# LEONILA GARCIA-RUEDA, PETITIONER, VS. REMEDIOS A. AMOR, RAUL R. ARNAU, ABELARDO L. APORTADERA, JR., FRANCISCO A. VILLA, ALL OF THE OFFICE OF THE OMBUDSMAN, AND LEONCIA R. DIMAGI...

*G.R. No. 116938. September 20, 2001*

Ponente: PARDO, J.

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**PARDO, J.:**

The Case

The case is a petition for certiorari[1] to annul and set aside the resolution of the Ombudsman dismissing the complaint for violation of R. A. No. 3019, Sec. 3 [e], against respondent assistant city prosecutor Leoncia R. Dimagiba, for lack of evidence showing that complainant suffered undue injury through manifest partiality and evident bad faith of the respondent public officials.[2]

The Facts

On 19 November 1991, petitioner's husband, Engr. Florencio V. Rueda, Jr., 32 years old, underwent an operation at the Santo Tomas University Hospital, Sampaloc, Manila for the removal of a stone blocking his ureter. Dr. Domingo Antonio, Jr., urological surgeon, performed the operation with Dr. Erlinda Balatbat-Reyes as anaesthesiologist. The surgery started at 8:30 a. m. and it was over at 9:50 a. m. The patient was given spinal/regional anaesthesia (Pontocaine) and inhalational or gaseous anaesthesia (Forane or Isuflorane).[3]

A few minutes after the surgery, while the patient was wheeled to the recovery room, he manifested facial twitches, muscle rigidity, and tonic and clonic seizures. His body temperature rose to 42 degrees Centigrade and blood pressure was 210 (systolic mm Hg) over 110 (diastolic mm Hg) per clinical records.[4]

Doctors Antonio and Balatbat-Reyes immediately administered appropriate emergency treatment for epileptic seizures in consultation with specialists on neurology, cardiology and anaesthesia. However, the general condition of the patient deteriorated, and he later developed asystole at 3:15 p. m. The doctors initiated cardiopulmonary resuscitation procedure. Nevertheless, it was unsuccessful, and at 3:45 p. m., the patient died.[5]

Dr. Domingo Antonio, Jr. signed the death certificate indicating the immediate cause of death as status epilepticus, antecedent cause unknown. Other significant condition contributing to death-ureterolithotomy (lower third, right) under spinal anaesthesia.[6]

In the evening of the same day, relatives of the victim requested the National Bureau of Investigation (NBI) to conduct an autopsy on his cadaver. According to the NBI Medico-Legal findings, the victim died of malignant hyperthermia, secondary to anaesthesia clinical[7] and recommended the filing of criminal charges against Dr. Domingo Antonio, Jr. and Dr. Erlinda Balatbat-Reyes, for reckless imprudence resulting in homicide.[8]

On 7 July 1993, Assistant City Prosecutor Dimagiba to whom the case was reassigned (after several other

prosecutors inhibited themselves) conducted another preliminary investigation.[9]

On 24 August, 1993, respondent assistant city prosecutor Dimagiba recommended the dismissal of the complaint against Dr. Reyes and the filing of an information for reckless imprudence resulting in homicide against Dr. Domingo Antonio, Jr.[10]

On 25 August 1993, respondent assistant city prosecutor Dimagiba filed with the Regional Trial Court, Manila, an information against Dr. Domingo Antonio, Jr. for reckless imprudence resulting in homicide.[11]

On 23 November 1993, petitioner filed with the Office of the Ombudsman a complaint against assistant city prosecutor Dimagiba for violation of R. A. No. 3019, Sec. 3 [e], and for grave misconduct.[12]

On 1 March 1994, Graft Investigation Officer II (GIO) Remedios A. Amor submitted to the Ombudsman a draft resolution recommending dismissal of the charges against assistant city prosecutor Dimagiba for lack of evidence.[13]

On 4 March 1994, respondent Raul R. Arnau, head, evaluation and preliminary investigation bureau, Office of the Ombudsman, recommended approval of the resolution.[14] On 8 March 1994, respondent Abelardo L. Aportadera, Jr. assistant Ombudsman (EIO), reviewed the resolution, and on 9 March 1994, respondent Francisco A. Villa, Overall Deputy Ombudsman approved the resolution.[15]

On 7 April, 1994, petitioner filed with the Office of the Ombudsman a motion for reconsideration,[16] however, on 29 July 1994, respondent officials of the Office of the Ombudsman denied the motion.[17]

Hence, this petition.[18]

The Issue

The issue raised is whether respondent officials of the Office of the Ombudsman gravely abused their discretion in finding that there was no evidence sufficient to warrant the prosecution of respondent assistant city prosecutor Dimagiba for violation of R. A. No. 3019, Sec. 3 [e].[19]

The Court's Ruling

Petitioner posits that in dismissing the case for reckless imprudence resulting in homicide against Dr. Erlinda Balatbat-Reyes despite overwhelming evidence pointing to the criminal liability of the latter, assistant city prosecutor Dimagiba violated the Anti-Graft Act, R. A. No. 3019, Section 3 [e].

In his comment,[20] the Solicitor General submitted the view that "the Office of the Ombudsman is not the proper forum for the review of what might be reversible errors in the appreciation of the evidence in cases before quasi-judicial or judicial bodies."[21]

We agree with the Solicitor General that the Ombudsman may not pass upon errors of the prosecutor's office intrinsic to the resolution itself of the case as that function pertains to the power of review of the Secretary of Justice.[22]

In fact, in this case, the petitioner appealed the resolution of assistant city prosecutor Dimagiba to the Secretary of Justice. On 27 September 1994, the Secretary of Justice dismissed the petition for review.[23]On 23 January 1995, the Secretary of Justice denied petitioner's motion for reconsideration.[24]

On March 10, 1995, petitioner filed with the Supreme Court a petition for certiorari[25] questioning the ruling of the Secretary of Justice, which we referred to the Court of Appeals.[26] On 13 June 1996, the Court of Appeals promulgated a decision setting aside the resolution of the Secretary of Justice and directing the City Prosecutor of


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Manila to give due course to the information against respondent Dr. Reyes.[27]

The essential elements of violation of R. A. No. 3019, Sec. 3 [e] are as follows:

> "(1)
>
> The accused is a public officer or a private person charged in conspiracy with the former;
>
> "(2)
>
> The said public officer commits the prohibited acts during the performance of his or her official duties or in relation to his or her public positions;
>
> "(3)
>
> That he or she causes undue injury to any party, whether the government or a private party;
>
> "(4)
>
> Such undue injury is caused by giving unwarranted benefits, advantage or preference to such parties; and
>
> "(5)
>
> That the public officer has acted with manifest partiality, evident bad faith or gross inexcusable negligence."[28]

In dismissing petitioner's charges against Dr. Erlinda Balatbat-Reyes, respondent prosecutor Dimagiba did not cause any undue injury to petitioner. Respondent prosecutor as a quasi-judicial official exercises discretion to determine whether probable cause exists sufficient to sustain the charge against Dr. Reyes.[29] In the performance of the duties of her office as prosecutor, respondent assistant city prosecutor Dimagiba may err.[30] Such error may not necessarily cause undue injury to any party. To constitute this element of the offense, the act of respondent must cause specific quantified injury to any party by giving unwarranted benefits, advantage or preference to such party with the public officer acting with manifest partiality, evident bad faith or gross inexcusable negligence.[31]

In the absence of evidence showing that the act of respondent assistant city prosecutor in dismissing the charge against Dr. Reyes was done in evident bad faith or gross inexcusable negligence, causing undue injury to petitioner, the charge of violation of R. A. No. 3019, Sec. 3[e], would not prosper.[32]

The Fallo

WHEREFORE, the Court hereby DISMISSES the petition for lack of merit.

No costs.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Kapunan, and Ynares-Santiago, JJ., concur.
Puno, J., on official leave.

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[*] Transferred to the Philippine National Oil Company, Rollo, p. 646.

[**] Now retired.

[1] Under Rule 65, Revised Rules of Court (1964 Revision).

[2] Respondents are: Raul R. Arnau, Abelardo L. Aportadera, Jr., Francisco A. Villa, all of the Office of the Ombudsman and Leoncia R. Dimagiba, assistant city prosecutor of Manila.

[3] Petition, Rollo, pp. 10-11.

[4] Ibid., at p. 11.

[5] Rollo, pp. 180-181.

[6] Certificate of Death, Rollo, p. 138.

[7] Autopsy Report No. N-91-3035, Rollo, p. 139.

[8] Rollo, pp. 15-16.

[9] Rollo, pp. 11-13, 223.

[10] Rollo, p. 16.

[11] Docketed as Criminal Case No. 93-126981. Rollo, p. 23. On 17 September 1996, the trial court dismissed the case, on joint motion of the parties because they have reached amicable settlement with respect to the civil aspect.

[12] Docketed as OMB-0-93-3252. Rollo, p. 24.

[13] Petition, Annex "A", Resolution, Rollo, pp. 42-46.

[14] Ibid., at p. 45.

[15] Petition, Annex "A", Rollo, pp. 42-46, at p. 45.

[16] Petition, Annex "B-1", Motion for Reconsideration, Rollo, pp. 49-62.

[17] Petition, Annex "B", Order, Rollo, pp. 47-48.

[18] Petition filed on 27 September 1994. On 26 February 1997, we gave due course to the petition (Rollo, p. 954).

[19] Comment, Rollo, pp. 880-896.

[20] Rollo, pp. 880-896.

[21] Rollo, pp. 880-896, at p. 886.

[22] Jalandoni v. Drilon, 327 SCRA 107, 118 [2000]. Department Order No. 70, dated July 3, 2000.

[23] Rollo, pp. 796-798.

[24] Rollo, p. 799.

[25] G. R. No. 118981.

[26] Per Resolution dated June 21, 1995. Docketed as CA-G. R. SP No. 37752.

[27] Decision of the Court of Appeals, Rollo, pp. 924-953.

[28] Garcia v. Office of the Ombudsman, 325 SCRA 667, 669-670 [2000], citing Pecho v. Sandiganbayan, 238 SCRA 116, 128 [1994]; Llorente Jr. v. Sandiganbayan, 350 Phil. 820, 837 [1998]; Ingco v. Sandiganbayan, 338 Phil. 1061, 1072 [1997].

[29] Estrella v. Orendain, 37 SCRA 640 [1971];Castillo v. Villaluz, 171 SCRA 39, 42 [1989]; Pono v. National Labor Relations Commission, 341 Phil. 615, 620 [1997], citing Ogburn v. Court of Appeals, 212 SCRA 483 [1992]; People v. Devaras, 228 SCRA 482 [1993]; Cruz, Jr. v. People, 233 SCRA 439 [1994].

[30] To err is human.

[31] Avila v. Sandiganbayan, 307 SCRA 236 [1999].

[32] Venus v. Desierto, 358 Phil. 675, 699 [1998].


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