

**ANTONIO Z. KING, HEREIN REPRESENTED BY HIS
ATTORNEY-IN-FACT, EDGARDO SANTOS, PETITIONER VS.
FRANCISCO A. ROBLES, ANTONIO T. DATU, RENE A. MASILUNGAN,
RESTITUTO S. SOLOMON, RODRI...**

G.R. Nos. 197096-97. December 07, 2015

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-197096-97/>

DEL CASTILLO, J.:

This Petition for Review in Certiorari[1] seeks to reverse and set aside the August 29, 2008 Joint Resolution[2] and November 17, 2010 Joint Order[3] of the Office of the Ombudsman in OMB-C-C-02-0339-F and C-C-02-0340-F. The Ombudsman dismissed for lack of probable cause the cases for Robbery, Violation of Section 3(e) of Republic Act No. 3019 (RA 3019) and Falsification of Public Documents filed by Antonio Z. King (King) against Labor Arbiter Francisco A. Robles (Arbiter Robles), Antonio T. Datu, Rene A. Masilungan, Restituto S. Solomon (Deputy Sheriffs), Rodrigo Mendoza (Rodrigo), Romeo Mendoza (Romeo), Reynaldo Datu, Joseph Tiu (Joseph), Teresita Tiu (Teresita), Rogelio Gebilaguin (Rogelio), Prescilla Gebilaguin and the other private respondents.

The Antecedent Facts

In a Decision[4] dated February 28, 1997 rendered by the Third Division of the National Labor Relations Commission (NLRC), Azkcon Group of Companies and/or Jay Ar Lazo were adjudged guilty of having illegally dismissed Rogelio from service and were ordered to reinstate Rogelio to his former position, to pay him full backwages from the time his salary was withheld up to his actual reinstatement. This Decision became final and executory. On November 19, 2001, Arbiter Robles issued a writ of execution[5] commanding the execution arm of the NLRC "to proceed to the premises of Azkcon Group of Companies and/or Jay Ar Lazo located at J.P. Ramos St., Bo. Talipapa, Caloocan City or wherever it may be found and collect the sum of x x x P471,200.99 representing [Rogelio's] backwages and 13[th] month pay. In case you fail to collect said amount in cash, you are to cause the satisfaction of the same from the movable or immovable properties of the respondent not exempt from execution." [6]

In compliance with the directive in the writ of execution, respondent Deputy Sheriffs served a Notice of Levy/Sale on Execution on Personal Properties[7] upon the representative of therein respondents on March 5, 2002. Personal properties found inside the compound of Azkcon at No. 220 Lias Road, Lambakan Street, Marilao, Bulacan were levied upon. Meanwhile, on March 13, 2002, Philippine Metal and Alloy Fabrication Corporation (PMAFC, one of the companies represented by King) filed an Affidavit of Third Party Claim[8] before Arbiter Robles, asserting ownership over the levied properties. Subsequently, PMAFC filed a Motion to Quash Notice of Levy/Sale on Execution of Personal Property and to Inhibit Sheriffs.[9] PMAFC contended that the Deputy Sheriffs levied on properties belonging to PMAFC worth P12 million and that the Deputy Sheriffs intended to sell the said properties for a measly sum of P471,200.99. PMAFC thus prayed that the Notice of Levy/Sale on

Execution be set aside for being void ab initio and the Deputy Sheriffs be disqualified. In an Order^[10] dated April 18, 2002, Arbiter Robles directed Rogelio to post a Sheriffs Indemnity Bond in an amount double the judgment award.

On April 26, 2002, Arbiter Robles approved Rogelio's Sheriffs Indemnity Bond, directed the Deputy Sheriffs to obtain physical possession of the levied properties, sell them at public auction, and apply the proceeds thereof for the satisfaction of the judgment award.^[11] Rogelio, through his attorney-in-fact, Rodrigo Mendoza, emerged as the highest bidder in the auction sale conducted on May 2, 2002. After the Certificate of Sale was issued, Rodrigo and his workers started to pull out and haul the sold properties.

Contending that the value of the properties taken and hauled by Rogelio through his attorney-in-fact were worth more than the monetary award of the NLRC, petitioner King, claiming to be the President of Azkcon Metal Industries, Inc., Azkcon Refrigeration Industries, Inc., Azkcon Construction Development Corporation, Azk Trading and PMAFC, filed criminal complaints for Robbery, Violation of RA 3019 and Falsification of Public Documents against respondents before the Office of the Ombudsman docketed as OMB-C-C-02-0339-F and C-C-02-1340-F. He alleged that respondents conspired in the unlawful taking of the machineries and equipment which caused him and the aforesaid companies undue injury. King claimed that the properties were owned by PMAFC inasmuch as the Azkcon Group of Companies is not a registered corporation; that in the Notice rescheduling the auction sale, the Deputy Sheriffs misleadingly indicated the address as 220 Lambakin St., Marilao, Bulacan, when the correct address of Azkcon is 220 Lias Road, Bo. Lambakin, Marilao, Bulacan; that the Deputy Sheriffs did not actually hold a public auction consistent with respondents' intention to rob Azkcon; and that Joseph and Teresita conspired with the other respondents when they allowed the safekeeping of the hauled machineries and equipment in their compound. The National Bureau of Investigation whose assistance was sought by petitioner likewise filed similar charges against the aforementioned accused before the Office of the Provincial Prosecutor of Bulacan and docketed as I.S. No. 02-05-1059 and I.S. No. 02-06-1406.

Ruling of the Ombudsman

After the consolidation of the cases and hearing the parties' respective position, the Ombudsman in its Joint Resolution dated August 29, 2008 dismissed all the charges against the respondents for lack of probable cause.

According to the Ombudsman, petitioner's evidence failed to establish the four elements of the crime of robbery. The Ombudsman held that the intent to gain is totally absent since Rogelio is the owner of the subject properties on account of his being the highest bidder and a Certificate of Sale issued to him. Thus, Rogelio cannot be charged for taking the personal property of another.

The Ombudsman likewise ruled that the sale of the levied properties through auction was not made with manifest partiality, evident bad faith and/or gross inexcusable negligence. The Deputy Sheriffs' actions were done pursuant to the NLRC Manual on Execution of Judgment.

With respect to the charge of Falsification of Public Documents, the Ombudsman found no record to show that respondents falsified any pertinent document in this case.

Petitioner's Motion for Reconsideration was denied by the Office of the Ombudsman in its assailed Joint Order dated November 17, 2010.

Hence, this instant Petition for Review on Certiorari. King insists that probable cause exists to charge respondents with Robbery, Falsification of Public Documents and Violation of Sec. 3(e) of RA 3019.

On July 20, 2011, we resolved to require respondents to file comment.^[12] Respondents Romeo and Rodrigo filed

their Comment[13] maintaining that King failed to prove that there was probable cause to charge them with the foregoing crimes. They also posit that King did not establish conspiracy among them. Moreover, they maintain that Arbiter Robles and the Deputy Sheriffs were only performing their duties as mandated by law. Also, the withdrawal of the properties was done by authority of the law and by virtue of the Certificate of Sale. King thereafter filed his Reply.[14] To date, the other respondents failed to comment. Hence, they are deemed to have waived their right to file comment.

Issue

Whether the Ombudsman erred in its finding of lack of probable cause to hold respondents for trial.

The Court's Ruling

The Petition is bereft of merit.

At the outset, it must be emphasized that the Ombudsman is a constitutional officer duty-bound to investigate on its own or on complaint by "any person, any act or omission of a public officer or employee when such act or omission appears to be illegal, unjust, improper or inefficient." [15] By constitutional fiat and under RA 6770, [16] the Ombudsman is given a wide latitude of investigatory and prosecutory powers on offenses committed by public officers free from legislative, executive or judicial intervention. [17] Because of the endowment of broad investigative authority, the Ombudsman is empowered to determine, based on the sufficiency of the complaint, whether there exist reasonable grounds to believe that a crime has been committed and that the accused is probably guilty thereof and file the corresponding information with the appropriate courts. In contrast, if the Ombudsman finds the complaint insufficient in form or substance, it may also dismiss the complaint. Such prerogative is beyond the ambit of this Court to review the Ombudsman's exercise of discretion in prosecuting or dismissing a complaint filed before it [18] except when the exercise thereof is tainted with grave abuse of discretion. [19]

"Grave abuse of discretion is the capricious and whimsical exercise of judgment on the part of the public officer concerned, equivalent to an excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary or despotic manner by reason of passion or hostility." [20] A perusal of the Petition shows that petitioner failed to demonstrate the Ombudsman's abuse, much less grave abuse of discretion in dismissing the charges against respondents for lack of probable cause. On the contrary, a review of the records readily reveals that the Ombudsman's assailed Joint Resolution is based on substantial evidence. From the well-explained Joint Resolution, in our view, petitioner's Affidavit/Complaint is bereft of sufficient ground to engender a well-founded belief that the crimes imputed on respondents have been committed and that they are probably guilty thereof and should be held for trial. In fine, the Ombudsman did not abuse his discretion warranting the Court's intervention, in dismissing the charges against respondents.

Petitioner complained of procedural flaws in the enforcement of the writ of execution arguing in the main that the value of the levied and hauled properties were much more than the monetary award of the NLRC. This we believe is not an adequate ground to reverse the action of the Ombudsman.

Petitioner's bone of contention in the present Petition boils down to the appreciation and determination of factual matters. The question of whether there was indeed an over levy of properties is one that is essentially a factual concern as it goes into the determination of the fair market value of the properties levied upon vis-a-vis the value of the properties hauled and taken out of the company's premises. Obviously, petitioner invites an evaluation of the evidentiary matters which is not proper in a petition for review on certiorari. Besides, this Court is not a trier

of facts. Matters pertaining to proofs and evidence are beyond the power of this Court to review under a Rule 45 Petition except in the presence of some meritorious circumstances, none of which is availing in this case.

WHEREFORE, the Petition is DENIED. The Joint Resolution dated August 29, 2008 of the Office of the Ombudsman and its Joint Order dated November 17, 2010 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Perez,[*] Mendoza, and Leonen, JJ., concur.

[*] Per Special Order No. 2301 dated December 1, 2015.

[1] Rollo, pp. 3-22.

[2] Id. at 239-285.

[3] Id. at 308-316.

[4] Id. at 36-46.

[5] Id. at 48-52.

[6] Id. at 51-52.

[7] Id. at 53.

[8] Id. at 54-55.

[9] Id. at 77-79.

[10] Id. at 75-76.

[11] Id. at 138-139.

[12] Id. at 317.

[13] Id. at 330-397.

[14] Id. at 460-465.

[15] Presidential Ad Hoc Committee on Behest Loans v. Tabasondra, 579 Phil. 312, 324 (2008).

[16] THE OMBUDSMAN ACT OF 1989.

[17] Id. at 325.

[18] Id. at 324.

[19] Id. at 325.

[20] Id.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.