

DONATO S. SUYAT, JR., PETITIONER, VS. HON. RUBEN D. TORRES, IN HIS CAPACITY AS EXECUTIVE SECRETARY, RESPONDENT.

G.R. No. 133530. October 25, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 42820 dismissing the petition for certiorari of the petitioner and affirming Administrative Order (AO) No. 95 of the President of the Philippines, effectively dismissing petitioner Donato S. Suyat, Jr., as 2nd Assistant Provincial Prosecutor of Rizal, for grave misconduct.

As culled by the Court of Appeals (CA) from the records, this case stemmed from the following antecedents:

It appears that on May 23, 1993, a robbery incident took place at the residential house of Atty. Reynaldo V. Bautista located at Block 25, Lot 25, Phase 80, Sardony Street, Pasig Greenpark Village, Barangay San Isidro, Cainta, Rizal, and allegedly committed by Randy Torres, Nelson Torres, Marlon Bonson, and Bernardo Bautista (Rollo, pp. 70, 90, 121).

After the timely arrest of the above suspects, Cainta Police authorities filed before Inquest Prosecutor Nestor V. Gapusan a criminal complaint for robbery with force upon things against Randy Torres, Nelson Torres, Marlon Bonson, and Bernardo Bautista. At the inquest proper, Bernardo Bautista admitted the sole responsibility for the commission of the aforesaid crime and exonerated his co-other suspects. But despite this admission by Bernardo Bautista, the preliminary investigation was still conducted upon recommendation of the said inquest prosecutor, and considering the waiver of detention signed by the suspects, they were detained in the provincial jail pending the termination of the preliminary investigation (Rollo, pp. 25, 90).

Not satisfied with the above detention, Imelda Torres, mother of suspects Randy and Nelson Torres, and also the aunt of suspect Marlon Bonson, followed up the case on June 8, 1993 with the Prosecutor's Office of Rizal. In the process, Imelda Torres was able to know that Prosecutor Donato S. Suyat, Jr. was the reviewing prosecutor of all inquest cases, so she talked to Prosecutor Suyat, Jr. who, initially, demanded Imelda Torres the sum of P20,000.00 for the dismissal of the case against the latter's two (2) sons and nephew. Realizing, however, that this amount is much lower than what was required of Imelda Torres in the payment of cash bond for every suspect, she decided to bargain the amount until Prosecutor Suyat, Jr. finally agreed to the sum of P15,000.00 to be given in his office the following day on June 9, 1993 at 3:00 p.m. in the afternoon (sic) (Rollo, pp. 25-26, 50-51, 202).

Upon consultation with her lawyer Atty. Mariano Santiago, Imelda Torres was referred by said counsel to the Anti-Organized Crime Division of the National Bureau of Investigation for immediate assistance. Thus, the Anti-Organized Crime Division thru its Chief, Atty. Artemio Sacaguing, ordered Special Agent Mar Panganiban to form a team for the purpose of entrapping Prosecutor Suyat, Jr. (id., pp. 26, 51, 72, 202).

On June 9, 1993, at about 3:00 in the afternoon, Imelda Torres, with her daughter Mildred Torres, went to the office of Prosecutor Suyat, Jr. Since the dismissal papers were still being typed at that time, Imelda Torres and

her daughter Mildred waited until 5:00 in the afternoon on which occasion Prosecutor Suyat, Jr. handed over to the former the resolution (Annex “9,” *id.*, p. 124) dismissing the robbery case in favor of Imelda’s two (2) sons and nephew. However, despite suggestion of Imelda’s daughter, Mildred Torres, that the P15,000.00 would be given instead on the following day of June 10, 1993 because of Prosecutor Suyat, Jr.’s promise to give on the same day the release papers of Randy and Nelson Torres and Marlon Bonson from their detention, such arrangement was to no avail as Prosecutor Suyat, Jr. vehemently refused and countered that he needed the money that time very badly so he had already prepared the dismissal papers for the said three suspects. Hence, Imelda Torres handed to Prosecutor Suyat, Jr. the envelope containing the P15,000.00, all in one thousand denomination (*id.*, pp. 83-86), and, thereafter, Imelda Torres and her daughter Mildred left the office with her (Imelda) bag under her armpit (Rollo, pp. 51, 203).

As the foregoing was considered the pre-arranged signal to the NBI agents, the team of NBI Agent Mar Panganiban immediately entered the office of Prosecutor Suyat, Jr. who, at that time, was with a male companion who turned out to be his son Junior. From the introduction of the NBI agents, Prosecutor Suyat, Jr. put down the envelope he was holding and kept his hand on his pocket. When Prosecutor Suyat, Jr. was asked to count the money in the envelope, he refused until the time he was forced to count the said money by himself. Since there was only P9,000.00 in the envelope, the NBI agents decided to search Prosecutor Suyat, Jr.’s son Junior and they found the folded P6,000.00 from Junior’s pocket. To relieve his son from any liability, Prosecutor Suyat, Jr. told NBI Agent Panganiban to spare his son from any involvement in this entrapment since the money came from him anyway. Accordingly, Prosecutor Suyat, Jr. was brought to the NBI for forensic chemistry examination under which he was found positive, and despite the additional evidence produced by the NBI in relation to the entrapment activity, Prosecutor Suyat, Jr. still opted to remain silent (Rollo, pp. 27, 204).

In view of the foregoing, Rosalina A. Espina, in her capacity as Supervising Agent of the National Bureau of Investigation, filed with the Department of Justice an unnumbered administrative complaint accusing Prosecutor Suyat, Jr. of the Office of the Provincial Prosecutor of Rizal of grave misconduct and receiving for personal use of a fee, gift or other valuable thing in the course of official duties in violation of Anti-Graft laws and Section 46, paragraphs b(4) and b(9) of Executive Order No. 292 of the Administrative Code of 1987. By way of relief, Rosalina A. Espina prayed for the dismissal of Prosecutor Suyat, Jr. from the government service after due hearing of the case (*id.*, pp. 70-71).

Finding that there was prima facie case of grave misconduct and receiving for personal use of a fee, gift or any valuable thing in the course of official duties against Prosecutor Suyat, Jr., Secretary Franklin M. Drilon of the Department of Justice issued a formal charge against Prosecutor Suyat, Jr. for the said administrative charge (Rollo, p. 93) as well as memorandum placing him under preventive suspension for ninety (90) days effective from receipt thereof and while the case was under formal investigation of State Prosecutor Leah T. Armamento (*id.*, p. 94).

From the several hearings of the case, and in the light of the contending parties’ evidences as well as counter-affidavit and memorandum submitted by Prosecutor Suyat, Jr. (*id.*, pp. 4, 95-111, 162-191), Secretary Franklin M. Drilon of the Department of Justice recommended to the then Executive Secretary Teofisto T. Guingona, Jr. of the Office of the President the immediate dismissal of Prosecutor Suyat, Jr. from the government service with forfeiture of all benefits under the law (Rollo, pp. 50-54).

In response, then Executive Secretary Teofisto T. Guingona, Jr. issued a memorandum stating his concurrence with the recommendation of Secretary Franklin M. Drilon, and recommended to President Fidel V. Ramos the approval of the proposed Administrative Order dismissing Prosecutor Suyat, Jr. from the government service with forfeiture of all benefits under the law (*id.*, pp. 55-56).

On November 26, 1993, the Office of the President of the Philippines thru then Executive Secretary Teofisto T. Guingona, Jr. issued the first questioned order dismissing Prosecutor Suyat, Jr. from the government service

with forfeiture of all benefits under the law as earlier adverted to.

Prosecutor Suyat, Jr. filed his first motion for reconsideration (Rollo, pp. 34-49) which was denied, this time, by new Executive Secretary Ruben D. Torres in his second questioned order dated February 16, 1996 (id., p. 31). Not contended (sic), Prosecutor Suyat, Jr. still filed his second motion for reconsideration (id., pp. 65-69), but the same was, likewise, finally denied by Executive Secretary Ruben D. Torres in his third questioned order dated November 7, 1996 (id., p. 32).

Hence, the instant petition interposed by Prosecutor Suyat, Jr. alleging that the Office of the President thru Executive Secretary Ruben D. Torres committed grave abuse of discretion in issuing the assailed orders because (a) the first questioned order is not supported by the evidence on record and is tainted with gross error of law and irregularities prejudicial to the interest of Prosecutor Suyat, Jr.; and (b) the second and third questioned orders violates (sic) the prevailing doctrine concerning pro forma motions for reconsideration.[2]

As stated earlier, the appellate court dismissed the petition for review of the petitioner holding, inter alia, as follows:

Firstly, the instant petition should be dismissed outright inasmuch as petitioner adopted an erroneous remedy in pursuing his cause in the instant administrative case before this Court. It is explicitly provided under Section 1 of Revised Administrative Circular No. 1-95 which took effect on June 1, 1995 that a final order by any quasi-judicial agency shall be appealable to this Court by way of petition for review. This provision is now even substantially incorporated under Section 1, Rule 43 of the present 1997 Rules of Civil Procedure effective last July 1, 1997. It is un rebutted on record that petitioner Suyat, Jr. received the third questioned order on December 2, 1996 so he had still up to December 17, 1996 to elevate his administrative case before this Court by way of petition for review. Instead, petitioner filed the instant petition for certiorari to this Court on December 17, 1996, specifically within the reglementary period of appeal, despite the availability of the said procedural remedy under the aforesaid rules.

The impropriety of the instant petition for certiorari is also evident considering that the assigned issues by petitioner involve factual issues and/or evidentiary matters which are not reviewable by the extraordinary remedy of certiorari. Petitioner must realize that the petition for certiorari is intended to correct defects of jurisdiction solely and cannot legally be used for any other purpose (GSIS vs. Court of Appeals, 169 SCRA 244, 253; Garcia, Jr. vs. Ranada, Jr., 166 SCRA 9, 16-17; Philippine Rabbit Bus Lines, Incorporated vs. Galuaran and Pilaes Construction Co., 118 SCRA 664, 667-668, among the cases).

Secondly, even if this Court were to consider the instant petition as the proper petition for review in the interest of justice, the same must still fail because petitioner was undisputably liable for grave misconduct given the clear evidence imputed against him.[3]

...

Finally, We find the petitioner's invocation of the constitutional provision on the right to remain silent immaterial given the apparent quantum of proof established for the administrative liability of petitioner for grave misconduct. We concur with the valid observation of the Solicitor General on this matter which We believe are in keeping with the law and jurisprudence, thus:

"Pertinently, petitioner assailed as erroneous the finding that his silence and refusal to give any statement during the NBI investigation pointed to the conclusion that his defense was a mere afterthought, arguing that it was well within his right to remain silent.

This is untenable.

The right of a person under custodial investigation to remain silent is primarily intended to protect said person from being forced to make a confession or to give incriminating statements against himself. Undoubtedly, however, there is nothing incriminating in petitioner's claim that he was framed up: on the contrary, it is

favorable to petitioner as it tends to exonerate him. In other words, instead of choosing to remain silent and refusing to give any statement, petitioner should have seized the NBI investigation as an opportunity to denounce the alleged frame up incident. But he did not, although as a public prosecutor, he knew very well that such prompt action would have made his defense more sound and convincing. Petitioner only has himself to blame if his belated claim or defense was found implausible.

Evidently, petitioner cannot validly invoke the right to remain silent to justify what, under the circumstances, constitutes an invalid and incredible defense.” (Emphasis supplied)

(Comment of the Solicitor General, pp. 14-16; Rollo, pp. 213-215)[4]

The petitioner now assails the decision of the CA, contending that:

- The findings of fact and the Decision are erroneous because they are not supported by the evidence on record, an issue of law;
- The Decision would render useless counter-affidavits filed by respondents in administrative and criminal cases;
- The Decision would compel persons under custodial investigation by the National Bureau of Investigation or other police agencies not to remain silent;
- The Decision ignored petitioner’s allegations regarding irregularities which attended the issuance of Administrative Order No. 95, Series of 1993.[5]

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The petition is denied.

Administrative Order No. 95
of the President Had Become
Final and Executory When
the Petitioner Filed His
Petition For Certiorari in
the Court of Appeals.

In his petition at bar, the petitioner did not assail the ruling of the CA that his petition for certiorari in the said court was an inappropriate remedy. The petitioner is, thus, bound by the ruling of the CA.

The records show that the petitioner received a copy of AO No. 95 dismissing him from the government service on December 14, 1993. He had fifteen days from the said date within which to file a motion for reconsideration of the order. The petitioner filed a timely motion for reconsideration of the order which the President denied in an Order dated February 16, 1996. The petitioner received a copy of the same on February 28, 1996. Instead of filing a petition for review of the said orders with the CA, the petitioner filed a second motion for reconsideration which the President denied in an Order dated November 7, 1996. Cited therein was Section 7 of AO No. 18, Series of 1987, which prohibits the filing of a second motion for reconsideration of the final order or decision of the Office of the President of the Philippines.[6] Thus, the filing by the petitioner of a second motion for reconsideration of AO No. 95, being a prohibited pleading, did not suspend the period to appeal the February 28, 1996 Order to the CA via a petition for review. Indubitably then, when the petitioner filed his petition for certiorari with the CA after the President denied his second motion for reconsideration, AO No. 95 of the President had become final and executory, beyond the jurisdiction of the CA to alter, modify, or reverse.[7]

The Petition for Certiorari Filed

in the Court of Appeals Not A
Substitute for the Lost Remedy
of Appeal

We are convinced that the petitioner filed a petition for certiorari under Rule 65 of the Rules of Court instead of a petition for review under Rule 43 of the said Rules because he realized that the period within which to file the said petition for review had lapsed, and that AO No. 95 of the President had become final and executory. By filing a petition for certiorari under Rule 65 of the Rules of Court, the petitioner sought to nullify the said order via an independent action, in lieu of his lost right of appeal. But case law is that the existence and the availability of the right to appeal are antithetical to the remedy of the special civil action of certiorari. These two remedies are mutually exclusive.[8]

The Errors Ascribed to the
Office of the President Are
Errors of Judgment and Not
Errors of Jurisdiction

In a petition for certiorari, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. Errors of judgment of the trial court are to be resolved by the appellate court in the appeal by and of error or via a petition for review on certiorari in this Court under Rule 45 of the Rules of Court. Certiorari will issue only to correct errors of jurisdiction. It is not a remedy to correct errors of judgment.[9] An error of judgment is one in which the court may commit in the exercise of its jurisdiction, and which error is reversible only by an appeal. Error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari.[10] Certiorari will not be issued to cure errors by the trial court or quasi-judicial body in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings, and its conclusions of law.[11] As long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 43 of the Rules of Court.[12]

In this case, the petitioner alleged in his petition for certiorari that AO No. 95 of the President was not supported by the evidence on record; that the National Bureau of Investigation (NBI) conducted its operations with undue interest and enthusiasm; and that the Office of the President failed to appreciate the defenses he invoked, such as the violation by the NBI of his right to remain silent and the right against self-incrimination. The petitioner complained that the President even used his invocation of his constitutional rights as evidence against him. However, these errors ascribed by the petitioner to the CA and the President of the Philippines are mere errors of judgment and not of jurisdiction.

The Issues Raised in the Petition
At Bar Are Factual

Under Rule 45 of the Rules of Court, only questions of law may be raised in a petition for review on certiorari, the reason being that the Court is not a trier of facts. It is not the function of the Court to calibrate the evidence of the parties. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them.[13] Moreover, findings of facts of questions of law, in addition to questions of facts of quasi-judicial bodies or agencies of the government, if based on substantial evidence and particularly when affirmed by the CA, are conclusive on the Court unless grave abuse is shown amounting to lack

or excess of jurisdiction.[14] The petitioner failed to preponderantly establish such abuse on the part of the CA. The records show that the Secretary of Justice calibrated the evidence on record and ruled against the petitioner. The President of the Philippines reviewed the records and the evidence anew, and affirmed the findings and rulings of the Secretary of Justice. The CA again reviewed the records and the evidence, and affirmed the rulings of the Secretary of Justice and the President of the Philippines. Even if the Secretary of Justice, the Office of the President of the Philippines, and the CA erred in appreciating against the petitioner the results of the Forensic Chemistry examination conducted by the NBI, there is more than ample evidence on record to support the finding that the petitioner is guilty of grave misconduct.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. No costs.

SO ORDERED.

Puno, J., (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Bennie A. Adefuin-de la Cruz (retired), with Associate Justices Fidel P. Purisima (retired) and Quirino D. Abad Santos, Jr. (retired), concurring.

[2] Rollo, pp. 41-44.

[3] Id. at 44-45.

[4] Id. at 48-49.

[5] Id. at 17.

[6] SECTION 7. Decisions/resolutions/orders of the Office of the President shall, except as, otherwise, provided for by special laws, become final after the lapse of fifteen (15) days from receipt of a copy thereof by the parties, unless a motion for reconsideration thereof is filed within such period.

Only one motion for reconsideration by any one party shall be allowed and entertained, save in exceptionally meritorious cases.

[7] Development Bank of the Philippines v. Court of Appeals, 358 SCRA 501 (2001).

[8] Ley Construction & Development Corporation v. Hyatt Industrial Manufacturing Corporation, 339 SCRA 223 (2000).

[9] People v. Court of Appeals, 308 SCRA 687 (1999).

[10] Toh v. Court of Appeals, 344 SCRA 831 (2000).

[11] Tensorex Industrial Corporation v. Court of Appeals, 316 SCRA 471 (1999).

[12] People v. Court of Appeals, *supra*.

[13] Manila Bay Club Corporation v. Court of Appeals, 245 SCRA 715 (1995).

[14] Batangas Laguna Tayabas Bus Company, Inc. v. Bitanga, 362 SCRA 635 (2001).

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