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[G.R. Nos. 50508-11. October 11, 1985]

VICENTE S. ORAP, *petitioner, vs.* **HON. SANDIGANBAYAN represented by HON. JUSTICES MANUEL R. PAMARAN, BERNARDO P. FERNANDEZ, and ROMEO M. ESCAREAL,** ***ET AL.,*** *respondents.*

SYLLABUS

1. **ADMINISTRATIVE LAW; ITS INVESTIGATORY POWERS ARE LIMITED TO COMPLAINTS INITIATED AGAINST OFFICERS AND PERSONNEL OF ADMINISTRATIVE AGENCIES.** — It is submitted by petitioner that under Section 9 (a) of the Tanodbayan Decrees, the courts, judges and other appurtenant judicial staff, among others, are beyond the reach of the Tanodbayan, and that only administrative acts of agencies of the government, whether or not criminal in character, are within the powers of said official. We do not fully agree with the petitioner's view. Quite obviously, the argument overlooks the fact that under the decree, the Tanodbayan functions not only as an ombudsman, but as prosecutor as well. As ombudsman, his investigatory powers are limited to complaints initiated against officers and personnel of administrative agencies, as defined in Section 9(a) of the law. To that extent, we agree with the petitioner's interpretation of the law that insofar as administrative complaints are concerned, the courts, judges and their appurtenant judicial staff are outside the Tanodbayan's investigatory power. The reason for such exclusion is quite evident: under Section 6, Article 10 of the Constitution, it is the Supreme Court that exercises administrative supervision over all courts and their personnel and, therefore, is the proper forum to which administrative complaints involving judges and the court's personnel should be lodged. As prosecutor, however, the authority of the Tanodbayan is plenary and without exceptions. His powers are defined in Sections 17 and 19 of P.D. 1607.

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2. ID.; ID.; TANODBAYAN GRANTED EXCLUSIVE AUTHORITY TO CONDUCT PRELIMINARY INVESTIGATION OF CASES COGNIZABLE BY THE SANDIGANBAYAN. – Section 17 of the Decree, in unequivocal term, confers upon the Tanodbayan, through the Chief Special Prosecutor and the Special Prosecutors, the exclusive authority to "conduct preliminary investigation of all cases cognizable by the Sandiganbayan, to file informations therefor, and to direct and control the prosecution of said cases therein." If, as petitioner contends, judges, and other court personnel lie outside the investigatory power of the Tanodbayan, then no judge or court employee could ever be brought to justice for crimes and offenses cognizable by the Sandiganbayan, for lack of the proper officer or entity authorized to conduct the preliminary investigation on complaints of such nature against them. This absurd situation the law could never have intended, considering that the Office of the Tanodbayan was purposely created to "give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency and efficiency in the government service." We have scrutinized the information in question and we find the same to have complied with the substantial and formal requirements of the law. They carry the certification of the investigating prosecutor as to the existence of a *prima facie* case. They also bear the approval of the Chief Special Prosecutor, as required by Section 11 of P.D. 1606. As petitioner is charged with violations of the Anti-Graft and Corrupt Practices Act, which are within the jurisdiction of the Sandiganbayan as defined under Section 4 of P.D. 1606, the said court validly acquired jurisdiction over the information in question.

APPEARANCES OF COUNSEL

Benigno M. Gubatan for petitioner.

D E C I S I O N

ESCOLIN, *J.*:

The issue posed in this petition for *certiorari* and prohibition may be postulated thus: has the Tanodbayan the authority to conduct a preliminary investigation of a complaint charging a

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municipal judge and his clerk of court with violation of Section 3(e) of Rep. Act No. 3019 and, upon a finding of *prima facie* case, proceed to file the corresponding information before the Sandiganbayan and prosecute the same?

The respondent Sandiganbayan ruled that the Tanodbayan has such authority. We affirm.

The antecedent facts are undisputed. Three informations were filed before the Sandiganbayan by Tanodbayan Special Prosecutor Rodolfo B. Aquino, charging petitioner Vicente S. Orap, presiding judge of the Municipal Court of Mangatarem, Pangasinan, with violation of Section 3(e) of Rep. Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The information, duly approved by Hon. Juan A. Sison, then Chief Special Prosecutor of the Tanodbayan, were docketed as Criminal Cases Nos. SB-020, 021 and 022. Likewise charged under Criminal Case No. 020 was Melanio B. Fernandez, petitioner's clerk of court.

On April 17, 1979, a fourth information, docketed as Criminal Case No. SB-189, was filed against petitioner, also for violation of Section 3(e) of Rep. Act No. 3019. The gravamen of all these charges was to the effect that the accused on different occasions unlawfully and feloniously received and took various sums of money from several persons in connection with Criminal Case No. 2032 of the Municipal Court of Mangatarem entitled, "*People vs. Pepito F. Iglesias*," for reckless imprudence resulting in multiple homicide, serious physical injuries and damage to property.

Before his scheduled arraignment, petitioner filed a motion to quash the informations on the ground that the officer who signed the same had no authority to do so and that, corollarily, the Sandiganbayan did not acquire jurisdiction over the offenses charged. After due hearing, the respondent court denied petitioner's motion to quash. Petitioner verbally moved for the reconsideration of the order but the relief sought was denied.

Hence, the instant recourse.

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It is the petitioner's position that the Tanodbayan has no power to conduct preliminary investigations, file informations and prosecute criminal cases against judges and their appurtenant judicial staff. In support of the thesis, he invokes the provisions of Section 9 in relation to Section 10 of Presidential Decree No. 1607, otherwise known as the Tanodbayan decree. These sections read as follows:

"SEC. 9. Definitions.— As used in this Decree, the term

(a) "Administrative agency" means any department or other governmental unit including any government-owned or controlled corporation, any official, or any employee acting or purporting to act by reason of connection with the government but it does not include (1) any court or judge, or appurtenant judicial staff; (2) the members, committees or staffs of the National Assembly except members thereof performing executive functions; (3) the President or his personal staff; and (4) the members of the Constitutional Commissions and their personal staffs.

(b) "Administrative act" refers to any action including decisions, omissions, recommendations, practices, or procedures of an administrative agency.

(c) "Failure of justice" refers to the defeat of a particular right, or the failure of reparation for a particular wrong, from the lack of inadequacy of a legal remedy for the enforcement of the one or the redress of the other.

"SEC. 10. Powers. — The Tanodbayan shall have the following powers:

(a) He may investigate, on complaint by any person or on his own motion or initiative, any administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;

(b) He shall prescribe the methods by which complaints are to be made, received, and acted upon; he may determine the scope and manner of investigations to be made; and, subject to the requirements of this Decree, he may determine the form, frequency, and distribution of his conclusions and recommendations;

(c) He may request and shall be given by each administrative agency the assistance and information he deems necessary to the

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discharge of his responsibilities; he may examine the records and documents of all administrative agencies; and he may enter and inspect premises within any administrative agency's control, provided, however, that where the President in writing certifies that such information, examination or inspection might prejudice the national interests, the Tanodbayan shall desist. All information so obtained shall be confidential, unless the President, in the interest of public service, decides otherwise;

(d) He may issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence the Tanodbayan deems relevant to a matter under his inquiry;

(e) He may undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act; if he believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies."

It is submitted by petitioner that under the aforequoted Section 9(a) of the Tanodbayan Decree, the courts, judges and other appurtenant judicial staff, among others, are beyond the reach of the Tanodbayan, and that only administrative acts of agencies of the government, whether or not criminal in character, are within the powers of said official.

We do not fully agree with the petitioner's view. Quite obviously, the argument overlooks the fact that under the decree, the Tanodbayan functions not only as an ombudsman, but as prosecutor as well. As ombudsman, his investigatory powers are limited to complaints initiated against officers and personnel of administrative agencies, as defined in Section 9(a) of the law. To that extent, we agree with the petitioner's interpretation of the law that insofar as administrative complaints are concerned, the courts, judges and their appurtenant judicial staff are outside the Tanodbayan's investigatory power. The reason for such exclusion is quite evident: under Section 6, Article 10 of the Constitution, it is the Supreme Court that exercises administrative supervision over all courts and their personnel and, therefore, is the proper forum to which administrative complaints involving judges and the court's personnel should be lodged.

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As prosecutor, however, the authority of the Tanodbayan is plenary and without exceptions. His powers are defined in Sections 17 and 19 of P.D. 1607, as follows:

"SEC. 17. Office of the Chief Special Prosecutor.- There is hereby created in the Office of the Tanodbayan an Office of the Chief Special Prosecutor composed of a Chief Special Prosecutor, an Assistant Chief Special Prosecutor, and nine (9) Special Prosecutors, who shall have the same qualifications as provincial and city fiscals and who shall be appointed by the President; x x x.

The Chief Special Prosecutor, the Assistant Chief Special Prosecutor, and the Special Prosecutors shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to file informations therefor and to direct and control the prosecution of said cases therein; Provided, however, that the Tanodbayan may, upon recommendation of the Chief Special Prosecutor, designate any fiscal, state prosecutor or lawyer in the government service to act as Special Prosecutor to assist in the investigation and prosecution of all cases cognizable by the Sandiganbayan who shall not receive any additional compensation except such allowances, per diems and travelling expenses as the Tanodbayan may determine in accordance with existing laws, rules and regulations.

x x x x x x x x x"

"SEC. 19. Prosecution of Public Personnel or Other Person.— If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall cause him to be investigated by the Office of the Chief Special Prosecutor who shall file and prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency. In case of failure of justice, the Tanodbayan shall make the appropriate recommendations to the administrative agency concerned."

Section 17 of the Decree, in unequivocal term, confers upon the Tanodbayan, through the Chief Special Prosecutor and the Special Prosecutors, the exclusive authority to "conduct preliminary investigation of all cases cognizable by the Sandiganbayan, to file informations therefor, and to direct and

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control the prosecution of said cases therein." If, as petitioner contends, judges, and other court personnel lie outside the investigatory power of the Tanodbayan, then no judge or court employee could ever be brought to justice for crimes and offenses cognizable by the Sandiganbayan, for lack of proper officer or entity authorized to conduct the preliminary investigation on complaints of such nature against them. This absurd situation the law could never have intended, considering that the Office of the Tanodbayan was purposely created to "give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency in the government service."[1]

We have scrutinized the informations in question and we find the same to have complied with the substantial and formal requirements of the law. They carry the certification of the investigating prosecutor as to the existence of a *prima facie* case. They also bear the approval of the Chief Special Prosecutor, as required by Section 11 of P.D. 1606.[2]

As petitioner is charged with violations of the Anti-Graft and Corrupt Practices Act, which are within the jurisdiction of the Sandiganbayan as defined under Section 4 of P.D. 1606,[3] the said court validly acquired jurisdiction over the informations in question.

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[1] Whereas clause of P.D. 1607.

[2] "Sec. 11. Proceedings free of charge. — x x x No criminal information or complaint shall be entertained by the Sandiganbayan except upon a certification by the Investigating Prosecutor of the existence of a *prima facie* case to be determined after a preliminary investigation conducted in accordance with applicable laws and approved by the Chief Special Prosecutor."

[3] SEC. 4. Jurisdiction. — The Sandiganbayan shall have jurisdiction over;

[a] Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379; x x x

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WHEREFORE, petition is hereby dismissed, with costs against petitioner.

SO ORDERED:

Makasiar, C.J., Aquino, Concepcion Jr., Abad Santos, Melencio-Herrera, Plana, Relova, Gutierrez, Jr., De la Fuente, Cuevas, Alampay, and *Patajo, JJ.*, concur.

Teehankee, J., reserves his vote.

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[G.R. No. 59096. October 11, 1985]

PACITA F. REFORMINA and HEIRS OF FRANCISCO REFORMINA, *petitioners, vs.* **THE HON. VALERIANO P. TOMOL, JR., as Judge of the Court of First Instance, Br. XI, CEBU CITY, SHELL REFINING COMPANY (PHILS.), INC., and MICHAEL, INCORPORATED,** *respondents.*

SYLLABUS

1. COMMERCIAL LAW; CENTRAL BANK CIRCULAR NO. 416; RATE OF INTEREST ALLOWED IN JUDGMENTS, CONSTRUED. — Central Bank Circular No. 416 which provides — "By virtue of the authority granted to it under Section 1 of Act 2655, as amended, otherwise known as the "Usury Law" the Monetary Board in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for *the loan or forbearance of any money, goods, or credits* and the rate allowed *in judgments,* in the absence of express contract as to such rate of interest, shall be twelve (12%) per cent per annum. This Circular shall take effect immediately." The judgments spoken of and referred to are judgments in litigation involving