

**SIMON Q. AÑONUEVO, JR. AND VICENTE N. ESTRELLA, PETITIONERS,
VS. THE HONORABLE COURT OF APPEALS, RODRIGO B. ALMAZAN,
GIOVANNI G. GUMALO, OFFICE OF THE OMBUDSMAN &
CUSTOM’S COMMI...**

G.R. No. 152998. September 23, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On October 15, 1999, Sgt. Rodrigo Almazan and Giovanni Gumalo, both of the Office of the Resident Ombudsman for Manila International Airport Authority-Ninoy Aquino International Airport/Duty Free Phils., Inc. filed a complaint against Simon Añonuevo, Jr., Acting Examiner, Vicente Estrella, Customs Operations Officer I, Nora Linda Cosme, Customs Operations Officer V, and Ricardo Concha, Acting Principal Customs Appraiser, all of the Bureau of Customs, NAIA, Pasay City for violation of Section 7(d) of Republic Act No. 6713.[1] They alleged that in the evening of October 12, 1999, petitioners, while assigned at the NAIA customs lanes numbers 9 and 10, received money handed directly or inserted in the passport of arriving passengers of the Northwest Airlines flight from Detroit, USA, and the Canadian Airlines flight. They further alleged that Cosme and Concha received their share of the money collected by the petitioners. The Resident Ombudsman Team was able to record on video a segment of the incident using the surveillance camera of the Emergency Operations Center of the NAIA.

The Ombudsman placed the four officials under preventive suspension for six (6) months without pay,[2] considering that the evidence against them was strong. On March 29, 2001, the said officials filed their Joint Affidavit and an Urgent Motion to Lift Order of Preventive Suspension.

Meanwhile, Cosme and Concha filed their respective Supplemental Counter-Affidavit and Supplemental Motion to Lift Preventive Suspension. Cosme pointed out that there was nothing in the video footage which would implicate her for any act of solicitation or acceptance of any money, whether directly or indirectly, while in the course of the performance of her duties. In the same way, Concha asserted that it was grossly malicious for the complainants to infer that, just because he was caught by the camera passing by the place where petitioners were standing, he received money from them.

On January 11, 2001, the Ombudsman issued an order, viz:

WHEREFORE, the foregoing premises considered, this Office hereby finds:

(1)

Respondent NORA LINDA COSME, Customs Operations Officer V and RICARDO R. CONCHA, Acting Principal Customs Appraiser NOT GUILTY. They are hereby EXONERATED and the instant case DISMISSED as to them. However,

(2)

We find respondents SIMION Q. AÑONUEVO, JR., Acting Examiner and Vicente Estrella, Customs Operations Officer I, GUILTY of violation of Section 7(d) of Republic Act No. 6713 (Solicitation or Acceptance of Gifts) with the penalty of one (1) year suspension without pay.

The Commissioner of the Bureau of Customs is hereby directed to immediately implement this Decision in accordance with law.

SO ORDERED.[3]

The Ombudsman denied the Motion for Reconsideration of the above decision in its Order dated December 19, 2001.[4]

Petitioners filed a special civil action for certiorari before the Court of Appeals ascribing grave abuse of discretion to the Ombudsman in rendering the assailed Decision. However, the Court of Appeals dismissed the case on March 1, 2002, viz:

The instant petition is DISMISSED outright for failure to comply with the following requirements:

(a)

Affidavit of service as required under Sec. 13, Rule 13 of the 1997 Rules of Civil Procedure; and

(b)

The assailed Decision dated September 19, 2001 and the February 1, 2002 Order were not certified by the proper clerk of court or by his duly authorized representative, or by the proper officer of the tribunal or agency or office involved or by his duly authorized representative in violation of Sec. 1, Rule 65 in relation to Sec. 3, Rule 46 of the same rules.

SO ORDERED.[5]

Petitioners moved for reconsideration but the Court of Appeals denied the same on April 16, 2002. [6]

Hence, this petition for review ascribing the following errors:

- THE HONORABLE PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR AND/OR GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION OF PETITIONERS ON MERE TECHNICAL GROUNDS INSTEAD OF RESOLVING THE SAME ON THE MERITS CONSIDERING THAT THERE IS SUBSTANTIAL COMPLIANCE TO THE REQUIREMENTS PROVIDED FOR BY THE RULES AND CONSIDERING THAT WHAT IS INVOLVED IN THIS CASE IS THE VERY SOURCE OF LIVELIHOOD OF THE FAMILIES OF THE PETITIONERS WHO ARE MERE EMPLOYEES AND WHO ARE THE BREADWINNERS AND PROVIDERS OF THE BASIC NEEDS OF THEIR RESPECTIVE FAMILIES SO MUCH SO THAT IN THE HIGHEST INTEREST OF JUSTICE THE CASE SHOULD HAVE BEEN RESOLVED ON THE MERITS.

- THE HONORABLE PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR AND/OR GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION ON MERE TECHNICALITY INSTEAD OF RESOLVING THE SAME ON THE MERITS DESPITE THE FACT THAT THE SEPTEMBER 19, 2001 DECISION AND FEBRUARY 1, 2002 ORDER OF THE OMBUDSMAN FINDING PETITIONERS GUILTY AS CHARGED WERE ALL CONCLUSIONS GROUNDED OR BASED ON SPECULATION, SURMISES OR CONJECTURES, SO MUCH SO, THAT PETITIONERS BEG AND APPEAL TO THE HONORABLE COURT TO RESOLVE THE CASE ON THE MERITS AND/OR TO REMAND THE SAME TO THE COURT OF APPEALS FOR RESOLUTION ON

THE MERITS.[7]

Suffice it to say that when technicality deserts its function of being an aid to justice, the courts are justified in exempting from its operations a particular case. Procedural rules are intended to insure the orderly conduct of litigation, because of the higher objective they seek, which is to protect the parties' substantive rights.[8]

In *Ginete v. Court of Appeals, et al.*,[9] it was held that the emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. It is a time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses.[10]

In the case at bar, although the petition filed before the Court of Appeals was not accompanied by an affidavit of service, petitioners were able to confirm that indeed copies of the petition were served on the respondents as shown in the registry receipts attached opposite their names. They attached the certified true copies of the Decision and Order of the Ombudsman when they filed their Motion for Reconsideration of the Resolution dismissing their petition.

Petitioners also explained that their former counsel received a copy of the Resolution dismissing their petition on March 18, 2002. Petitioners timely filed a Motion for Reconsideration thereof on April 1, 2002 as shown by the date stamped by the Receiving Section of the Court of Appeals.

However, petitioners availed of a wrong mode of appeal when they filed a special civil action for certiorari under Rule 65 of the Rules on Civil Procedure. 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.[11] Neither did the petitioners sufficiently establish the existence of any fact or reason to justify its resort to the extraordinary remedy of certiorari.

This notwithstanding, we now resolve the substantive issue. In *Metropolitan Manila Development Authority v. Jancom Environmental Corporation*,[12] it was held:

With the foregoing disquisition, it would appear unnecessarily to discuss and resolve the substantive issue posed before the Court. However, the procedural flaw notwithstanding, the Court deems it judicious to take cognizance of the substantive question, if only to put petitioner's mind to rest.

It appears that pending the resolution of the administrative disciplinary case, the Office of the Ombudsman filed an Information for Indirect Bribery against the petitioners before the Metropolitan Trial Court of Pasay City, Branch 48, based on the same set of charges. The Office of the City Prosecutor of Pasay City conducted a reinvestigation of the case and recommended the withdrawal of the Information for insufficiency of evidence to support a finding of probable cause.[13] On March 8, 2001, the trial court granted the Motion to Withdraw Information filed by the Public Prosecutor.

Petitioners argue that the dismissal of the criminal case for indirect bribery[14] against them warrants the dismissal of the instant administrative disciplinary case on the ground of insufficiency of evidence.

The argument is not well-taken. Long-ingrained in our jurisprudence is the rule that the dismissal of a criminal case against an accused who is a respondent in an administrative case on the ground of insufficiency of evidence does not foreclose the administrative proceeding against him or give him a clean bill of health in all respects.[15] The quantum of evidence required in the latter is only substantial evidence, and not proof beyond reasonable doubt that is required in criminal cases.[16] Thus, considering the difference in the quantum of evidence, as well as the procedure followed and the sanctions imposed in criminal and administrative proceedings, the findings and conclusions in one should not necessarily be binding on the other.[17]

Notably, there was not even a trial on the merits of the criminal case. The trial court allowed the withdrawal of the Information filed by the City Prosecutor after conducting a reinvestigation and it found that there was insufficient evidence to support the finding of probable cause for the crime of indirect bribery.

With regard to the second assigned error, the first video tape of the monitoring sortie of October 12, 1999, in V8 format contained relevant segments of the footage depicting petitioners receiving sums of money from arriving passengers of the Canadian Airlines flight. The second video tape, as recorded in VHS format, depicted petitioners receiving sums of money from arriving passengers, putting the money collected in their pockets while dividing some of the money received by them.

Airport Police Department employee Luzviminda A. Gabriel, who recorded the video, confirmed that petitioners, while manning Customs Lanes 9 and 10 at the NAIA, received and divided between them money directly handed or inserted in the passport of the incoming passengers. Furthermore, the Memorandum submitted by Resident Ombudsman Atty. Rainier C. Almazan to Ombudsman Aniano Desierto strengthened the testimony of Gabriel.

In an attempt to extricate themselves from administrative liability, petitioners argued that the papers handed directly or inserted in the passports of the arriving passengers were Disembarkation Cards and the Customs Declaration Cards. Petitioner Estrella himself admitted^[18] that they considered those papers as mere garbage. It is incredible and contrary to human nature for the petitioners to meticulously collate said "garbage" as they claimed, divide the same and place them in their respective pockets as shown in the video footage.

Petitioners also insist that complainants were made a tool of their immediate boss, a certain Capt. Doctor, who was harboring resentment against the petitioners on account of the embarrassing incident which transpired sometime in October 1999. They found Capt. Doctor loitering in the premises of the customs zone and advised him to leave the area immediately, within hearing distance of other people.

Petitioners' reliance is misplaced. Indeed, NAIA Police Officer Luzviminda A. Gabriel and Resident Ombudsman Atty. Rainier C. Almazan for MIAA- NAIA-DFP did not have any reason or motive to impute so grave a wrong against the petitioners. They did not have an axe to grind against the petitioners as to maliciously fabricate the charges against them had the same been untrue.

This Court is not a trier of facts. Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive,^[19] as in the case at bar. Substantial evidence, which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, suffices to hold one administratively liable.^[20] The "substantial evidence" rule in administrative proceedings merely requires such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.^[21]

Clearly, therefore, petitioners are guilty of violation of Section 7(d) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public officials and Employees.

Solicitation or acceptance of gifts.- Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office. xxx

Corollary thereto, Section 11(a) of the same Code reads:

Penalties. (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, hold-over, permanent or regular capacity committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months salary or suspension not exceeding one (1) year or removal depending on the gravity of offense after due notice or hearing by the appropriate body or

agency.

All told, the Decision of the Ombudsman dated December 19, 2001 finding petitioners guilty of solicitation or acceptance of gifts in violation of Section 7 (d) of Republic Act No. 6713 is supported by substantial evidence.

WHEREFORE, in view of the foregoing, the petition is DENIED. The March 1, 2002 and April 16, 2002 Resolutions of the Court of Appeals, which dismissed the special civil action for certiorari, are AFFIRMED. The September 19, 2001 Decision of the Ombudsman finding SIMON Q. AÑONUEVO, JR. and VICENTE N. ESTRELLA guilty of violation of Section 7(d) of Republic Act No. 6713, as well as the December 19, 2001 Order denying the Motion for Reconsideration of the said Decision, are likewise AFFIRMED.

SO ORDERED.

Davide, Jr., CJ., (Chairman), Vitug, and Carpio, JJ., concur.
Azcuna, J., on leave.

[1] Annexes "G and H," Rollo, pp. 40-43.

[2] Ombudsman Order dated February 22, 2000, Annex "I," Rollo, pp. 44-46.

[3] Rollo, p. 12.

[4] Rollo, p. 99.

[5] Rollo, p. 27.

[6] Rollo, p. 29.

[7] Rollo, p. 14.

[8] *Almira v. Court of Appeals, et al.*, G.R. No. 115966, 20 March 2003.

[9] 357 Phil. 36 (1998).

[10] *El Reyno Homes, Inc. v. Ong, et al.*, G.R. No. 142440, 17 February 2003.

[11] *Mabunga v. The Ombudsman and OMB Task Force on Public Works and Highways*, 358 Phil. 782 (1998), citing *Fabian v. Desierto et al.*, G.R. No. 129742, 16 September 1998.

[12] G.R. No. 147465, 30 January 2002.

[13] Rollo, pp. 76-79, see also Motion to Withdraw Information dated January 22, 2001, Rollo, p. 80.

[14] Order dated March 8, 2001 of the Metropolitan Trial Court of Pasay City, Branch 48, Rollo, p. 81.

[15] *Mollaneda v. Umacob*, 411 Phil. 159 (2001).

[16] *Office of the Court Administrator v. Diaz*, 362 Phil. 580 (1999).

[17] *Ocampo v. Office of the Ombudsman & Eclipse*, G.R. No. 114683, 18 January 2000; *Mollaneda v. Umacob*, 411 Phil. 159 (2001).

[18] Cited in the Decision, OMB-ADM-0-00-0101, Rollo, p. 132.

[19] *Barata v. Abalos, Jr., et al.*, G.R. No. 142888, 6 June 2001; *Espinosa, et al. v. Office of the Ombudsman*, G.R. No. 135775, 19 October 2000; *Lapid v. Court of Appeals, et al.*, G.R. No. 142261, 29 June 2000.

[20] Baylon v. Fact-Finding Intelligence Bureau, et al., G.R. No. 150870, 11 December 2002.

[21] Ocampo v. Office of the Ombudsman & Eclipse, G.R. No. 114683, 18 January 2000.

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