

## EN BANC

[ IPI No. 17-256-CA-J, February 18, 2020 ]

**RE: COMPLAINT-AFFIDAVIT OF NORBERTO B. VILLAMIN AND  
EDUARDO A. BALCE AGAINST ASSOCIATE JUSTICES RAMON M.  
BATO, JR., ZENAIDA T. GALAPATE-LAGUILLES AND MARIA ELISA  
SEMPIO DIY OF THE SPECIAL TWELFTH DIVISION; AND  
ASSOCIATE JUSTICE MARIE CHRISTINE AZCARRAGA-JACOB OF  
THE SPECIAL THIRD DIVISION, BOTH OF THE COURT OF  
APPEALS, RELATIVE TO CA-G.R. SP NO. 147998 AND CA-G.R. SP  
NO. 148108.**

### DECISION

**DELOS SANTOS, J.:**

#### The Facts

On 12 January 2017, Norberto B. Villamin (Villamin) and Eduardo A. Balce (Balce), Provincial Coordinator and Assistant Provincial Coordinator, respectively, of the Volunteer Against Crime and Corruption filed a Complaint-Affidavit<sup>[1]</sup> against Court of Appeals (CA) Associate Justices Ramon M. Bato, Jr., Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy of the Special Twelfth (12<sup>th</sup>) Division; and Associate Justices Rosmari D. Carandang, Mario V. Lopez and Marie Christine Azcarraga-Jacob of the Special Third (3<sup>rd</sup>) Division for grave abuse of discretion, gross ignorance of the law, and gross incompetence.<sup>[2]</sup>

The present administrative complaint originated from prior cases filed with the Office of the Ombudsman (Ombudsman) against Edgardo A. Tallado (Tallado), in his capacity as then Governor of Camarines Norte, and Magdalena B. Toledana (Toledana), in her capacity as Human Resource Officer of the Provincial Government of Camarines Norte.

#### **OMB-L-A-15-0101**

In OMB-L-A-15-0101,<sup>[3]</sup> dated 7 September 2015 and approved on 8 August 2016, the Ombudsman rendered judgment finding Tallado administratively liable for disgraceful and immoral conduct and was meted out the penalty of six (6) months and one (1) day suspension without pay. The relevant portion of the Ombudsman Decision provides:

WHEREFORE, judgment is rendered finding respondent Edgardo A. Tallado administratively liable for Disgraceful and Immoral Conduct for which he is meted the penalty of Six (6) months suspension and One (1) day (sic) without pay pursuant to Section 10, Rule III, Administrative Order No. 07, as amended by Administrative Order No. 17, in relation to Section 25 of Republic Act No. 6770.<sup>[4]</sup>

In OMB-L-A-15-0101, the suspension order against Tallado, which was immediately executory, was implemented by the Department of Interior and Local Government (DILG) on 17 October 2016.<sup>[5]</sup> Thereafter, Vice Governor Jonah Pimentel and First Board Member Arthur Michael G. Canlas assumed the position of Acting Governor and Acting Vice Governor, respectively.<sup>[6]</sup> Tallado then filed a Petition for Certiorari under Rule 43 assailing the Decision of the Ombudsman, with prayer for a Temporary Restraining Order (TRO) and Preliminary Injunction. The case was raffled to the CA Special 12<sup>th</sup> Division, therein docketed as CA-G.R. SP No. 147998.<sup>[7]</sup>

In a Resolution<sup>[8]</sup> dated 16 December 2016, the CA Special 12<sup>th</sup> Division granted Tallado's Petition and issued a writ of preliminary mandatory injunction enjoining the DILG and the Ombudsman from implementing the 17 October 2016 Decision. The CA Resolution, which was penned by Associate Justice Ramon M. Bato and concurred in by Associate Justice Zenaida T. Galapate-Laguilles and Associate Justice Maria Elisa Sempio Diy, held that the immediate and continuing implementation of the assailed decision of the Ombudsman would cause great and irreparable injury not only to Tallado, who was just re-elected to serve a new term as Governor of Camarines Norte, but also to the people of Camarines Norte who would be deprived of Tallado's services as their duly elected Governor.<sup>[9]</sup> The CA held that the main issue in Tallado's petition is whether or not the Ombudsman's decision was supported by substantial evidence, and that Tallado has presented a clear and unmistakable right to be protected while the merits of his petition was resolved by the CA.

The dispositive portion of the CA Resolution provides:

ACCORDINGLY, in order to MAINTAIN THE STATUS QUO ante as well as preserve the rights of the parties during the pendency of this petition and not to render ineffectual whatever judgment that may be rendered by this Court, conditioned upon the putting up of a bond in the sum of Php100,000.00, to answer for whatever damages the respondents will suffer should this Court decide that the petitioner is not entitled thereto, let a WRIT OF PRELIMINARY MANDATORY INJUNCTION be issued, enjoining and directing the public respondents Ombudsman and the DILG, their officials and agents, or persons acting for and on their behalf to CEASE and DESIST from fully implementing the assailed Decision dated 07 September 2015 as well as the Indorsement dated 15 August 2016 of Asst. Ombudsman Jennifer Jardin-Manalili, the Memorandum dated 05 October 2016 of DILG Secretary Ismael D. Sueno and Order dated 17 October 2016 of Director Elouisa T. Pastor issued pursuant thereto, and to IMMEDIATELY RESTORE petitioner to his position as Governor of Camarines Norte.<sup>[10]</sup>

### **OMB-L-A-15-0480**

In OMB-L-A-15-0480,<sup>[11]</sup> dated 18 April 2016 and approved on 13 September 2016, the Ombudsman rendered judgment finding Tallado guilty of grave misconduct and oppression/abuse of authority with the aggravating circumstance of recidivism and was meted out the penalty of dismissal from service. In the same case, Toledana was found guilty of simple neglect of duty and was meted out the penalty of three (3) months suspension from office without pay. The relevant portion of the Ombudsman's Decision provides:

WHEREFORE, EDGARDO A. TALLADO is found guilty of Grave Misconduct and Oppression/Abuse of Authority with the aggravating circumstance of recidivism and is meted the penalty of dismissal from the service with the accessory penalties of Cancellation of Eligibility, Bar from taking any Civil Service Examination, Forfeiture of Retirement Benefits and Perpetual Disqualification for Reemployment in the Government Service pursuant to Section 10, Rule III, Administrative Order No. 07 as amended by Administrative Order No. 17 in relation to Section 25 of Republic Act No. 6770, and respondent MAGDALENA B. TOLEDANA is adjudged guilty of Simple Neglect of Duty and imposes upon her the penalty of Three (3) months suspension from office without pay.<sup>[12]</sup>

In OMB-L-A-15-0480, the dismissal order against Tallado was also implemented by the DILG on 15 November 2016. Thereafter Acting Governor Jonah Pimentel and Acting Vice Governor Michael G. Canlas assumed as regular Governor and regular Vice Governor of Camarines Norte.<sup>[13]</sup> Tallado then filed a Petition for Review under Rule 43 assailing the decision of the Ombudsman, with prayer for a Temporary Restraining Order and Preliminary Injunction. The case was raffled to the CA Special 3<sup>rd</sup> Division, therein docketed as CA-G.R. SP No.148108.<sup>[14]</sup>

In a Resolution<sup>[15]</sup> dated 12 December 2016, the CA Special Third (3<sup>rd</sup>) Division granted Tallado's petition and issued a temporary restraining order enjoining the DILG and the Ombudsman from implementing the 18 April 2016 Decision. The CA Resolution, which was penned by then CA Associate Justice Rosmari D. Carandang, currently an Associate Justice of the Court, and concurred in by then Associate Justice Mario V. Lopez, currently an Associate Justice of the Court, and Associate Justice Marie Christine Azcarraga-Jacob, held that the Ombudsman's Decision, which includes an immediate implementation of Tallado's dismissal as Governor of Camarines Norte, unless restrained, will cause destructive damage, irreparable injury to Tallado who stands to lose his position as the elected Governor of the province. The CA ruled that Tallado's province including the province's constituents will greatly suffer if Tallado would be ousted from office before Tallado's petition is resolved.<sup>[16]</sup>

The CA held that the paramount issue presented in Tallado's petition is whether the condonation doctrine applies in Tallado's case as the acts subject of the administrative complaint were committed prior to Tallado's present term as the duly elected Governor during the 9 May 2016 elections.<sup>[17]</sup> The CA reasoned that although the condonation doctrine has been abandoned, it remained unclear how the prospective application of the condonation doctrine should be applied, as in Tallado's case, the acts complained of were committed in 2010 and Tallado had already been reelected as Governor for the last three (3) consecutive elections.<sup>[18]</sup>

The dispositive portion of the CA Resolution provides:

IN VIEW OF ALL THE FOREGOING, and considering further the gravity of the penalty imposed on petitioner and the serious implications attached thereto, as prayed for by petitioner, let a TEMPORARY RESTRAINING ORDER be issued effective sixty (60) days from notice hereof, enjoining the Office of the Ombudsman, Department of Interior and Local Government, their agents, representatives and anyone acting in their behalf from implementing the Ombudsman's Decision dated April 18,

2016 pending resolution of the instant petition, and if already implemented, they are hereby enjoined from continuously implementing the dismissal order against petitioner, conditioned upon the posting of a bond by petitioner in the amount of FIFTY THOUSAND PESOS (P50,000.00).<sup>[19]</sup>

Thereafter, Villamin and Balce filed the present administrative complaint against Associate Justices Ramon M. Bato, Jr., Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy of the Special 12<sup>th</sup> Division; and Associate Justices Rosmari D. Carandang, Mario V. Lopez and Marie Christine Azcarraga-Jacob of the Special 3<sup>rd</sup> Division for grave abuse of discretion, gross ignorance of the law, and gross incompetence in issuing the said two CA Resolutions.

In a Resolution<sup>[20]</sup> dated 12 March 2019, the Court *En Banc* dropped Associate Justice Rosmari D. Carandang (Justice Carandang) as one of the respondents in the present administrative case. Justice Carandang, being a member of the Court can only be subjected to disciplinary proceedings through impeachment under Section 2, Article XI of the 1987 Constitution.<sup>[21]</sup> Such power to initiate all cases of impeachment is solely lodged with the House of Representatives. The relevant portion of the Resolution states:

Justice Carandang is already a member of this Court. As an impeachable office, she can only be subjected to disciplinary proceedings through impeachment under Section 2, Article XI of the 1987 Constitution. This Court has no jurisdiction to rule on the complaint against her because the exclusive power to initiate all cases of impeachment belongs to the house of representatives.

IN VIEW OF THE FOREGOING, the Court drops Justice Rosmari D. Carandang as one of the respondents in the present administrative case.

Likewise, in a Resolution dated 7 January 2020, the Court *En Banc* dropped Associate Justice Mario V. Lopez (Justice Lopez) as one of the respondents in the present administrative case. Justice Lopez, also being a member of the Court is, similarly, subject to impeachment proceedings under the 1987 Constitution and the Court has no jurisdiction over the complaint. The relevant portion of the Resolution states:

Inasmuch as Justice Lopez is now an impeachable officer being already a member of this Court, he can only be disciplined through the impeachment process under the Constitution. Thus, this Court has no jurisdiction to rule on the complaint against him as the exclusive power to initiate all cases of impeachment belongs to the House of Representatives.

IN VIEW OF THE FOREGOING, the Court drops Justice Mario V. Lopez as one of the respondents in the present administrative case.

Having properly dropped, both Justice Carandang and Justice Lopez in the present administrative case, the Court will now rule on Villamin and Balce's complaint against the remaining respondent Associate Justices of the CA.

### **Issue**

Whether the Associate Justices of the Court of Appeals of the Special Twelfth and Special Third Division are guilty of grave abuse of discretion, gross ignorance of the law, and gross incompetence in issuing the Resolutions.

### **The Court's Ruling**

The Court resolves to dismiss the administrative complaint for lack of merit.

*First*, Villamin and Balce's allegation of grave abuse of discretion against the CA Associate Justices must outright fail. The present administrative complaint is not the proper judicial remedy to resolve instances of grave abuse of discretion. *Second*, the Court, in *Morales v. Court of Appeals*, upheld the power of the CA to issue injunctive relief in order to enjoin orders, resolutions, and decisions of the Ombudsman. Specifically, Rule 43, Section 12 of the Rules of Court grants the CA the power to issue a temporary restraining order and preliminary injunction in order to enjoin the implementation of the award, judgment, final order or resolution sought to be reviewed. *Third*, the Associate Justices of the CA Special 12<sup>th</sup> and Special 3<sup>rd</sup> Division did not commit gross ignorance of the law and gross incompetence in issuing the TRO and preliminary injunction to stay the execution of the decisions of the ombudsman. In fact, the Associate Justices exercised good faith and competence in performing their duties in issuing the Resolutions.

First, We address Villamin and Balce's allegation that the CA Associate Justices committed grave abuse of discretion. Clearly, the present administrative complaint is not the proper judicial remedy to rectify alleged judicial errors of grave abuse of discretion. The appropriate judicial remedy for instances of grave abuse of discretion is a petition for certiorari under Rule 65, Section 1 of the Rules of Court, to wit:

Section 1. Petition for *certiorari*. - **When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. (Emphasis supplied)

In *Martinez v. Judge De Vera*,<sup>[22]</sup> the Court ruled that an administrative complaint is not the appropriate remedy for every erroneous judgment or decision issued by a judge where other judicial remedies are available such as a petition for certiorari. In *Martinez*, the Court held:

Complainants should also bear in mind that an administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration, an appeal, or a petition for *certiorari*. **Disciplinary proceedings against a judge are not complementary or suppletory to, nor a substitute for these judicial remedies whether ordinary or extraordinary.** For, obviously, if subsequent developments prove the judge's challenged act to be correct, there would be no occasion to proceed against her at all. Besides, to hold a judge