

OFFICE OF THE OMBUDSMAN, REPRESENTED BY HON. ANIANO A. DESIERTO, PETITIONER, VS. HEIRS OF MARGARITA VDA. DE VENTURA, REPRESENTED BY PACITA V. PASCUAL, EMILIANO EUSEBIO, JR., AND...

G.R. No. 151800. November 05, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA) dated February 27, 2001, and the CA Resolution[2] dated December 11, 2001, be reversed and set aside.

The undisputed facts are as follows.

On November 17, 1996, respondents filed with the Office of the Ombudsman a Complaint for Falsification of Public Documents and Violation of Section 3, paragraph (e)[3] of Republic Act (R.A.) No. 3019, as amended (the Anti-Graft and Corrupt Practices Act) against Zenaida H. Palacio and spouses Edilberto and Celerina Darang. Respondents alleged therein that Palacio, then officer-in-charge of the Department of Agrarian Reform (DAR) Office in San Jose City, Nueva Ecija, designated Celerina Darang, Senior Agrarian Reform Program Technologist stationed at Sto. Tomas, San Jose City, to investigate the claims of respondents against the former's husband Edilberto Darang; that Celerina Darang accepted such designation, conducted an investigation and rendered a report favorable to her husband, Edilberto Darang; that Celerina Darang supported such report with public documents which she falsified; and that Palacios then issued a recommendation, based on Celerina Darang's report, to award the landholding in dispute to Edilberto Darang.[4]

Acting on respondents' complaint against the aforementioned DAR officers and Edilberto Darang, petitioner issued a Resolution[5] dated June 9, 1998, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, it is respectfully recommended that the charge against respondents for falsification of public documents be dismissed for insufficiency of evidence.

It is further recommended that the charge against respondents for Violation of Section 3, par. (e) of R.A. No. 3019, as amended, be provisionally dismissed. This is, however, without prejudice to its re-opening should the outcome of DARAB Case No. 0040 pending before the DAR Adjudication Board, Diliman, Quezon City, so warrant.

SO RESOLVED.[6]

Respondents filed several motions seeking reconsideration of the above Resolution, all of which were denied.

Herein respondents then filed a petition for certiorari and mandamus with this Court, but per Resolution dated July 14, 1999, the petition was referred to the CA. On February 27, 2001, the CA promulgated the assailed

Decision, the dispositive portion of which is reproduced hereunder:

WHEREFORE, premises considered, the petition for certiorari, in regard to the public respondent's Resolution dated June 09, 1998 and Orders dated August 06 and 26, 1998 in OMB-196-2268, is hereby DENIED as to the dismissal of the complaint against private respondents for falsification of public documents, but GRANTED as to the provisional dismissal of the complaint for violation of Section 3, Par. (e) of R.A. 3019, as amended, which is hereby REVERSED and SET ASIDE for having been done with grave abuse of discretion, and consequently, the appropriate criminal charges under the Anti-Graft and Corrupt Practices Act are hereby ordered filed against the individual respondents.

SO ORDERED.[7]

Petitioner's motion for reconsideration of the CA Decision was denied in its Resolution dated December 11, 2001.

Hence, this petition, where it is alleged that:

I

THE COURT OF APPEALS HAS NO JURISDICTION TO REVIEW THE FINDINGS OF PROBABLE CAUSE BY THE OMBUDSMAN IN CRIMINAL CASE OMB-1-96-2268.

II

THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE OMBUDSMAN'S PROVISIONAL DISMISSAL OF OMB-1-96-2268 WAS INFIRM, AS THE SAID COURT CANNOT COMPEL THE OMBUDSMAN TO USURP THE PREROGATIVES AND FUNCTIONS OF THE DARAB.

III

THE COURT OF APPEALS HAS NO AUTHORITY TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE IN OMB-1-96-2268 AS SUCH AUTHORITY IS GIVEN EXCLUSIVELY TO THE OMBUDSMAN.[8]

The petition deserves ample consideration.

The crux of the matter is whether the CA has jurisdiction over decisions and orders of the Ombudsman in criminal cases. This issue has been directly addressed in *Kuizon v. Desierto*[9] and reiterated in the more recent *Golangco v. Fung*,[10] wherein the Court declared, thus:

The Court of Appeals has jurisdiction over orders, directives and decisions of the Office of the Ombudsman in administrative disciplinary cases only. It cannot, therefore, review the orders, directives or decisions of the Office of the Ombudsman in criminal or non-administrative cases.

In *Kuizon v. Desierto*, this Court clarified:

The appellate court correctly ruled that its jurisdiction extends only to decisions of the Office of the Ombudsman in administrative cases. In the *Fabian* case, we ruled that appeals from decisions of the Office of the Ombudsman in administrative disciplinary cases should be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure. It bears stressing that when we declared Section 27 of Republic Act No. 6770 as unconstitutional, we categorically stated that said provision is involved only whenever an appeal by certiorari under Rule 45 is taken from a decision in an administrative disciplinary action. It cannot be taken into account where an original action for certiorari under Rule 65 is resorted to as a remedy for judicial review, such as from an incident in a criminal action.

x x x It is settled that a judgment rendered by a court without jurisdiction over the subject matter is void. Since the Court of Appeals has no jurisdiction over decisions and orders of the Ombudsman in criminal cases, its

ruling on the same is void.[11]

The question that arises next is what remedy should an aggrieved party avail of to assail the Ombudsman's finding of the existence or lack of probable cause in criminal cases or non-administrative cases. In *Estrada v. Desierto*,^[12] the Court emphasized that parties seeking to question the resolutions of the Office of the Ombudsman in criminal cases or non-administrative cases, may file an original action for certiorari with this Court, not with the CA, when it is believed that the Ombudsman acted with grave abuse of discretion.

Respondents originally filed a petition for certiorari before this Court but the same was referred to the CA. It, thus, behooves this Court to now look into whether the Ombudsman indeed acted with grave abuse of discretion in dismissing the charge of Falsification of Public Documents and provisionally dismissing the charge of Violation of Section 3, par. (e) of R.A. No. 3019, as amended, against Zenaida H. Palacio and spouses Edilberto and Celerina Darang.

A close examination of the records will reveal that the Ombudsman acted properly in dismissing the charge for falsification of public documents because herein respondents utterly failed to identify the supposedly falsified documents and submit certified true copies thereof. In fact, respondents admitted in their petition for certiorari, originally filed with this Court but referred to the CA, that they had not yet submitted documents in support of the charge for falsification of documents as they intended to present the same in a formal preliminary investigation, which they expected to be conducted by the Ombudsman.^[13] However, it has long been acknowledged that in administrative proceedings, even those before the Ombudsman, a formal hearing is not required and cases may be submitted for resolution based only on affidavits, supporting documents and pleadings. Such procedure has been held to be sufficient compliance with the requirements of procedural due process as all that is needed is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.^[14] In this case, records show that respondents had been afforded such opportunities.

As to the provisional dismissal of the charge for Violation of Section 3 par. (e) of R.A. No. 3019, as amended, the Court likewise finds no reason to overturn the ruling of the Ombudsman. The hornbook doctrine emphasized in *Presidential Commission on Good Government v. Desierto*^[15] must be borne in mind, to wit:

x x x the Supreme Court will not ordinarily interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise. Said exercise of powers is based upon his constitutional mandate and the courts will not interfere in its exercise. The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman, but upon practicality as well. Otherwise, innumerable petitions seeking dismissal of investigatory proceedings conducted by the Ombudsman will grievously hamper the functions of the office and the courts, in much the same way that courts will be swamped if they had to review the exercise of discretion on the part of public prosecutors each time they decided to file an information or dismiss a complaint by a private complainant.^[16]

Nevertheless, the Ombudsman's discretion in determining the existence of probable cause is not absolute. However, it is incumbent upon petitioner to prove that such discretion was gravely abused in order to warrant the reversal of the Ombudsman's findings by this Court.^[17]

In *Velasco v. Commission on Elections*,^[18] the Court defined "grave abuse of discretion" as follows:

x x x grave abuse of discretion is such "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or [an] exercise of power in an arbitrary and despotic manner by reason of passion or personal hostility, or an exercise of judgment so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act in a manner not at all in contemplation of law."

Here, the Ombudsman based its provisional dismissal on the ground that the case between the same parties before the DAR Adjudication Board (DARAB), DARAB Case No. 0040, had not yet reached finality, as there was a pending Motion for Relief from Judgment that was yet to be resolved. The Ombudsman reasoned out that since what Section 3, par. (e), R.A. No. 3019 penalized was the giving of unwarranted advantage or preference to a private party, it was only prudent to await the final resolution in DARAB Case No. 0040, which would show if the favorable recommendation given by Celerina Darang benefiting her husband Edilberto was, indeed, unjustified, unwarranted or unfounded.

The Ombudsman's reasoning was not unfounded. Note that the elements of the offense in Section 3(e) are: (1) that the accused are public officers or private persons charged in conspiracy with them; (2) that said public officers have committed the prohibited acts during the performance of their official duties or in relation to their public positions; (3) that they have caused undue injury to a party, whether the Government or a private party; (4) that such injury was caused by giving an unwarranted benefit, advantage or preference to such party; and (5) that the public officers have acted with manifest partiality, evident bad faith or gross inexcusable negligence.[19] From the foregoing, it can be seen that the complainants must show that the benefits, advantage or preference given to a party is unwarranted. Since the main issue in DARAB Case No. 0040 is whether the disputed parcel of land should be awarded to Edilberto Darang, then it is true that a final resolution of the aforementioned DARAB case would establish whether the benefit or advantage given to him was indeed unwarranted.

Verily, the action of the Ombudsman in provisionally dismissing the complaint for violation of Section 3(e), without prejudice to its re-opening upon final resolution of DARAB Case No. 0040, is not whimsical or arbitrary. Such action finds support in the Court's rulings that a trial court, or in this case a quasi-judicial tribunal, has the inherent power to control the disposition of cases by holding in abeyance the proceedings before it in the exercise of its sound discretion to await the outcome of another case pending in another court or body, especially where the parties and the issues are the same. This is to avoid multiplicity of suits and prevent vexatious litigations, conflicting judgments, confusion between litigants and courts, and ensuring economy of time and effort for itself, for counsel, and for litigants. Where the rights of parties to the second action (in this case, the criminal complaint for violation of Section 3(e) before the Ombudsman) cannot be properly determined until the questions raised in the first action (DARAB Case No. 0040) are settled, the second action should be stayed.[20]

The reason behind the doctrine of primary jurisdiction may also be applied here by analogy. The objective of said doctrine is to guide a court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency, which has special knowledge, experience and tools to determine technical and intricate matters of fact, has determined some question or a particular aspect of some question arising in the proceeding before the court.[21] This is not to say that the Ombudsman cannot acquire jurisdiction or take cognizance of a criminal complaint until after the administrative agency has decided on a particular issue that is also involved in the complaint before it. Rather, using the same reasoning behind the doctrine of primary jurisdiction, it is only prudent and practical for the Ombudsman to refrain from proceeding with the criminal action until after the DARAB, which is the administrative agency with special knowledge and experience over agrarian matters, has arrived at a final resolution on the issue of whether Edilberto Darang is indeed entitled under the law to be awarded the land in dispute. This would establish whether the benefits or advantages given to him by the public officials charged under the complaint, are truly unwarranted.

Thus, aside from the fact that the CA has no jurisdiction over decisions and orders of the Ombudsman in criminal cases, it was also incorrect to hold that the Ombudsman acted with grave abuse of discretion. The Court finds no cogent reason to disturb the assailed Resolution of the Ombudsman.

IN VIEW OF THE FOREGOING, the petition is GRANTED. The Decision of the Court of Appeals dated

February 27, 2001, reversing the Resolution of the Office of the Ombudsman, dated June 9, 1998, and its Resolution dated December 11, 2001, are declared VOID.

SO ORDERED.

Quisumbing,[*] Carpio, (Chairperson), Chico-Nazario, and Abad,**] JJ., Concur.

[*] Designated to sit as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Special Order No. 755 dated October 12, 2009.

[**] Designated to sit as an additional member in lieu of Associate Justice Presbitero J. Velasco, Jr. per Special Order No. 753 dated October 12, 2009.

[1] Penned by Associate Justice Eliezer R. de Los Santos, with Associate Justices Godardo A. Jacinto and Bernardo P. Abesamis, concurring; rollo, pp. 37-51.

[2] Id. at 52-58.

[3] Section 3, par. (e) of R.A. No. 3019 provides, thus:

3. Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[4] Rollo, pp. 85-88.

[5] Id. at 87-91.

[6] Id. at 90-91.

[7] Id. at 50.

[8] Id. at 17.

[9] 406 Phil. 611 (2001).

[10] G.R. Nos. 147640 & 147762, October 16, 2006, 540 SCRA 321.

[11] Id. at 334-335. (Emphasis supplied.)

[12] 487 Phil. 169, 179 (2004).

[13] CA rollo, p. 17.

[14] Marcelo v. Bungubung, G.R. No. 175201, April 23, 2008, 552 SCRA 589, 603-604.

[15] G.R. No. 140231, July 9, 2007, 527 SCRA 61.

[16] Id. at 70-71. (Emphasis supplied.)

[17] Luwalhati R. Antonino v. Ombudsman Aniano A. Desierto, et al., G.R. No. 144492, December 18, 2008, 574 SCRA 403, 425. (Emphasis supplied.)

[18] G.R. No. 180051, December 24, 2008, 575 SCRA 590, 601-602.

[19] Presidential Ad-Hoc Fact Finding Committee on Behest Loans v. Ombudsman Aniano Desierto, G.R. No. 135703, April 15, 2009.

[20] Security Bank Corporation v. Victorio, G.R. No. 155099, August 31, 2005, 468 SCRA 609, 627-628.

[21] Omictin v. Court of Appeals, G.R. No. 148004, January 22, 2007, 512 SCRA 70, 82.

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