00 total contract price, despite the knowledge that there were no "detail of accomplishments" submitted, as accused Luis Tan failed to account for the total number of seedlings produced, in violation of the contract and DENR rules and regulations implementing the seedlings production project (of the government), to the damage and prejudice of the people/government in the aforementioned sum of P518,654.01 and detriment to public service.

Contrary to law.^[5] (Emphasis supplied)

Following the filing of the Information in Criminal Case No. 26035, Redulla filed before the Office of the Special Prosecutor (OSP) an Expanded Motion for Reinvestigation^[6] praying that

the Honorable Office of the Special Prosecutor [OSP] conduct a careful and thorough review/reinvestigation of the instant case, and that thereafter, the findings of the Ombudsman Prosecutor I Florita S. Linco dated 6 March 2000 against the Accused be reversed or set aside and the OSP recommends for the dismissal/withdrawal of the above-entitled information for lack of merit.^[7] (Underscoring supplied)

Redulla's motion was granted and a reinvestigation was conducted.

After reinvestigation, then Ombudsman Aniano Desierto (Ombudsman Desierto) approved the OSP's finding that there was no probable cause to hale Redulla, et al. into court and accordingly approved the recommendation to withdraw the Information.^[8]

A Manifestation with Motion to Withdraw Information In Criminal Case No. 26035^[9] was thus filed by the Office of the Ombudsman with the Sandiganbayan which was granted by Order of May 20, 2002.^[10]

In June 2003, then Ombudsman Simeon V. Marcelo (Ombudsman Marcelo) ordered the review of the original complaints against petitioner, et al. which the COA filed with his Office. Acting on the order, Prosecutor Jovito A. Coresis, Jr. (Prosecutor Coresis) reviewed the complaints and found sufficient evidence to conclude that a crime for violation of R.A. No. 3019, Section 3(e), as amended, had been committed and Redulla and his co-accused are probably guilty thereof.^[11]

The Office of the Ombudsman thus filed an Information^[12] with the Sandiganbayan, docketed as Criminal Case No. 27853, against Redulla, et al., alleging

That on or about the period from 20 October 1990 to 15 March 1991 and for sometime prior or subsequent thereto, in Ipil, Zamboanga del Sur and within the jurisdiction of this Honorable Court, the accused **Teotimo Redulla, Antonio Marques, Laksmi Palomares, Hilarion Ramos, Cirilo Salamanca and Eusebio Ybanez**, all public officers being then a Regional Technical Director with salary grade 27, a Finance Officer, an Accountant, an OIC-PENRO, an OIC-CENRO and a Forestry Specialist, respectively, of the Department of Environment and Natural Resources, Region 9, Zamboanga City (DENR9-Zamboanga City), acting with evident bad faith and manifest partiality while in the performance of their official administrative functions and taking advantage of their public positions, mutually aiding, conniving and conspiring with each other as well as with accused **Luis Tan**, a private contractor, did then and there, willfully, unlawfully and criminally give unwarranted benefits, advantage and preference to accused Tan by making payments to the latter the total sum of P518,654.01 for a seedling production project despite knowledge that accused Tan was obligated, under the contract to produce 363,637

seedlings, maintain and protect them for a period of eight (8) months but that said accused Tan had failed to perform his obligation under the said contract to the damage and prejudice of the government in the aforementioned sum.

Contrary to law.^[13] (Emphasis in the original)

Redulla thereafter filed before the Sandiganbayan a Motion for Judicial Determination of Probable Cause,^[14] arguing that

WITH THE ORDER OF THE HONORABLE COURT DATED MAY 20, 2003, GRANTING THE SPECIAL PROSECUTOR'S MOTION TO WITHDRAW THE INFORMATION IN CRIMINAL CASE NO. 26035 IN RELATION TO THE OMBUDSMAN'S ORDER OF 18 FEBRUARY 2002 WHICH EXPRESSLY FOUND THAT *NO PROBABLE CAUSE EXISTS AGAINST ACCUSED REDULLA AND HIS CO-ACCUSED TO CHARGE THEM FOR THE ALLEGED VIOLATION OF SECTION 3 (E) OF REPUBLIC ACT NO. 3019* ARISING FROM EXACTLY THE SAME FACTS AND TRANSACTION SUBJECT OF THE PRESENT INFORMATION, NO PRIMA FACIE CASE CAN BE SAID TO EXIST AGAINST THE ACCUSED TO WARRANT THE FILING/REFILING OF THE INSTANT CASE FOR GRAFT.^[15] (Italics in the original)

and that

APPLYING THE CASE OF *SISTOZA V. DESIERTO*, NO PROBABLE CAUSE EXISTS AGAINST ACCUSED REDULLA TO BIND HIM OVER FOR TRIAL FOR VIOLATION OF SEC. 3(E) OF REP. ACT NO. 3019 UNDER A SWEEPING "CONSPIRACY" THEORY, AS HE HAD ADMITTEDLY *MERELY COUNTERSIGNED THE QUESTIONED CHECK PAYMENTS TO ACCUSED LUIS TAN AS DENR REGIONAL TECHNICAL DIRECTOR* AFTER RELYING IN GOOD FAITH ON THE PRIOR APPROVALS, REPORTS, AND RECOMMENDATIONS OF HIS SUBORDINATES, AND THERE BEING NO OTHER EVIDENCE WHATSOEVER AGAINST HIM OF HIS ACTUAL PARTICIPATION IN THE CRIME CHARGED OR IN ANY SUPPOSED "CONSPIRACY" TO COMMIT THE SAME.^[16] (Italics in the original, citation omitted)

The Sandiganbayan, by Resolution^[17] of September 1, 2004, denied Redulla's motion, citing its policy of according respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman; and, in any event, it noted the absence of any irregularity in the finding of the existence of probable cause.^[18]

On Redulla's claim of good faith in countersigning the checks which were the subject of the Information, the Sandiganbayan brushed it aside, holding that it could be better appreciated during trial on the merits of the case.^[19]

His Motion for Reconsideration^[20] having been denied,^[21] Redulla filed on June 1, 2005 the instant Petition^[22] for Certiorari and Prohibition with prayer for writ of preliminary injunction or temporary restraining order, proffering that

[t]he respondent Sandiganbayan is guilty of positive evasion of duty enjoined by law in refusing to dismiss the case below on the ground of lack of probable cause, as previously found by respondent OSP and respondent Ombudsman, and as correctly affirmed by respondent Sandiganbayan, [23]

and that

[a]pplying the doctrine of *Sistoza v. Desierto*, petitioner as countersigning director, could not be held criminally liable for relying in good faith upon the actions of his subordinates, which showed no patent nor palpable irregularities. [24]

In its Comment [25] to the present petition, the Office of the Ombudsman, through the OSP, maintains that the Sandiganbayan committed no grave abuse of discretion when it denied Redulla's Motion for Judicial Determination of Probable Cause. [26] It adds that since Redulla, et al. in Criminal Case No. 27853 had been arraigned (on April 15, 2005) and the case had been set for initial presentation of prosecution evidence on November 15, 17, and 18, 2005, the issues in Redulla's petition had been rendered moot. [27]

First, a word on the Office of the Ombudsman's contention that the arraignment of Redulla and his co-accused rendered moot the issues in the present petition.

An accused does not waive the right to a preliminary investigation if he invokes it before or at the time he enters his plea. [28] In the case at bar, Redulla filed his Motion for Judicial Determination of Probable Cause on September 23, 2003 [29] which is akin to a motion for the conduct of preliminary investigation, the purpose of which is to determine the existence of probable cause, [30] before he was arraigned on April 15, 2005; [31] hence, the above-said contention does not lie.

The Sandiganbayan's denial of petitioner's Motion for Judicial Determination of Probable Cause is in order. This is in line with this Court's policy of non-interference in the exercise of the Ombudsman's constitutionally mandated powers.

This Court has almost always adopted, quite aptly, a policy of non-interference in the exercise of the Ombudsman's constitutionally mandated powers. This rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions . . . with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they were compelled to review the exercise of discretion on the part of the fiscals, or prosecuting attorneys, each time they decide to file an information in court or dismiss a complaint by a private complainant. [32]

While there are exceptions to this policy, [33] the case at bar does not fall among the exceptions. It is settled that as long as the Ombudsman's resolution is supported with substantial evidence, it will not be overturned. [34]