

SALVADOR M. DE VERA, PETITIONER, VS. HON. BENJAMIN V. PELAYO, PRESIDING JUDGE, BRANCH 168, REGIONAL TRIAL COURT, PASIG CITY; AND EVALUATION AND INVESTIGATION BUREAU, OFFICE OF T...

G.R. No. 137354. July 06, 2000

Ponente: PARDO, J.

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PARDO, J.:

"It is said that a little learning is a dangerous thing; and he who acts as his own lawyer has a fool for a client."

In Re: Joaquin Borromeo
241 SCRA 408 (1995)

The case is a petition for certiorari and mandamus[1] assailing the Evaluation Report of the Evaluation and Investigation Office, Office of the Ombudsman, dated October 2, 1998 referring petitioner's complaint to the Supreme Court and its Memorandum, dated January 4, 1999,[2] denying petitioner's motion for reconsideration.

We state the relevant facts.

Petitioner is not a member of the bar. Possessing some awareness of legal principles and procedures, he represents himself in this petition.

On August 28, 1996, petitioner instituted with the Regional Trial Court, Pasig City a special civil action for certiorari, prohibition and mandamus to enjoin the municipal trial court from proceeding with a complaint for ejectment against petitioner.[3] When the Judge originally assigned to the case inhibited himself, the case was re-raffled to respondent Judge Benjamin V. Pelayo.[4]

On July 9, 1998, the trial court denied petitioner's application for a temporary restraining order. Petitioner moved for reconsideration. The court denied the same on September 1, 1998.[5]

On September 23, 1998, petitioner filed with the Office of the Ombudsman an affidavit-complaint[6] against Judge Pelayo, accusing him of violating Articles 206[7] and 207[8] of the Revised Penal Code and Republic Act No. 3019.[9]

On October 2, 1998, Associate Graft Investigation Officer, Erlinda S. Rojas submitted an Evaluation Report recommending referral of petitioners' complaint to the Supreme Court. Assistant Ombudsman Abelardo L. Apotadera approved the recommendation.[10] We quote the decretal portion of the report:[11]

"FOREGOING CONSIDERED, and in accordance with the ruling in *Maceda vs. Vasquez*, 221 SCRA 464, it is respectfully recommended that the instant complaint be referred to the Supreme Court for appropriate action. The same is hereby considered CLOSED and TERMINATED insofar as this Office is concerned."

On October 13, 1998, the Office of the Ombudsman referred the case to the Court Administrator, Supreme

Court.[12]

On November 6, 1998, petitioner moved for the reconsideration of the Evaluation Report.

On January 4, 1999, the Ombudsman denied the motion for reconsideration.[13]

Hence, this petition.[14]

The issue is whether or not the Ombudsman has jurisdiction to entertain criminal charges filed against a judge of the regional trial court in connection with his handling of cases before the court.

Petitioner criticizes the jurisprudence[15] cited by the Office of the Ombudsman as erroneous and not applicable to his complaint. He insists that since his complaint involved a criminal charge against a judge, it was within the authority of the Ombudsman not the Supreme Court to resolve whether a crime was committed and the judge prosecuted therefor.

The petition can not succeed.

We find no grave abuse of discretion committed by the Ombudsman. The Ombudsman did not exercise his power in an arbitrary or despotic manner by reason of passion, prejudice or personal hostility.[16] There was no evasion of positive duty. Neither was there a virtual refusal to perform the duty enjoined by law.[17]

We agree with the Solicitor General that the Ombudsman committed no grave abuse of discretion warranting the writs prayed for.[18] The issues have been settled in the case of *In Re: Joaquin Borromeo*. [19] There, we laid down the rule that before a civil or criminal action against a judge for a violation of Art. 204 and 205 (knowingly rendering an unjust judgment or order) can be entertained, there must first be "a final and authoritative judicial declaration" that the decision or order in question is indeed "unjust." The pronouncement may result from either:[20]

(a)

an action of certiorari or prohibition in a higher court impugning the validity of the judgment; or

(b)

an administrative proceeding in the Supreme Court against the judge precisely for promulgating an unjust judgment or order.

Likewise, the determination of whether a judge has maliciously delayed the disposition of the case is also an exclusive judicial function.[21]

"To repeat, no other entity or official of the Government, not the prosecution or investigation service of any other branch, not any functionary thereof, has competence to review a judicial order or decision -- whether final and executory or not -- and pronounce it erroneous so as to lay the basis for a criminal or administrative complaint for rendering an unjust judgment or order. That prerogative belongs to the courts alone (underscoring ours)."[22]

This having been said, we find that the Ombudsman acted in accordance with law and jurisprudence when he referred the cases against Judge Pelayo to the Supreme Court for appropriate action.

WHEREFORE, there being no grave abuse of discretion amounting to lack or excess of jurisdiction committed by the respondent, we DISMISS the petition and AFFIRM the Evaluation Report of the Evaluation and Investigation Office, Office of the Ombudsman dated October 2, 1998 and its memorandum, dated January 4, 1999, in toto.

No costs.

SO ORDERED.

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

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

[2] In CPL No. 98 - 2911.

[3] In SCA No. 1151, Sps. De Vera v. Hon. Quijano, Presiding Judge MTC Taguig, a petition for certiorari, prohibition and mandamus with Temporary Restraining Order to enjoin MTC, Branch 74 from proceeding with a complaint for ejectment against them.

[4] Branch 168, Regional Trial Court, Pasig City. He retired on March 31, 1999.

[5] Rollo, p. 98.

[6] Rollo, pp. 26-33.

[7] Knowingly rendering an unjust interlocutory order.

[8] Malicious delay in the administration of justice.

[9] Anti-Graft and Corrupt Practices Act.

[10] Rollo, pp. 51-52.

[11] Rollo, p. 52.

[12] Rollo, p. 53.

[13] Roland B. Galvan, Assistant Graft Investigative Officer I submitted a memorandum ("Comment and Recommendation") recommending denial of petitioner's motion for reconsideration. Angel C. Mayoralgo, Jr., Director of the Evaluation and Preliminary Investigation Bureau of the Office of the Ombudsman recommended approval. The recommendation was approved by Abelardo L. Aportadera, Assistant Ombudsman, EIO (Rollo, pp. 61-62)

[14] Petition filed on February 17, 1999, Rollo, pp. 3-25. On January 24, 2000, we gave due course to the petition (Rollo, pp. 108-109)

[15] Maceda v. Vasquez, 221 SCRA 464 (1993) and Dolalas v. Office of the Ombudsman-Mindanao, 265 SCRA 818 (1996)

[16] Arsenio P. Reyes, Jr. v. Court of Appeals, G. R. No. 136478, March 27, 2000; Director Guillermo Domondon v. Sandiganbayan, G. R. No. 129904, March 16, 2000.

[17] Barangay Blue Ridge "A" of Quezon City v. Court of Appeals, G. R. No. 11854, November 24, 1999.

[18] Memorandum filed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Antonio L. Villamor and Solicitor Derek R. Puertollano (Rollo, pp. 140-143.)

[19] 241 SCRA 408, 460 (1995)

[20] Ibid, at 464.

[21] In Re: Borromeo, supra, at 461.

[22] Ibid.

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