

RODOLFO B. GARCIA, RETIRED MUNICIPAL CIRCUIT TRIAL COURT JUDGE, CALATRAVA-TOBOSO, NEGROS OCCIDENTAL, PETITIONER, VS. PRIMO C. MIRO, OMBUDSMAN-VISAYAS, CEBU CITY; DANIEL VILLAFLO...

G.R. No. 167409. March 20, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for prohibition with prayer for issuance of writ of preliminary injunction. The petition seeks to impugn the Orders dated November 23, 2004[1] and January 26, 2005[2] issued by the Municipal Circuit Trial Court (MCTC) of Calatrava-Toboso, Negros Occidental.

The antecedents are as follows:

On January 31, 2003, Julieta F. Ortega (Julieta) filed a letter complaint[3] before the Ombudsman-Vizayas, Primo C. Miro (Miro), charging Judge Rodolfo B. Garcia, then Presiding Judge of the MCTC, Calatrava-Toboso, Negros Occidental, and Ricardo Liyage (Liyage), ambulance driver, Municipality of Calatrava, Negros Occidental, with the crime of murder and the administrative offenses of grave misconduct and abuse of authority.

The complaint arose from the death of Julieta's husband, Francisco C. Ortega, Jr., on November 12, 2002, as a result of a vehicular mishap between a Toyota Land Cruiser driven by the petitioner and the motorcycle driven by the deceased.[4]

The letter complaint was treated as two (2) separate criminal and administrative complaints docketed as OMB-V-C-03-0076-B and OMB-V-A-03-0051-B, respectively.

On February 21, 2003, Deputy Ombudsman Miro approved a Joint Evaluation Report[5] dated February 12, 2003. In said evaluation report, Graft Investigation Officer (GIO) Antonio B. Yap found the letter complaint to be sufficient in form and substance. He concluded that the offense charged is not related to the functions of petitioner as a judge and can be the subject of preliminary investigation.[6] With regard to the administrative aspect of the case, GIO Yap recommended that the case be indorsed to the Office of the Court Administrator (OCA) for appropriate action.[7]

GIO Yap also received information that it would be difficult on the part of the prosecutors to conduct the investigation because they regularly appear before the sala of petitioner for their cases. The Provincial Prosecutor of Negros Occidental also manifested that they would inhibit if the case would be returned to them. Consequently, he deemed that it would be more appropriate if the Office of the Ombudsman would conduct the necessary investigation.[8]

Corollarilly, on March 8, 2003, petitioner compulsory retired from the service.[9]

After the preliminary investigation, GIO Yap found the existence of probable cause for the crime of Reckless

Imprudence Resulting to Homicide in OMB-V-C-03-0076-B. In a Resolution[10] dated August 12, 2003, he recommended the filing of the corresponding charges against the petitioner but dismissed the charges against Liyage.[11]

On January 27, 2004, an Information[12] for Reckless Imprudence Resulting to Homicide was filed against the petitioner before the MCTC Calatrava-Toboso, Negros Occidental, which was later docketed as Criminal Case No. 5982-C.

On March 1, 2004, petitioner filed a Motion to Quash the Information[13] on the following grounds: (1) that it does not conform substantially to the prescribed form; (2) that the court trying the case has no jurisdiction over the offense charged and over his person; and, (3) that the officer who filed the information had no authority to do so.[14] Ultimately, petitioner prayed that the information be quashed and be referred to this Court for appropriate action.

On August 25, 2004, the MCTC issued an Order[15] granting the motion and, consequently, quashing the information.

Respondents filed a motion for reconsideration, which the court granted in an Order[16] dated November 23, 2004. The court opined, among other things, that the case had nothing to do with the performance of petitioner's official functions and that an administrative complaint against him had already been filed, as such, the purpose of referring cases against judges and court personnel to the Supreme Court has already been served.[17] Accordingly, the MCTC set aside its earlier order and denied petitioner's motion to quash, the decretal portion of which reads as follows:

WHEREFORE, in view of the foregoing considerations, the subject motion for reconsideration filed by the prosecution is granted. Accordingly, the order of this court dated August 25, 2004, granting the accused's motion to quash the information is hereby reconsidered and set aside and, therefore, the accused's motion to quash the information is denied.

SO ORDERED.[18]

Petitioner then filed his Motion for Reconsideration,[19] which was denied in the Order[20] dated January 26, 2005.

Hence, the petition.

At the outset, it is apparent that the present petition was directly filed before this Court, in utter disregard of the rule on the hierarchy of courts which, thus warrants its outright dismissal. In *Vergara, Sr. v. Suelto*,[21] this Court stressed that "[w]here the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented," thus:

The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is, and should continue, to be the policy in this regard, a policy that courts and lawyers must strictly observe.[22]

Later, we reaffirmed such policy in *People v. Cuaserna*[23] after noting that there is "a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land." We stressed that -

[t]his Court's original jurisdiction to issue writs of certiorari (as well as prohibition, mandamus, quo warranto, habeas corpus and injunction) is not exclusive. x x x It is also shared by this Court, and by the Regional Trial Court, with the Court of Appeals x x x. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level x x x courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. x x x.

Notwithstanding the dismissibility of the instant petition for failure to observe the doctrine on the hierarchy of courts, this Court will proceed to entertain the case grounded as it is on a pure question of law.

Petitioner argues that respondents violated this Court's pronouncements in *Caoibes, Jr. v. Ombudsman*,[24] directing the Ombudsman to refer all cases against judges and court personnel filed before his office to the Supreme Court;[25] and, in *Fuentes v. Office of the Ombudsman-Mindanao*,[26] restricting not only the Ombudsman and the prosecution arm of the government, but also other official and functionary thereof in initiating or investigating judges and court personnel.[27]

Petitioner's contentions are misplaced.

As correctly pointed out by the Solicitor General, the two cases cited by the petitioner involve the performance of administrative and professional duties of the judges that were involved. *Caoibes* concerns the judge's dealings with his fellow member of the Bench, while *Fuentes* touches on the acts of a judge in the exercise of his official functions, particularly the issuance of a writ of execution.

In *Caoibes*, two members of the judiciary got entangled in a fight within court premises over a piece of office furniture. One of the judges filed a criminal complaint before the Office of the Ombudsman and an administrative complaint before this Court over the same incident. When the Ombudsman denied the motion of Judge *Caoibes* to refer the case to the Supreme Court, he filed a petition for certiorari before this Court seeking the reversal of the order. In granting the petition, the Court held that:

Under Section 6, Article VIII of the Constitution, it is the Supreme Court which is vested with exclusive administrative supervision over all courts and its personnel. Prescinding from this premise, the Ombudsman cannot determine for itself and by itself whether a criminal complaint against a judge, or court employee, involves an administrative matter. The Ombudsman is duty bound to have all cases against judges and court personnel filed before it, referred to the Supreme Court for determination as to whether an administrative aspect is involved therein.

x x x x

Maceda[28] is emphatic that by virtue of its constitutional power of administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial

court clerk, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, and take the proper administrative action against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.[29]

In *Fuentes*, the issue was whether the Ombudsman may conduct an investigation over the acts of a judge in the exercise of his official functions alleged to be in violation of the Anti-Graft and Corrupt Practices Act, in the absence of an administrative charge for the same acts before the Supreme Court.[30] According to this Court:

Thus, the Ombudsman may not initiate or investigate a criminal or administrative complaint before his office against petitioner judge, pursuant to his power to investigate public officers. The Ombudsman must indorse the case to the Supreme Court, for appropriate action.

Article VIII, Section 6 of the Constitution exclusively vests in the Supreme Court administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals to the lowest municipal trial court clerk.

Hence, it is the Supreme Court that is tasked to oversee the judges and court personnel and take the proper administrative action against them if they commit any violation of the laws of the land. No other branch of government may intrude into this power, without running afoul of the independence of the judiciary and the doctrine of separation of powers.

Petitioner's questioned order directing the attachment of government property and issuing a writ of execution were done in relation to his office, well within his official functions. The order may be erroneous or void for lack or excess of jurisdiction. However, whether or not such order of execution was valid under the given circumstances, must be inquired into in the course of the judicial action only by the Supreme Court that is tasked to supervise the courts. "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." [31]

Indeed, supervision over all inferior courts and court personnel, from the Presiding Justice of the Court of Appeals to the lowest ranked court employee, is vested by the Constitution in the Supreme Court. However, that prerogative only extends to administrative supervision. As such, the Ombudsman cannot encroach upon this Court's task to oversee judges and court personnel and take the proper administrative action against them if they commit any violation of the laws of the land.

In the case at bar, the criminal case filed against petitioner was in no way related to the performance of his duties as a judge. The Information reveals:

The undersigned Graft Investigation Officer of the Office of the Ombudsman-Visayas, accuses JUDGE RODOLFO B. GARCIA, of the crime of RECKLESS IMPRUDENCE RESULTING TO HOMICIDE, defined and penalized under ARTICLE 365 OF THE REVISED PENAL CODE, committed as follows:

That on or about the 12[th] day of November, 2002, at about 5:15 o'clock in the afternoon, at Sitio Tunga, Barangay Bantayanon, Municipality of Calatrava, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused JUDGE RODOLFO B. GARCIA, a public officer, being then the Municipal Judge of the Municipal Circuit Trial Court of Calatrava-Toboso, Negros Occidental, with Salary Grade 26, then driving a Land Cruiser Toyota bearing Plate No. FDB-193, along the road at Sitio Tunga, Barangay Bantayanon, Calatrava, Negros Occidental, a public highway, did then and there drive or operate said vehicle in a reckless, negligent and imprudent manner without taking the necessary precaution considering the grade, visibility and other conditions of the highway, nor due regard to the traffic rules and

ordinances in order to prevent accident to persons or damage to property, thereby causing by such recklessness, negligence and imprudence the said vehicle to hit and bump the motorcycle driven by Francisco C. Ortega, Jr., bearing Plate No. FH-2324, with Josemarie Paghubasan as his backrider, thereby causing upon Francisco C. Ortega, Jr. the following physical injuries, to with [sic]:

x x x x

which injuries resulted to the death of Francisco C. Ortega, Jr.

CONTRARY TO LAW.[32]

From the foregoing, the filing of the criminal charges against the petitioner before the MCTC was warranted by the above circumstances. Under Article 365 of the Revised Penal Code, the penalty for the crime of reckless imprudence resulting in homicide is prision correccional in its medium and maximum periods ranging from two (2) years, four (4) months and one (1) day to six (6) years. Section 32 of Batas Pambansa Blg. 129, as amended by Section 2 of Republic Act No. 7691,[33] provides as follows:

SEC. 32. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases. - Except in cases falling within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan, Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over all violations of city or municipal ordinances committed within their respective territorial jurisdiction; and

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof.

As such, the jurisdiction of the MCTC over the case is beyond contestation.

Moreover, contrary to petitioner's allegation, the administrative aspect of the case against him was endorsed by the Ombudsman-Visayas to the OCA for appropriate action.[34] In addition, an administrative complaint against petitioner involving the same facts was filed by Julieta Ortega with the OCA. The case was docketed as Administrative Matter OCA IPI No. 03-1403-MTJ, and is still pending to date. Petitioner cannot feign ignorance of this fact considering that he filed a Comment and Answer to the Complaint-Affidavit of Mrs. Julieta Ortega,[35] dated March 21, 2003. Thus, the Court's mandate, as laid down in Caoibes, was more than satisfactorily complied with.

To reiterate, the case filed against petitioner before the MCTC is a criminal case under its own jurisdiction as prescribed by law and not an administrative case. To be sure, trial courts retain jurisdiction over the criminal aspect of offenses committed by judges of the lower courts.[36]

IN LIGHT OF THE FOREGOING, the petition is DENIED. The Municipal Circuit Trial Court of Calatrava-Toboso, Negros Occidental, is ordered to proceed with the trial of Criminal Case No. 5982-C with dispatch.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Tinga and Leonardo-De Castro, JJ., concur.

[*] Additional member per Special Order No. 590 dated March 17, 2009.

[**] Additional member per Raffle dated March 16, 2009.

[1] Rollo, pp. 29-30

[2] Id. at 36.

[3] Id. at 15.

[4] Id. at 17.

[5] Id. at 92-93.

[6] Id. at 92.

[7] Id. at 93.

[8] Id. at 92.

[9] Id. at 14.

[10] Id. at 94-97.

[11] Id. at 97.

[12] Id. at 17-19.

[13] Id. at 21-25.

[14] Id. at 21.

[15] Id. at 26-28.

[16] Supra note 1.

[17] Rollo, p. 29.

[18] Id. at 30.

[19] Id. at 31-35.

[20] Supra note 2.

[21] G.R. No. L-74766, December 21, 1987, 156 SCRA 753.

[22] Id. at 766. (Emphasis supplied)

[23] G.R. No. 67787, April 18, 1989, 172 SCRA 415, 423-425. (Emphasis supplied); See also Santiago v. Vasquez, G.R. Nos. 99289-90, January 27, 1993, 217 SCRA 633, 651-652.

[24] 413 Phil 717 (2001).

[25] Rollo, p. 5.

[26] G.R. No. 124294, October 23, 2001, 368 SCRA 37.

[27] Supra note 24.

[28] Maceda v. Vasquez, G.R. No. 102781, April 22, 1993, 221 SCRA 464.

[29] Caoibes, Jr. v. Ombudsman , supra note 24, at 724. (*Italics supplied*)

[30] Fuentes v. Office of the Ombudsman-Mindanao, supra note 26, at 40-41.

[31] *Id.* at 42. (*Italics supplied*)

[32] Rollo, pp. 17-18.

[33] AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS THE "JUDICIARY REORGANIZATION ACT OF 1980." (*Italics supplied*)

[34] Rollo, p. 93.

[35] Rollo (OCA IPI No. 03-1403-MTJ), pp. 18-23.

[36] Office of the Court Administrator v. Judge Sardido, 449 Phil. 619, 628 (2003).

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