

JOEPHIL C. BIEN, PETITIONER, VS. PEDRO B. BO, RESPONDENT.

G.R. No. 179333. August 03, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a petition for review on certiorari challenging the Court of Appeals (CA) decision in CA-G.R SP No. 92874[1] which affirmed in toto the decision of the Deputy Ombudsman for Luzon in OMB-L-A-04-0488-H finding petitioner administratively liable for Abuse of Authority.[2]

The factual antecedents, summarized by the CA, follow:

[Respondent Pedro B. Bo], since 1993, has applied with the Department of Environment and Natural Resources Community Environment and Natural Resources Office (DENR-CENRO) Legazpi City for the lease of a 10,000 square meter foreshore lot in Palale Beach, Bgy. San Isidro, Ilawod. Pending his application, he introduced improvements in the area necessary in putting up and in running a beach resort, secured DENR approval of his survey plan, obtained a barangay permit to operate his business, and paid the corresponding yearly occupation fees over the public land. The DENR in the meantime conducted an appraisal report on the status of the foreshore lot.

But a month before the DENR released its approval in April 2003 for the bidding of the lease covering the public land Col. Bo was applying for, his cottage and his coconut trees were destroyed. He had this occurrence entered in the police blotter in the Malilipot Municipal Police Station, and named Bgy. Captain Bello and Kgd. Bisona as those who led in the removal of his improvements to give way for the construction of twenty-two cottages, and that this was done in defiance of the directive of the DENR representative not to push through with this plan because they had no right to do so.

The bidding that was scheduled for June 2003 for the lease of the foreshore land never took place because the Sangguniang Barangay of San Isidro, Ilawod opposed Col. Bo's lease application before the DENR, reasoning that the land should be used instead for barangay projects and not to benefit private individuals.

The protest was then referred to the DENR-Provincial Environment and Natural Resources Office (PENRO) for resolution. Land Management Officer (LMO) Santiago Olfindo took hold of the dispute and on October 21, 2003 conducted an ocular inspection on the public land. He noted in his findings the list of improvements as of that time and the owners of the cottages located therein:

"At the time of the ocular inspection, the actual improvements found on the area are reflected on a matrix hereto attached. Some of the owners of the cottages constructed on the area covered by the application of Applicant-Respondent [Bo] were not present during the inspection but were identified by the Barangay Officials who were present on the premises. From the attached matrix it must be noted that almost all of the Barangay Officials had their own cottages and that the total cost of all improvements on the area subject of this case amounts to Four Hundred Seventy Nine (sic) (P479,000.00) Pesos.

During the field inspection, the improvements made by the Applicant-Respondent [Bo] as reflected in the Appraisal Report was not anymore around. The area occupied by his improvement, (Cottage) is already

occupied by a certain Carmelo Tuyó and Jimeno Balana.

xxx xxx xxx

The matrix referred to by LMO Olfindo included [petitioner] Joephil Bien as one of the owners of the cottages built on Palale Beach on March 2003, and said report of LMO Olfindo became the DENR Regional Director's basis for denying the Sangguniang Barangay's protest, finding that the cottages found therein were privately owned and illegally constructed, i.e., without securing the DENR's permit. Thus, the bidding for the public lease of a portion of Palale Beach was upheld.

As regards Col. Bo's complaint before the Ombudsman, he pinpointed not only the barangay officials of San Isidro, Ilawod as the culprits responsible for the destruction of his cottage and plantation but also [petitioner] Joephil Bien. Col. Bo stressed that all of them connived in doing this injustice to him in order that respondents [including herein petitioner] may be able to construct their own private cottages for their own benefit.

Defending himself separately from his co-respondents, [petitioner] Joephil Bien maintained his innocence and vehemently denied ownership of the cottage. To prove the latter, he averred that it is not he who owns the cottage but a certain Renaldo Belir. He affixed as evidence in his position paper the affidavit of Renaldo Belir affirming that it is he and not Bgy. Captain Bien who constructed the cottage. As his additional proof, he included an official receipt issued to Belir as payment for the barangay permit.[3]

As previously adverted to, the Deputy Ombudsman for Luzon found all respondents therein, including herein petitioner Bien, administratively liable for Abuse of Authority, to wit:

WHEREFORE, premises considered, it is hereby respectfully recommended that respondents JULIO BELLO, JOEL BISONA, ROLANDO VOLANTE, MARTINEZ BEA, RICARDO BILAN, RENATO BARIAS, HERBES BOTIS, MILAGROS BALANA, and JOEPHIL BIEN, be meted out the penalty of three (3) months suspension without pay for Abuse of Authority.

SO RESOLVED.[4]

Objecting to the penalty meted out by the Deputy Obmudsman, petitioner appealed to the CA which ruled, thus:

WHEREFORE, the instant petition is DENIED for lack of merit. The September 5, 2005 Decision and November 23, 2005 Order of the Deputy Ombudsman for Luzon anent OMB-L-A-04-0488-H are AFFIRMED in toto.

SO ORDERED. [5]

Hence, this appeal by petitioner hinging on the singular issue of whether he is liable for abuse of authority.

Petitioner seeks to evade liability on the following grounds:

- Respondent failed to prove petitioner's participation in the destruction of the improvements introduced by the former on the subject property;
- Corollary thereto, respondent failed to establish petitioner's ownership of one of the twenty-two (22) cottages on the subject property found by the DENR to have been illegally erected; and
- Petitioner is not a barangay official of San Isidro Ilawod; thus, he has no authority and jurisdiction over the subject property.

We are in complete accord with the Deputy Ombudsman for Luzon's and the appellate court's uniform rulings.

Petitioner's participation in the destruction of the improvements on the subject property introduced by the

respondent, as well as petitioner's ownership of one of the cottages subsequently erected therein, were supported by substantial evidence.

In administrative cases, the requisite proof is substantial evidence, i.e., that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[6] In the case at bar, substantial evidence consisted in the findings of the DENR-PENRO identifying petitioner as one of the owners of the twenty-two (22) cottages illegally erected on the subject property covered by a lease application of respondent. The Final Report of the DENR-PENRO narrates the circumstances surrounding the conflict between respondent and the barangay officials of San Isidro Ilawod, concerning respondent's application for lease of the subject property:

On May 11, 1993, Applicant-Respondent filed with the DENR-CENRO, Legazpi a foreshore lease application and designated as F.L.A. No. 050509-01. After six (6) years of follow-up by Applicant-Respondent on the actions taken on his application, it was on April 28, 2003 that the Notice to Lease Public Land was ultimately released for posting in the barangay where the applied area is located. Instead of having it posted by the Barangay Officials of San Isidro Ilawod, Malilipot, Albay, they refused its posting and consequently filed their opposition on June 4, 2003, just five (5) days before the scheduled bidding of the applied area.[7]

Moreover, the DENR Regional Executive Director categorically found that the barangay officials, respondents in the proceedings before the Deputy Ombudsman for Luzon, including herein petitioner Bien, illegally erected cottages on the subject property:

The Sangguniang Barangay of San Isidro Ilawod, cannot, in the guise of resolutions assume the authority and task that pertain solely to the DENR as regards the administration and management of the subject foreshore land. The introduction of improvements on the premises without the necessary permit from the DENR is illegal which we cannot countenance.[8]

More importantly, the CA found that the evidence presented by respondent buttressed his positive and consistent claim that petitioner connived with the barangay officials of San Isidro Ilawod to destroy the improvements he introduced on the subject property so that these officials could construct their own cottages thereon. Specifically, the appellate court proclaimed, thus:

The result of the DENR's field inspection that revealed petitioner as one who owned one of the 22 cottages that dislodged Col. Bo's cottage and coconut trees is what Bgy. Capt. Bien is pouncing on, for a confirmation in this administrative case of his alleged ownership of the cottage in Palale Beach will buttress Col. Bo's positive and consistent claim, as inferred from all his pleadings before the Ombudsman, that there was connivance among the[rein] respondents in removing his improvements so that they may put up their own cottages.

xxxx. Renaldo Belir declared in his affidavit that he constructed his cottage in Palale Beach in May 2003, but the subject here concerns the 22 cottages that were built immediately after the destruction of Col. Bo's cottage and coconut plantations. As against that of LMO Olfindo's report which listed those 22 cottages built in March 2003 [showing] that one of these cottages is ostensibly owned by petitioner, the information which was gathered from the barangay officers themselves of San Isidro Ilawod who accompanied LMO Olfindo during the ocular inspection, the proof that petitioner submitted to substantiate his defense that another person owns the cottage is weak.[9]

From the foregoing separate factual findings, respondent has sufficiently established that petitioner Bien was one of the barangay officials, albeit from a different barangay, who participated in the destruction of respondent's cottage and coconut trees built and planted on the subject property.

Petitioner further makes capital of the fact that he is not a barangay official of San Isidro Ilawod; necessarily, for him to be liable for abuse of authority, the exercise of power should have been done in the discharge of his office.

As the CA did, we likewise do not agree. Suffice it to say that petitioner's status as ABC President is not disputed. We concur with the CA's following disquisition:

His line of reasoning may be convincing had this been the only circumstance. But it must be taken into consideration that he is the ABC President to whom the barangay officials show deference to. Also, as correctly held by the Ombudsman, he is the ex-officio member of the Sangguniang Bayan which is significantly mentioned to be the legislative body with the power to review barangay ordinances and with the authority to discipline barangay officials. The presence of his cottage as well as that of the other barangay officials in San Isidro Ilawod in Palale Beach showed an apparent connivance among them. It then follows that his participation as a higher authority had put a semblance of legality over the removal of complainant's improvements in order that they may protect their personal interests over the foreshore lot. In this sense, there shows his misdemeanor as a public officer, an abuse of his authority.[10]

With the foregoing discussion, we see no need to dispose of the peripheral issues raised by petitioner.

WHEREFORE, premises considered, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R SP No. 92874 and the Decision and Order of the Deputy Ombudsman for Luzon in OMB-L-A-04-0488-H are AFFIRMED. Costs against petitioner.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad and Mendoza, JJ., concur.

[1] Penned by Associate Justice Mariano C. Del Castillo (now a member of this Court), with Justices Arcangelita Romilla Lontok and Ricardo R. Francisco, concurring; rollo, pp. 38-54.

[2] Id. at 119-123.

[3] Id. at 40-44.

[4] Id. at 122-123.

[5] Id. at 54.

[6] RULES OF COURT, Rule 133, Section 5.

[7] Rollo, p. 78.

[8] Id. at 106.

[9] Id. at 50-51.

[10] Id. at. 52-53.

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