OMBUDSMAN ANIANO A. DESIERTO, CUSTOMS COMMISSIONER RENATO A. AMPIL AND CAPTAIN DOMINGO S. DOCTOR, JR., PETITIONERS, VS. RONNIE C. SILVESTRE, RESPONDENT.

G.R. No. 145389. July 31, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The petition is one for review on certiorari[1] seeking to set aside (a) the decision of the Court of Appeals[2] nullifying the preventive suspension order issued by petitioner Ombudsman; and (b) the resolution[3] denying petitioner's motion for reconsideration.

The Ombudsman issued an order of preventive suspension[4] in connection with the administrative charges for grave misconduct, dishonesty and conduct prejudicial to the best interest of the service that Task Force Aduana filed with the Office of the Ombudsman against respondent Ronnie C. Silvestre and Atty. Redempto Somera.

On February 14, 2000, respondent filed with the Ombudsman a motion for the lifting of the order of preventive suspension. However, on April 03, 2000, the Ombudsman denied the motion.

On May 31, 2000, respondent filed with the Court of Appeals[5] a petition for certiorari and prohibition with temporary restraining order and writ of preliminary injunction questioning the order of preventive suspension issued by petitioner Ombudsman.

After due proceedings, on August 14, 2000, the Court of Appeals promulgated its decision[6] annulling and setting aside the order of preventive suspension against respondent for having been issued by the Ombudsman in grave abuse of discretion.

On October 06, 2000, the Court of Appeals denied a motion for reconsideration filed by the Solicitor General.

Hence, this petition.[7]

The Facts

On January 26, 2000, elements of Task Force "Aduana" headed by petitioner Doctor conducted an entrapment operation in a case of bribery involving Atty. Redempto C. Somera, Hearing Officer, Law Division, Bureau of Customs, Manila, and Indian nationals who had pending cases of seizure with the former.

After the pay-off materialized, petitioner Doctor announced the entrapment and then arrested Atty. Somera and two (2) Indian nationals, namely, Murli Tejoomal Mohrani and Kumar Rupchand Khiatani, for violation of Article 210 of the Revised Penal Code. As a consequence, the Task Force filed with the Regional Trial Court, Manila, charges of bribery, violation of R. A. No. 3019, and corruption of public officials against them.

Likewise, the Task Force filed with the Ombudsman administrative charges for grave misconduct, dishonesty and

conduct prejudicial to the best interest of the service against respondent Ronnie C. Silvestre and Atty. Somera.

The Issue

The issue is whether the Ombudsman has authority to suspend from office respondent Ronnie C. Silvestre indefinitely on the basis of the administrative complaint filed with his office showing that evidence of guilt is strong.

The Court's Ruling

We need not resolve the issue presented. We dismiss the petition. It has become moot.

On February 14, 2001, the Ombudsman dismissed the administrative charges against respondent. In dismissing the charges, the Ombudsman categorically ruled as follows:

> "It is another story, however, as regards respondent SILVESTRE. In implicating respondent SILVESTRE in the instant case, Atty. DOCTOR stated in his AFFIDAVIT OF ARREST AND COMPLAINT, the following:
> `6. That after the hearing of the case (S.I. No. 00-005) on January 20, 2000, ATTY. SOMERA approached me and invited me to the room of ATTY. RONNIE SILVESTRE (herein petitioner), Head of the Law Department of the Port of Manila wherein the duo convinced me to cooperate with them in the withdrawal of the complaint and its eventual dismissal;
>
> `7. That I did not commit myself to their proposition to drop the case but I just continued talking with them with the plan in mind to report the same to LT. GEN. JOSE T. CALIMLIM, Task Force Commander of Presidential Anti-Smuggling Task Force ADUANA;'

"Except this bare allegation of the complainant, however, practically no other evidence was ever presented to substantiate the charge against respondent SILVESTRE. At this point, it may be noted that well settled is the rule that within the field of administrative law, while strict rules of evidence are not applicable to quasi-judicial proceedings, nevertheless, in adducing evidence constitutive of substantial evidence, the basic rule that mere allegation is not evidence cannot be disregarded.

"We are, therefore inclined to believe the defense of respondent SILVESTRE, that what was discussed between him, respondent SOMERA and Atty. DOCTOR on January 20, 2000, was the legal issue on the continued detention of some kitchen wares which were not covered by the Warrant of Seizure and Detention (WSD). This, in light of subsequent Order of the District Collector of the Port of Manila dated March 2, 2000, releasing the said kitchen wares which were indeed, not covered by the Warrant of Seizure and Detention (WSD) x x x

"Worthy of note also is the DECISION of the Court of Appeals in CA-G. R. SP No. 58958 dated August 14, 2000 entitled RONNIE C. SILVESTRE vs. OMBUDSMAN ANIANO A. DESIERTO, (pages 253 to 254, Records) where in granting the petition for certiorari and prohibition involving the preventive suspension order on respondent SILVESTRE, the said appellate court stated, thus:

"xxx xxx xxx

"While the above DECISION may not necessarily be controlling in the resolution of the merits of the instant case insofar as it pertains to respondent SILVESTRE, we cannot help but note its relevancy inasmuch as practically no other evidence was presented by the complainant, other than his AFFIDAVIT OF ARREST AND COMPLAINT to support the charge against respondent SILVESTRE. Needless to state, this is also the very same and only evidence presented before the Court of Appeals which rendered the aforequoted DECISION."

WHEREFORE, the Court hereby DISMISSES the petition for mootness.

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No costs.

SO ORDERED.

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

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[1] Rollo, pp. 7-21.

[2] Petition, Annex "A", Rollo, pp. 23-27.

[3] Ibid., Annex "B", Rollo, p. 29.

[4] Dated February 02, 2000.

[5] Docketed as CA-G., R. SP No. 58958.

[6] Villarama, Jr., J., ponente, Montoya and Callejo, Sr., JJ., concurring.

[7] Filed on November 27, 2000. On April 4, 2001, we gave due course to the petition. Rollo, pp. 70-71.

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