

FIRST DIVISION

[G.R. NO. 152258, November 30, 2006]

ROGELIO P. ANTALAN, PETITIONER, VS. HON. ANIANO DESIERTO, IN HIS CAPACITY AS OMBUDSMAN, RESPONDENT.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Sought to be annulled in the present Petition for *Certiorari* under Rule 65 of the Rules of Court are the October 1, 2001 Memorandum^[1] of *Ombudsman* Legal Counsel Sylvia Hazel T. Bismonte-Beltran (Bismonte-Beltran) in OMB-MIN-01-0260^[2] and the October 4, 2001 Information^[3] filed with the *Sandiganbayan* pursuant to said Memorandum.

The facts are not disputed.

On the basis of an Affidavit^[4] executed by Edison Ehilla (Ehilla), a resident of Island Garden City of Samal (IGACOS), a Complaint^[5] was filed with the Office of the Deputy *Ombudsman* for Mindanao (OMB-Min) charging IGACOS City Mayor Rogelio Antalan (Antalan) with Grave Misconduct, Graft and Corruption, Grave Abuse of Authority, Dishonesty, and Malversation of Public Funds in connection with the purchase of four (4) units of six wheeler dump trucks, disbursement of intelligence funds and construction of a structure along the city shorelines.

After Antalan filed his Counter-affidavit,^[6] OMB-Min Graft Investigator I Quintin Pedrido, Jr. (Pedrido) issued a Resolution^[7] dated June 18, 2001 recommending the dismissal of the case. *Ombudsman* Aniano Desierto (*Ombudsman*) approved said Resolution on July 13, 2001.^[8] Ehilla filed a Motion for Reconsideration^[9] but Pedrido denied the same in an Order^[10] dated September 11, 2001 which the *Ombudsman* approved on September 21, 2001.^[11]

It would appear, however, that by verbal instruction, the *Ombudsman* directed Bismonte-Beltran to review the September 11, 2001 Pedrido Order.^[12] In her October 1, 2001 Memorandum, Bismonte-Beltran recommended the following:

WHEREFORE, premises considered, it is respectfully recommended that:

- a) the Order dated September 11, 2001 of the Office of the Deputy *Ombudsman* for Mindanao be **disapproved** insofar as it recommends the dismissal of the charge for violation of Section 3 (e) of R.A. 3019 in connection with the alleged irregularities in the purchase of four (4) units 6-wheeler dump trucks; b) and that upon a finding of probable cause for violation of Section 3 (e), R.A. 3019 against respondent Mayor Rogelio P.

Antalan, the corresponding information be filed against him before the Sandiganbayan.^[13]

Bismonte-Beltran also prepared an Information^[14] dated October 4, 2001 charging Antalan with Violation of Section 3(e), Republic Act No. 3019. She certified therein that a preliminary investigation was conducted in the case and that there is probable cause to believe that Antalan committed the crime charged.^[15]

On December 21, 2002, the *Ombudsman* approved the October 1, 2001 Memorandum^[16] and the October 4, 2001 Information.^[17] Thus, the Information was filed with the *Sandiganbayan* on January 7, 2002 and docketed as Criminal Case No. 27128.^[18]

On January 17, 2002, Antalan filed with the *Sandiganbayan* a Motion for Reconsideration/Reinvestigation on the ground that he was denied his right to file a motion for reconsideration as guaranteed under R.A. No. 6770 and Administrative Order No. 07.^[19] In an Order^[20] dated January 23, 2002, the *Sandiganbayan*^[21] granted said Motion and ordered reinvestigation of the case, thus:

Considering that the Information in this case was filed on exactly the same day that the Office of the Ombudsman had sent a copy of the resolution authorizing the filing of the Information in this case thereby effectively depriving the accused his statutory right to file a motion for reconsideration and there being no objection on the part of Prosecutor Victor A. Pascual, the motion is GRANTED. Consequently, said accused is given a period of fifteen (15) days from today within which to file his expanded motion or supplemental motion for reconsideration in the Office of the Special Prosecutor which is directed to inform this Court of the action it has taken thereon within thirty (30) days from receipt of the adverted motion.

Accordingly, on February 19, 2002, Antalan filed a Supplemental Motion for Reconsideration with the Office of the Special Prosecutor (OSP).^[22] Pending resolution of his Motion, Antalan filed with this Court, on March 11, 2002, the present Petition for *Certiorari*^[23] where he reiterates that the October 1, 2001 Memorandum and October 4, 2001 Information were issued in violation of his constitutional right to due process.^[24]

In his Comment,^[25] respondent, through the Solicitor General, argues that the Petition has been rendered moot by petitioner's filing a Supplemental Motion for Reconsideration with the OSP where he also questioned the validity of the October 1, 2001 Memorandum and October 4, 2001 Information.^[26] Respondent points out that petitioner virtually engaged in forum shopping when he took both recourse.^[27]

Subsequent events rendered this petition moot and academic.

It was only on September 11, 2006 that the records of Criminal Case No. 27128 was elevated to this Court.

The records reveal that proceedings in said case has taken the following course: