

JESSIE MACALALAG, PETITIONER, VS. OMBUDSMAN, PABLO ALORO AND COURT OF APPEALS, RESPONDENTS.

G.R. No. 147995. March 04, 2004

Ponente: VITUG, J.

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VITUG, J.:

The elemental issue in the petition for review is whether or not the Court of Appeals has jurisdiction over actions for annulment of decisions or orders of the Ombudsman in administrative cases.

The factual antecedents of the case, summarized by the appellate court, are basically undisputed –

“x x x on February 3, 1997, private respondent Pablo Aloro lodged with the Office of the Ombudsman for Visayas a complaint for dishonesty against the petitioner Jessie Macalalag, an employee of the Philippine Postal Corporation, Bacolod City. The petitioner was directed to file his answer through Orders dated February 18, July 7, and November 13, 1997 and April 24, 1998 but he did not bother to file any. Instead, when the case was called for preliminary conference on 27 October 1998, he sent a telegram requesting for postponement and praying that he be allowed to submit his position paper after which the case shall be deemed submitted for resolution. Again, no position paper was ever submitted by him. Accordingly, the investigator was constrained to resolve the case on the basis solely of the evidence furnished by the private respondent.

“It was established that the private respondent, a resident of Bacolod City, is a retired employee receiving a monthly pension from the Social Security System. As of September 15, 1996, however, he failed to receive his pension checks corresponding to the months of April, May and July, 1996. When he went to Bacolod City Post Office to verify about the matter, he learned that his missing checks were taken by the petitioner, an employee of the Philippine Postal Corporation in Bacolod City, who endorsed and encashed them for his personal benefit. When confronted by the private respondent, the petitioner issued to the former his personal check in the amount of P7,320.00 in payment of the checks. However, when the private complainant presented the check for payment, it was dishonored by the drawee bank for having been drawn against insufficient funds.

“Nonetheless, the private-respondent executed an affidavit of desistance for the purpose of seeking the dismissal of the case against the petitioner. But said affidavit was rejected and, instead, the petitioner was declared administratively liable and ordered dismissed from the service with forfeiture of all benefits and disqualification from government service. The petitioner sought a consideration but the same was denied.

“The petitioner next appealed to the Supreme Court by way of a petition for review on certiorari. However, in the light of the decision in *Fabian vs. Desierto*, [(295 SCRA 470) 1998] and Administrative Circular No. 99-2-01-SC, the appeal was dismissed.

“In the interim, the adverse Ombudsman decision attained finality.”[1]

Petitioner filed an action for annulment of judgment with the Court of Appeals on the ground that “the gross ignorance, negligence and incompetence of petitioner’s former lawyer deprived petitioner of his day in court which (would) justify the annulment of the assailed Resolution and Order.” The appellate court, however, dismissed the petition for lack of jurisdiction thereover; it ratiocinated:

“x x x Under Section 9 (2) of B.P. Blg. 129, this Court has exclusive original jurisdiction only over actions for annulment of judgments of the Regional Trial Courts. Nothing is mentioned therein about judgments of other courts, much less of the Ombudsman or any quasi-judicial body. The case of *Fabian v. Desierto*, 295 SCRA 470 (1998), vested this Court only with exclusive appellate jurisdiction to review decisions of the Office of the Ombudsman in administrative disciplinary actions which should be taken via a petition for review under Rule 43 of the 1997 Rules of Civil Procedure.”[2]

Undaunted, petitioner has filed the instant petition for review, arguing that Section 47 of the Rules of Court on annulment of judgments, refers to “Regional Trial Courts” in its generic sense that should thus include quasi-judicial bodies whose functions or rank are co-equal with those of the Regional Trial Court.

Petitioner’s thesis finds no support in law and jurisprudence.

Rule 47, entitled “Annulment of Judgments or Final Orders and Resolutions,” is a new provision under the 1997 Rules of Civil Procedure albeit the remedy has long been given imprimatur by the courts.[3] The rule covers “annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies could no longer be availed of through no fault of the petitioner.”[4] An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled is rendered.[5] The concern that the remedy could so easily be resorted to as an instrument to delay a final and executory judgment,[6] has prompted safeguards to be put in place in order to avoid an abuse of the rule. Thus, the annulment of judgment may be based only on the grounds of extrinsic fraud and lack of jurisdiction,[7] and the remedy may not be invoked (1) where the party has availed himself of the remedy of new trial, appeal, petition for relief or other appropriate remedy and lost therefrom, or (2) where he has failed to avail himself of those remedies through his own fault or negligence.

Section 27 of Republic Act No. (R.A.) 6770, also known as The Ombudsman Act of 1989, provides that orders, directives and decisions of the Ombudsman in administrative cases are appealable to the Supreme Court via Rule 45 of the Rules of Court. In *Fabian v. Desierto*[8], the Court has declared Section 27 of the Act to be unconstitutional since it expands the Supreme Court’s jurisdiction without its advice and consent required under Article VI, Section 30, of the 1987 Constitution. Hence, all appeals from decisions of the Ombudsman in administrative disciplinary cases are instead to be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure. The rule is reiterated in Administrative Circular No. 99-2-01-SC.

Parenthetically, R.A. 6770 is silent on the remedy of annulment of judgments or final orders and resolutions of the Ombudsman in administrative cases. In *Tirol, Jr. v. Del Rosario*,[9] the Court has held that since The Ombudsman Act specifically deals with the remedy of an aggrieved party from orders, directives and decisions of the Ombudsman in administrative disciplinary cases only, the right to appeal is not to be considered granted to parties aggrieved by orders and decisions of the Ombudsman in criminal or non-administrative cases. The right to appeal is a mere statutory privilege and may be exercised only in the manner prescribed by, and in accordance with, the provisions of law.[10] There must then be a law expressly granting such right.[11] This legal axiom is also applicable and even more true in actions for annulment of judgments which is an exception to the rule on finality of judgments.

Moreover, petitioner may no longer resort to the remedy of annulment of judgment after having filed an appeal with the Supreme Court. Neither can he claim that he is not bound by his lawyer’s actions; it is only in case of gross or palpable negligence of counsel when the courts can step in and accord relief to a client who would have suffered thereby.[12] If every perceived mistake, failure of diligence, lack of experience or insufficient legal knowledge of the lawyer would be admitted as a reason for the reopening of a case, there would be no end to

controversy. Fundamental to our judicial system is the principle that every litigation must come to an end. It would be a clear mockery if it were otherwise. Access to the courts is guaranteed, but there must be a limit to it.

WHEREFORE, the petition is DISMISSED and the decision, dated 24 January 2001, of the Court of Appeals in CA-G.R. SP No. 59361 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, pp. 20-22.

[2] Rollo, p. 23.

[3] See *El Banco Español-Filipino v. Palanca*, 37 Phil 921; *Panlilio, et al. v. Garcia, et al.*, L-29038, 27 December 1982, 119 SCRA 387; *Agustin v. Bacalan*, L-46000, 18 March 1985, 135 SCRA 340.

[4] Section 1, Rule 47, 1997 Rules of Civil Procedure.

[5] *Canlas v. Court of Appeals*, G.R. No. 77691, 8 August 1988, 164 SCRA 160.

[6] *Herrera*, Remedial Law, Volume VII, p. 548.

[7] Section 2, Rule 47, 1997 Rules of Civil Procedure.

[8] *Supra*.

[9] G.R. No. 135913, 4 November 1999, 317 SCRA 779.

[10] *Tirol, Jr. v. Del Rosario*, *supra.*; *Calucag v. COMELEC*, G.R. No. 123673, 19 June 1997, 274 SCRA 405; *University of the Philippines v. CSC*, G.R. No. 108740, 1 December 1993, 228 SCRA 207.

[11] *Id.*

[12] *Legarda v. Court of Appeals*, G.R. No. 94457, 18 March 1991, 195 SCRA 418; *Alabanzas v. IAC*, G.R. No. 74697, 29 November 1991, 204 SCRA 304.

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