

**BELINDA SOLANO, PETITIONER, V. OFFICE OF THE OMBUDSMAN
OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND
OTHER LAW ENFORCEMENT OFFICES, POLICE CHIEF MA. LUISA O.
CAPILI, RODOL...**

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure assailing, on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction, the Consolidated Joint Resolution dated 10 May 2011[1] and the Joint Order dated 08 November 2011[2] of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices, which dismissed both the criminal and administrative complaints against private respondents.

The Antecedents

Petitioner avers that about 6:00 o'clock in the evening of 09 November 2009, respondents Jolito Librado a.k.a Julito G. Celebrado, Ading Harris a.k.a. Willy E. Harris, Tabong Gacho a.k.a Jomar R. Gatcho and two other unidentified companions went to her house and arrested her without a warrant and against her will. It appears that earlier that day, a certain Ma. Theresa Medes filed a complaint for Unintentional Abortion/Physical Injuries against petitioner which apparently was the reason for her arrest.[3] Petitioner was then brought by the above-named respondents to the General Hospital of Mandaluyong City where she was subjected to a physical examination. Thereafter, petitioner was brought to the office of respondent P/Insp. Ma. Luisa O. Capili of the WCPD Mandaluyong City Police Station who ordered petitioner's confinement for eleven (11) days at the National Center for Mental Health (NCMH), Mandaluyong City. Feeling aggrieved by the incident, she filed administrative and criminal complaints for misconduct and arbitrary detention against the respondents.

On the other hand, respondent P/Insp. Capili narrated that petitioner was arrested by Bantay-Bayan members led by respondent Librado on the complaint of Ma. Theresa Medes for unintentional abortion and physical injuries. Petitioner was then brought to the office of respondent P/Insp. Capili for investigation. While the said investigation was in progress, petitioner's brother - Moly Solano - requested that the matter be amicably settled because petitioner is a mental patient. He presented a doctor's prescription for petitioner from NCMH as proof. In the light of this revelation, it was agreed that the complaint against petitioner would be referred to the Barangay Lupon for settlement on the condition that petitioner will be brought back to NCMH. Pursuant thereto, a referral letter[4] addressed to NCMH was sent by respondent P/Insp. Capili turning over petitioner to said mental institution.

On the part of respondents Brgy. Capt. Rodolfo Posadas and Bantay Bayan members Jolito Librado, Ading Harris and Tabong Gatcho, they explained that they received a call from Police Community Precinct 6 of Mandaluyong City Police Station requesting them to invite petitioner to the police station because there is a complaint for physical injuries filed against her by Ma. Theresa Medes. Accordingly, they went to petitioner's house and invited

her to go to the police station. Petitioner voluntarily acceded and together with her brother, went along to Mandaluyong City Medical Center for a medical examination and thereafter, to the police station for the proper disposition of petitioner's case. During the conference at that time, respondents already noticed the abnormal behavior of petitioner as she was incessantly talking loud. Petitioner's brother - Moly Solano – apprised Medes of his sister's mental condition and pleaded with her to bring petitioner to NCMH, instead of being detained at the police station. Thereafter, respondents accompanied petitioner and her brother to NCMH and then left.

After due hearing, public respondent rendered the assailed Consolidated Joint Resolution dated 10 May 2011 for the dismissal of both the criminal and administrative cases against respondents. Petitioner's Motion for Reconsideration[5] was also denied in the likewise assailed Joint Order dated 08 November 2011. Petitioner thus brings to Us the instant petition premised on the following arguments:

I.

THERE IS PRIMA FACIE EVIDENCE OF GRAVE ABUSE OF DISCRETION ON THE PART OF THE PUBLIC RESPONDENT DEPUTY OMBUDSMAN TANTAMOUNT TO LACK OF JURISDICTION WHEN:

a) THE PUBLIC RESPONDENT DEPUTY OMBUDSMAN DENIED THE MOTION FOR RECONSIDERATION FOR LACK OF MERIT;

II.

THERE WAS (sic) SERIOUS ERRORS IN THE FINDINGS OF FACTS (sic) AND EVIDENCE WHICH IF NOT CORRECTED WILL CAUSE GRAVE AND IRREPARABLE DAMAGE OR INJURY TO HEREIN PETITIONER.

Our Ruling

We dismiss the instant petition.

On the matter of the criminal aspect of the case, this Court lacks competence to entertain the instant petition. As held in *Office of the Ombudsman vs. Heirs of Margarita Vda. De Ventura*,^[6] the Court of Appeals cannot review the orders, directives or decisions of the Office of the Ombudsman in criminal or non-administrative cases. The remedy of the aggrieved party is to file an original action of certiorari under Rule 65 directly before the Supreme Court.

With respect to administrative matters, it is pertinently provided by Section 7, Rule III of Ombudsman Administrative Order No. 7, as amended by Ombudsman Administrative Order No. 17, Series of 2003 (pursuant to Section 27 of Republic Act No. 6770 - the Ombudsman Act) that:

x x x

Sec. 7. Finality and execution of decision. - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the motion for reconsideration.

x x x

Normally, a decision of the Ombudsman is appealable to the Court of Appeals via a Petition for Review under

Rule 43 of the Rules of Court. However, the internal rules of the Ombudsman provide for instances when its verdict is final and unappealable.

Accordingly, as in this case, when the administrative complaint is dismissed and the respondent is absolved from or exonerated of the administrative charge, such decision of the Ombudsman is final, executory and unappealable.[7] In such instances, the remedy is to file a petition for certiorari before the Supreme Court.[8]

WHEREFORE, foregoing considered, the petition is DISMISSED.

SO ORDERED.

Reyes, Jr., (Chairperson) and Pizarro, JJ., concur.

[1] Rollo, pp. 34-44.

[2] Id., pp. 55-57.

[3] Rollo, p. 32 and 35.

[4] Rollo, p. 28.

[5] Id., pp. 45-54.

[6] G.R. No. 151800, 05 November 2009 citing *Kuizon vs. Desierto*, G.R. No. 140619-24, 09 March 2001 and *Golangco vs. Fung*, G.R. Nos. 147640 & 147762, 16 October 2006.

[7] *Eloisa L. Tolentino vs. Atty. Roy M. Loyola, et. al.*, G.R. No. 153809, 27 July 2011.

[8] *Dr. Ulysses Brito vs. Office of the Deputy Ombudsman for Luzon, et al.*, G.R. No. 173152, 10 July 2007.

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