

**ANNIE TAN, PETITIONER, VS. THE OFFICE OF THE OMBUDSMAN,
RODOLFO V. BUCU, OFFICER-IN-CHARGE LTO, STA. MESA BRANCH,
MANILA, ATTY. CONSOLACION BELTRAN, HEARING OFFICER AND
FRANCISC...**

G.R. Nos. 114332 & 114895. September 10, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a special civil action for certiorari and mandamus[1] seeking a review of the resolution, dated December 7, 1993, of the Office of the Ombudsman, dismissing a complaint filed by petitioner, as well as the resolution, dated February 22, 1994, denying petitioner's motion for reconsideration.

The facts are as follows.

Petitioner is the owner of two trucks bearing the following descriptions:[2]

1) Certificate of Registration No. 0722440-1

Make/Type : ISUZU CARGO DROPSIDE

Motor No. : 10PBI-984339

Serial/Chassis No. : SSM701-1933654

M.V. File No. : 4E-80355

Plate No. : T-PLH-266

2) Certificate of Registration No. 0147710-3

Make/Type : ISUZU CARGO TRUCK

Motor No. : E-120-205656

Serial/Chassis No. : TMK25E-1731615

M.V. File No. : 4F-38263

Plate No. : T-NWM-418

In 1992, she changed the engines of these vehicles. The engine (No. 10PBI-984339) of the first truck, covered by Certificate of Registration No. 0722440-1, was replaced with another engine bearing the number 10PBI-312059. The engine (No. E-120-205656) of the second Isuzu truck, covered by Certificate of Registration No. 0147710-3, was likewise changed with another one (No. E-120-260820). On November 24, 1992, after obtaining a clearance from the Philippine National Police, petitioner tried to register the two vehicles with their new engines in the Sta. Mesa branch of the Land Transportation Office (LTO) of which respondent Rodolfo V. Bucu was then officer-in-charge.

Upon finding that the truck covered by Certificate of Registration No. 0147710-3 was actually registered in the Diliman District Office of the LTO, respondent Bucu informed petitioner that the vehicle could only be registered in the said branch of the agency.

With respect to the other truck (covered by Certificate of Registration No. 0722440-1), respondent Bucu had previously been furnished a copy of a letter, dated February 19, 1991, of a certain Angel Tan to the Registrar of the Manila East District Office of the LTO, in which Tan requested that the registration of the vehicle be held in abeyance on the ground that the vehicle was mortgaged to him. Angel Tan's letter reads:[3]

To the Registrar:

I am requesting your good office to hold any transaction of the vehicles (sic) more particularly described as follows:

OWNER : A J & T Trading
ADDRESS : 619 Carvajal St.,
Binondo, Manila
MAKE : ISUZU
TYPE : CARGO DROPSIDE
MOTOR # : 10PBI-984339
CHASSIS # : SSM 701-1933654
FILE # : 4E-80355
PLATE # : T-PLH-226 (1990)

The said motor vehicles (sic) is pledged to us by the owner (ANNIE TAN) as quolateral (sic) to a mortgaged (sic).

Kindly hold all transactions for the aforementioned of the said motor vehicles (sic).

Hoping for your kind consideration for (sic) this matter. I remain (sic).

Sgd. ANGEL TAN

The chattel mortgage agreement, dated October 2, 1989, a copy of which was also given to Bucu, shows that it was executed to secure a P750,000.00 loan obtained by petitioner from Angel Tan.[4]

For this reason, respondent Bucu advised petitioner to secure the conformity of Angel Tan to the registration of the vehicle. Instead of doing so, however, petitioner filed an administrative complaint against the said respondent.

The complaint was filed with the Central Office of the LTO, which referred the matter to the office of its director for the National Capital Region in Pasig City. It was assigned to respondent Atty. Consolacion Beltran who, after hearing the case, recommended the dismissal of the complaint for lack of merit. The recommendation was approved by respondent Regional Director Francisco de Vera and the case against respondent Bucu was dismissed.

Petitioner alleges that respondent Beltran acted with partiality toward respondent Bucu and Angel Tan by allowing them access to the records of the LTO and denying her request to have the proceedings recorded by a stenographer.[5]

While the administrative case was thus pending investigation, petitioner filed another complaint before the Office of the Ombudsman against the aforesaid officials for violation of §3(e)-(f) of Rep. Act No. 3019. After investigation, however, Graft Investigation Officer I Roline M. Ginez recommended dismissal of the complaint for lack of merit. On December 7, 1993, Over-all Deputy Ombudsman Francisco A. Villa approved the recommendation.[6] Petitioner filed a motion for reconsideration, but this was denied on February 22, 1994.[7] Hence, this petition.

Petitioner accuses respondent Bucu of unduly delaying the issuance of a license for a "transparently flimsy

reason"[8] in violation of the Anti-Graft and Corrupt Practices Act as the reason given by respondent (i.e., that the subject vehicle had been mortgaged to Angel Tan) actually presents a question which is for the courts to decide. In addition, petitioner contends that respondents Beltran and de Vera are guilty of partiality and of failure to accord due process to her. She thus contends that the Office of the Ombudsman gravely abused its discretion in dismissing her complaint against these officials.

Petitioner no longer questions in this case the non-registration of her second Isuzu truck, which is covered by Certificate of Registration No. 0147710-3. Indeed, as the Ombudsman pointed out, Memorandum Circular No. 88 NCR-010, issued on June 3, 1988 by the LTO Regional Director for the National Capital Region, requires that "transactions that necessitate the issuance/replacement of the Certificate of Registration, such as transfer of ownership, change engine/chassis, release of mortgage, etc., shall be effected at the District Office that issued the Certificate of Registration." [9]

Accordingly, the only issue in this case is whether in failing to register the first vehicle (covered by Certificate of Registration No. 0722440-1) respondent LTO officials were guilty of graft or corrupt practices as defined in paragraphs (e) and (f) of §3, R.A. No. 3019, to wit:

(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.

(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

The Office of the Ombudsman found:

In his Counter-Affidavit, respondent Bucu clarified that he did not actually refuse the registration of the change of engine transaction sought by complainant Annie Tan. He advised her to confer first with Mr. Angel Tan regarding the alleged chattel mortgage agreement which has for its subject the vehicle which engine is now sought to be changed. This is based on a letter (Annex 1 of the Counter-Affidavit) of Mr. Angel Tan dated February 19, 1991, requesting the Land Transportation Office (LTO), Manila East District to hold any transaction on the vehicle pledged to him by the owner, Annie Tan as collateral to a mortgage. Said vehicle is particularly described as follows:

OWNER : A J & T Trading
ADDRESS : 619 Carvajal St.,
Binondo, Manila
MAKE : ISUZU
TYPE : CARGO DROPSIDE
MOTOR # : 10 PBI-984339
CHASSIS # : SSM 701-1933654
FILE # : 4E-80355
PLATE # : T-PLH-226 (1990)

Mr. Bucu was likewise furnished a copy of the chattel mortgage agreement dated October 2, 1989 between Angel Tan as mortgagor and Annie Tan as mortgagee. The mortgage was constituted on a vehicle which has the following particular descriptions:

TYPE ----- ISUZU V-10
10 Wheeler Cargo
Truck (newly Reconditioned directly from Japan)

CHASSIS ----- SSM701-1933654

ENGINE No. ----- 10PBI-309691

Series of 193, 320 HP

to secure a loan taken by Annie Tan from Angel Tan in the amount of Seven Hundred Fifty Thousand Pesos (P750,000.00)

It is settled that the two aforequoted documents, the letter-request and the chattel mortgage agreement, refers to the same vehicle and this is consistent with the vehicle which engine is now sought to be changed by complainant Annie Tan but there is divergence with regard to the engine number. The chattel mortgage agreement refer to engine no. 10PBI-309691 while the letter-request as well as the affidavit supporting the request of change of engine transaction refer to one and the same engine no. 10PBI-984339.

The divergence as to the engine number is explained by the scheme sought by the complainant to mislead and to conceal from the mortgagee the whereabouts of the vehicle subject of the mortgage. As evidenced by the narration of respondent Bucu, the original engine no. is 10PBI-309691 covered by the original COR No. 0530015. Then a request for engine was sought for the first time by complainant Annie Tan and the engine no. was changed to PBI-984339. This is now the engine no. mentioned in the letter-request of Angel Tan.

To further mislead the mortgagee, Mr. Angel Tan, complainant Annie Tan misrepresented that she lost the owner's copy of the certificate of registration so that she will be issued another certificate of registration. Mr. Bucu confirmed that this is a misrepresentation on the part of Annie Tan. This is a part of her scheme to bring the mortgagee into a maze and unable him to trace the vehicle subject of the mortgage.(sic)

Not contended (sic) with that, Annie Tan continued her plan to mislead once more the mortgagee when she sought the registration of the latest change of engine transaction. This time, her attempt was not consummated due to the timely discovery of respondent Bucu.[10]

On the basis of these findings, the Ombudsman dismissed petitioner's complaint:

Considering the foregoing as the factual backdrop, respondent Bucu is justified in refusing the request for registration of the change of engine transaction. Moreover, a complaint for a sum of money was already filed by Angel Tan against Annie Tan with the Regional Trial Court of Pasay City, Branch 117 where a writ of Preliminary Attachment has already been issued against the said vehicle of the complainant. It can be said that respondent Bucu did not act with manifest partiality, evident bad faith or inexcusable negligence when he refused the registration of the change of engine transaction. He could not simply tolerate the obvious scheme of the complainant in adopting ways and means to defraud her creditors. With more reason that he could not just ignore the plea of a creditor who is trying his best to protect his rights accorded to him by law.[11]

Given such, we hold as to §3(e) that there was neither "undue injury" caused nor "unwarranted benefits" conferred as a result of respondent Bucu's decision to defer registration of the vehicle in question. For, as found by the Ombudsman, respondent Bucu did not really refuse to register the said vehicle but only advised petitioner to settle matters with Angel Tan first.[12] Indeed, Angel Tan had already obtained a writ of preliminary attachment on the vehicle, thereby proving that respondent Bucu had acted prudently in not granting with alacrity petitioner's application.

Neither is there any allegation that the respondent LTO officials refused to register the vehicle because petitioner had refused to give them the money they were asking for nor is there any claim that they neglected to do so to

favor their own interest or give undue advantage to another person. Allegations such as these are essential to make out a case under §3(f).

The Ombudsman's resolution is based on substantial evidence. In dismissing petitioner's complaint, we cannot say that the Ombudsman committed grave abuse of discretion so as to call for the exercise of our supervisory powers over him. This Court is not a trier of facts. As long as there is substantial evidence in support of the Ombudsman's decision, that decision will not be overturned.[13] Such is the case here.

The rationale for this rule is given in the following excerpt from our ruling in *Young v. Office of the Ombudsman*:[14]

. . . 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, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.

As the Solicitor General notes, if respondent Bucu had immediately allowed the registration of the vehicle in question, it easily would have gone through at least four certificates of registration, counted from the first, showing three different engine numbers.[15] Respondent Bucu thus acted properly in advising petitioner to settle the matter with Angel Tan first. Indeed, as the Ombudsman subsequently found, a complaint for a sum of money had in fact been filed by Angel Tan against Annie Tan with the Regional Trial Court of Pasay City, Branch 117 and a writ of preliminary attachment obtained against the vehicle.[16] To have readily allowed the registration of the vehicle in petitioner's name would therefore have instead caused "undue injury" to Angel Tan or given material advantage to petitioner in violation of §3(e) of Rep. Act. No. 3019.

Much less is there evidence to show that respondents Beltran and de Vera are guilty of denying petitioner due process because of bias or partiality. Such arguments are devoid of merit. As the Office of the Ombudsman found, petitioner testified during the hearing on her complaint. She was also afforded a reasonable opportunity to be represented by counsel of her own choice.[17] Indeed, only in her consolidated reply does she belatedly claim that she was denied the same access to the LTO records which Angel Tan and respondent Bucu had been given.[18] Neither has petitioner shown that the failure of respondent LTO officials to have the hearing conducted by them recorded by stenographers is irregular.[19]

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Melo, Puno and Martinez, JJ., concur.
Regalado, J., (Chairman) on leave.

[1] Petitioner, originally without the assistance of counsel, filed on her own a "Motion for Extension of Time to File Petition for Review on Certiorari" on March 28, 1994 which was docketed as G.R. No. 114332. However, on April 22, 1994, she filed, this time through counsel, a "Manifestation/Motion" praying that she be allowed to withdraw the first motion to give way to the present petition which is docketed as G.R. No. 114895. In its resolution of June 13, 1994, the Court resolved to consolidate both cases.

[2] Rollo for G.R. No. 1148795 (hereinafter simply Rollo), pp. 9 & 59.

[3] Rollo, pp. 10, 41, 59-60.

[4] Id., pp. 16-17, 46-47, 60.

[5] Id., pp. 11-12.

[6] Id., pp. 27-35.

[7] Id., pp. 36-38.

[8] Id., p. 13.

[9] Id., p. 31. (Emphasis added).

[10] Id., pp. 32-33.

[11] Id., pp. 33-34

[12] Id., p. 32.

[13] Olivarez v. Ombudsman, 248 SCRA 700 (1995); Cruz, Jr. v. People, 233 SCRA 439 (1994).

[14] 228 SCRA 718, 722-723 (1993), citing Ocampo, IV v. Ombudsman, 225 SCRA 725 (1993); reiterated in Paredes, Jr. v. Sandiganbayan, 252 SCRA 641 (1996).

[15] Rollo, p. 68.

[16] Id., p. 33.

[17] Id., pp. 11-12 & 34.

[18] Id., pp. 11; Rollo for G.R. No. 114332, p. 68.

[19] Rollo, p. 11.

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