

FIRST DIVISION

[G.R. No. 114944, May 29, 2002]

**MANUEL C. ROXAS AND AHMED S. NACPIL, PETITIONERS, VS.
HON. CONRADO M. VASQUEZ, OMBUDSMAN AND JOSE DE
FERRER, DEPUTY SPECIAL PROSECUTOR, AND THE HONORABLE
SANDIGANBAYAN, RESPONDENTS.**

RESOLUTION

YNARES-SANTIAGO, J.:

Before us is the Motion for Reconsideration of petitioner Manuel C. Roxas seeking to set aside our Decision dated June 19, 2001 which dismissed the instant petition, anchored on the following arguments:

I

WITH ALL DUE RESPECT, THE INSTANT CASE DOES NOT ATTEMPT TO UNNECESSARILY AND EXCESSIVELY ENTANGLE THE HONORABLE COURT WITH THE TASK OF UNDULY REVIEWING OR INTERFERING WITH THE PROSECUTORIAL PREROGATIVES OF THE OMBUDSMAN.

II

WITH ALL DUE RESPECT, THERE EXIST MORE THAN SUFFICIENT REASONS FOR THE HONORABLE COURT TO FIND VIOLATION OF DUE PROCESS AND GRAVE ABUSE OF DISCRETION IN THE INSTANT CASE WHEN THE TOTALITY OF THE CIRCUMSTANCES IS TESTED IN THE CRUCIBLE OF FUNDAMENTAL FAIRNESS.

III

WITH ALL DUE RESPECT, THE DECISION HAS SERIOUS AND FAR-REACHING IMPLICATIONS IN THE ADMINISTRATION OF JUSTICE CONSIDERING THAT BECAUSE OF IT, NO DECISION OF THE OMBUDSMAN IN THE DETERMINATION OF PROBABLE CAUSE WILL EVER ACHIEVE FINALITY.^[1]

Respondents were required to file their respective comments to the motion.^[2] In its Comment,^[3] the Office of the Special Prosecutor argued that the issues presented in the Motion for Reconsideration have already been raised, resolved and passed upon by this Court. On the other hand, the Solicitor General, in his Comment,^[4] maintained that petitioner Roxas was not denied due process since he was no stranger to the proceedings; the reinvestigation was just a continuation of the investigation of the case where petitioner was a party-respondent.

In order to resolve the Motion for Reconsideration, it is helpful to restate the salient antecedent facts.

Manuel C. Roxas was the Chairman, while Ahmed S. Nacpil was a Member, of the Bids and Awards Committee of the Philippine Constabulary–Integrated National Police (PC-INP). The PC-INP invited bids for the supply of sixty-five units of fire trucks. After the public bidding, General Cesar P. Nazareno created a Technical Evaluation Committee, headed by General Mario Tanchanco, which was sent to Korea and Japan to conduct ocular inspections of the plant facilities and equipment of the five qualified proponents. Thereafter, the Technical Evaluation Committee recommended for procurement the Morita Isuzu and Nikki-Hino fire trucks.

Meanwhile, the Bids and Awards Committee voted to recommend to Director General Cesar Nazareno the procurement of Ssangyong fire trucks. Instead of acting on this recommendation, Gen. Nazareno created a Review Committee headed by Gen. Gerardo N. Flores, which found that there was a failure to bid. Gen. Nazareno thus instructed the Bids and Awards Committee to reconsider its earlier recommendation and to conduct further evaluation of the proponents, but this time limiting itself to the two Japanese brands recommended by the Technical Evaluation Committee, namely, Morita Isuzu and Nikki-Hino. The Bids and Awards Committee subsequently voted to award the contract to the Tahei Co., Ltd., manufacturer of Nikki-Hino.^[5]

Accordingly, the contract of sale of sixty-five units of Nikki-Hino fire trucks was executed between Gen. Nazareno, on behalf of the PC-INP, and Tahei Company, Ltd. The corresponding Purchase Order was prepared and signed by Col. Nicasio Custodio, Chief of the PNP Logistics Support Command; Major Obedio Espeña, Acting Chief, PNP Procurement Center; Gen. Cesar Nazareno; and DILG Secretary Luis Santos.

Thereafter, Custodio, Espeña and Nazareno, together with the PNP Chief Accountant, Generosa Ramirez, prepared the disbursement vouchers, authorizing the payment to Tahei Co., Ltd. of the sum of P167,335,177.24, as marginal deposit for the sixty-five fire trucks.

The COA subsequently discovered that while the disbursement voucher indicated the bid price of Tahei Co., Ltd. to be only P2,292,784.00 per unit, the purchase order showed the unit price as P2,585,562.00, resulting in a discrepancy of P292,778.00 per unit of fire truck or a total of P19,030,570.00.

On February 12, 1993, DILG Secretary Rafael Alunan III filed a complaint with the Ombudsman for violation of Section 3 (e) of Republic Act No. 3019 against the following:

1. Dir. Gen. Cesar Nazareno, PNP
2. Dep. Dir. Manuel Roxas, PNP
3. Fire Marshal Mario Tanchanco
4. Fire B/Gen. Diosdado Godoy (Ret.)
5. P/Sr. Supt. Ahmed Nacpil, PNP
6. P/Supt. Juhan Kairan, PNP
7. CInsp. Reynaldo Osea, PNP
8. Dep. Dir. Gen. Gerardo Flores, PNP

9. Dir. Nicasio Custodio, PNP
10. Supt. Obedio Espeña, PNP
11. Former DILG Secretary Luis Santos
12. Ms. Generosa Ramirez

After preliminary investigation, the Deputy Ombudsman for the Military recommended the indictment of all respondents, except Generosa Ramirez.^[6] On review, the Office of the Special Prosecutor recommended the dismissal of the complaints against Manuel Roxas, Ahmed Nacpil, Diosdado Codoy, Juhan Kairan and Generosa Ramirez.^[7] This was approved by the Special Prosecutor and the Ombudsman in a Memorandum dated April 15, 1993.

Hence, formal charges were filed with the Sandiganbayan against Nazareno, Flores, Tanchanco, Custodio, Osia, Espeña and Santos, docketed as Criminal Case No. 18956.^[8] Roxas, Nacpil, Codoy, Kairan and Ramirez were not included in the criminal information.

Flores and Tanchanco moved for a reinvestigation, which was granted. Thereafter, on October 19, 1993, the Office of the Special Prosecutor recommended the dismissal of the charges against Flores and Tanchanco. In the same resolution, however, the Special Prosecutor made a sudden turnabout as regards Roxas, Nacpil and Kairan, and ordered their inclusion as accused in Criminal Case No. 18956. Deputy Special Prosecutor Jose de Ferrer voted for the approval of the recommendation. Special Prosecutor Aniano A. Desierto dissented. Ombudsman Conrado M. Vasquez approved the recommendation.

Roxas, Nacpil and Kairan filed a Motion for Reconsideration. The Review Committee of the Office of the Special Prosecutor recommended that the Motion for Reconsideration be granted and that the charge against the movants be dismissed. However, Deputy Special Prosecutor de Ferrer and Ombudsman Vasquez disapproved the recommendation. Accordingly, the Office of the Ombudsman filed an amended information with the Sandiganbayan impleading Roxas, Nacpil and Kairan as co-accused.^[9]

Thus, Roxas and Nacpil filed with this Court the instant petition for certiorari and prohibition, seeking to annul the orders of the Ombudsman directing their inclusion as accused in Criminal Case No. 18956.

The petition was dismissed in our Decision dated June 19, 2001 on the ground that the Ombudsman did not lose jurisdiction over petitioners after the charges against them were dismissed, considering that the reinvestigation was merely a repeat investigation. Likewise, petitioners were not denied due process when the Ombudsman issued the assailed orders because they were able to file their counter-affidavits during the preliminary investigation.

After a careful and meticulous review of the case, we find merit in the Motion for Reconsideration.

The records show that the participation of petitioner Roxas in the transactions complained of is limited to the following: