

SECOND DIVISION

[G.R. No. 209608, February 13, 2019]

DIGITAL PARADISE, INC., AS REPRESENTED BY FEDERICO EUGENIO, PETITIONER, V. HON. ORLANDO C. CASIMIRO, IN HIS CAPACITY AS THE OVERALL DEPUTY OMBUDSMAN; HON. DENNIS L. GARCIA, IN HIS CAPACITY AS DIRECTOR; HON. ROLANDO W. CERVANTES, IN HIS CAPACITY AS GRAFT INVESTIGATION AND PROSECUTION OFFICER; P/CINSP. JOEL MANUEL A. ANA, PSI RONNIE FAILOGA, PO3 DEMETRIO PRIETO, [*] AND PO1 SAMUEL ESCARIO DONES, RESPONDENTS.

D E C I S I O N

J. REYES, JR., J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court which seeks to set aside the Joint Resolution^[1] dated July 19, 2012 and Joint Order^[2] dated January 28, 2013 in OMB-P-C-11-0784-1 and OMB-P-A-11-0766-1, issued by the Overall Deputy Ombudsman Orlando C. Casimiro (Casimiro) of the Office of the Ombudsman (Ombudsman), which dismissed the criminal complaints for Robbery with Force Upon Things, Incriminating Against Innocent Persons, Other Forms of Trespass, and Grave Coercion, filed by herein petitioner Digital Paradise, Inc. (DPI) against herein respondents Police Chief Inspector Joel Manuel A. Ana (PCI Ana), Police Senior Inspector Ronnie L. Failoga (PSI Failoga), Police Officer 3 Demetrio M. Prieto (PO3 Prieto), and Police Officer 1 Samuel Escario Dones (PO1 Dones).

The Facts

On September 16, 2011, petitioner DPI, through its Assistant Logistics Officer Federico Eugenio (Eugenio), filed before the Ombudsman a Complaint-Affidavit^[3] for: (1) two counts of Robbery with Force Upon Things; (2) two counts of Other Forms of Trespass; (3) Incriminating Innocent Persons; (4) Grave Coercion; (5) violation of the Code of Conduct and Ethical Standard for Public Officials and Employees; and (6) violation of Section 3(e) of Republic Act (R.A.) No. 3019 against herein respondents PCI Ana, PSI Failoga, PO3 Prieto, and PO1 Dones. Attached to the complaint-affidavit is the Affidavit^[4] of Michael Manese (Manese).

In its complaint, DPI alleged that it is a domestic corporation engaged in the business of computer rentals; and that in 2011, it was leasing one of the warehouse units of CH King and Sons Warehouse Complex (CHKS Complex) located at No. 1 Carlos Caparas St., Barangay Ugong, Pasig City.^[5]

On September 13, 2011, at around 10:00 p.m., eight men in civilian clothes, and who identified themselves as policemen, suddenly barged inside the premises of CHKS Complex without the benefit of a search warrant. Also present at that time were Manese, the on-duty security guard, and a certain Joseph Seciban (Seciban), a

driver who was renting a parking space at the CHKS Complex. The policemen then ordered Manese and Seciban to lie face down on the ground.^[6] Two of the policemen watched over Manese and Seciban while the rest proceeded to the guard house to disconnect and destroy the telephone line there. The policemen also took the cellular phones of Manese and Seciban without any reason.^[7]

The policemen then brought inside the CHKS Complex a Kia L300 van and a Toyota Hi-Ace van, and parked them in front of DPI's leased unit and unloaded several boxes. Immediately thereafter, they broke the padlock and the door of the subject unit, then brought the boxes and left them inside DPI's unit. They also unlawfully took several items from DPI's unit. An inventory of DPI's properties would reveal that the following items were missing and/or stolen: (1) 5 pieces of Nokia 1200 CE0434, BLACK worth P1,500.00; (2) 2 pieces of Nokia 1200 CE0434, BLUE worth P1,500.00; (3) 1 piece of Nokia Landline CE0434 with number 5574375; and (4) Smart Broadband, White Color, No. 09396927599 worth P1,000.00.^[8] They then left the CHKS Complex.^[9] After about 30 minutes, the policemen returned and ordered Manese to open DPI's unit. They took photographs of the leased unit and the boxes they brought therein. After one hour, Barangay Councilor Ernesto Cruz II (Councilor Cruz), Chairman of Peace and Order of Barangay Ugong, and his team arrived. However, the policemen were no longer inside the CHKS Complex.^[10]

DPI alleged that the acts committed by the policemen, which include the herein respondents, constituted two counts of Robbery with Force Upon Things, Incriminating Innocent Person, two counts of Other Forms of Trespass, and Grave Coercion, all under the Revised Penal Code (RPC). DPI further alleged that the respondent police officers committed violations of the Code of Conduct and Ethical Standard for Public Officials and Employees as well as Section 3(e) of R.A. No. 3019.

In their Joint Counter-Affidavit,^[11] PCI Ana, PSI Failoga, and PO3 Prieto, denied the accusations made by DPI contending that what transpired was a legitimate police operation. They narrated that on September 13, 2011, at around 2:00 p.m., an informant went to their office and reported that electronic devices owned by Amkor Tech Phils., Inc. (Amkor) were hijacked and that these devices will be hauled out by a group of men from Giant Building Compound located at J. Caparas St., Barangay Ugong, Pasig City. Allegedly, the electronic devices will be loaded on a white Kia L300 commercial van with Plate No. RGP 382. A team led by PCI Ana was immediately formed. They coordinated with Danilo Morales, senior security officer of Amkor, who confirmed the hijacking of Amkor's electronics integrated circuits worth US\$441,518.00.

On or about 6:45 p.m. of the same day, the team, together with Amkor representatives and in coordination with the Pasig City Police, conducted a surveillance operation at the compound of Giant Building. At around 8:10 p.m. of the same day, a white Kia L300 van with Plate No. RGP 382 came out of the main gate with three male persons on board. SPO2 Bernard Valen (SPO2 Valen), SPO1 Fernando Rey Gapuz (SPO1 Gapuz) and PO3 Wilfredo Reyes (PO3 Reyes) flagged down the van for violation of R.A. No. 8750 or the Seatbelt Law. While SPO2 Valen was explaining the violation to Jimmy T. Francisco (Francisco), the driver of the van, one of the passengers, later identified as Roderick Colala (Colala), alighted and ran towards the compound. SPO1 Gapuz, PO3 Reyes and an Amkor representative approached the van and asked about its contents. Francisco readily opened the vehicle's door, revealing inside it were the electronic equipment hijacked from

Amkor. Given the circumstances, SPO1 Gapuz restrained Francisco and informed him of his right. At this juncture, the remaining passenger of the van, identified as Joselito Dela Cruz (Dela Cruz), alighted and also ran towards the compound. PSI Failoga and his team members gave chase and caught Dela Cruz inside the warehouse of DPI. Colala was likewise seen hiding inside DPI's warehouse.

Further, PSI Failoga and his team members saw several boxes inside the warehouse with Amkor commercial invoices and shipment waybill. Upon inspection, the Amkor representatives identified the contents of the boxes as part of the goods taken from Amkor. Thus, the police officers arrested Dela Cruz and Colala. Thereafter, a certain Jayson Bistal (Bistal) arrived and interfered with the operation. He also claimed that he supervised the delivery of the goods upon the instruction of his bosses identified as "Rebecca" and "Cris." Thus, Bistal was likewise arrested. Later, PO3 Prieto arrived with PO1 Dones and the barangay officials.

The Information for violation of the Anti-Fencing Law were filed against Bistal, Colala, Francisco, Dela Cruz, alias "Rebecca," and alias "Chris."

The respondents maintained that the criminal and administrative complaints against them have no factual and legal basis. They denied violating Articles 281 and 286 of the RPC arguing that their entry inside the Giant Building compound and DPI's warehouse was justified under Section 5, Rule 113 and Section 7, Rule 126 of the Revised Rules on Criminal Procedure.

They likewise denied planting incriminating evidence against any person and/or robbing DPI of its properties. Respondents averred that such concocted allegations were intended merely to harass them. They pointed out that no independent evidence other than the self-serving allegations of the petitioner would support the claim that the electronic equipments, which were worth several millions of pesos, confiscated from its warehouse were merely planted, and that any of its properties were missing.

The respondents also belied the alleged violation of Section 3(e) of R.A. No. 3019. They asserted that there was no showing that any of them have benefited from, or that they acted with partiality when they conducted the subject legitimate police operation.

Finally, they denied committing any violation of the Code of Conduct and Ethical Standards for Public Officials and Employees. The respondents insisted that they performed their functions and duties in accordance with the law and relevant procedures.

For his part, PO1 Dones averred that he was not part of the raiding team and that he arrived at the CHKS Complex only later together with Barangay Councilor Cruz.

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Ruling of the Ombudsman

In its assailed Joint Resolution dated July 19, 2012, the Ombudsman dismissed the criminal cases against the respondents for lack of probable cause. It likewise dismissed the administrative complaints against respondents for DPI's failure to prove its case by substantial evidence.

The Ombudsman ruled that DPI's claim of robbery of its properties could not be given merit considering that it was not supported by any evidence. It noted that

Manese and Seciban did not corroborate DPI's allegation that respondents unlawfully took its private properties; and that DPI's inventory failed to convince it that the alleged missing items were indeed stolen by the respondents. It also emphasized that Eugenio's allegation on these points are insufficient considering that he was not present during the alleged robbery. No credence was also given by the Ombudsman with respect to the accusation that the respondents took the cellular phones of Manese and Seciban. It pointed out that Manese, in his affidavit, stated that the police officers "confiscated" the subject cellular phones,^[13] thereby negating the presence of intent to gain which is an essential element in the crime of robbery.

The Ombudsman also rejected all other criminal accusations by DPI. It noted that the allegations involving commission of incriminating innocent persons and grave coercion, as well as violation of Section 3(e) of R.A. No. 3019, were neither substantiated by any evidence nor corroborated by any witness. Moreover, DPI failed to show any reason which could have impelled respondents to implicate DPI in the hijacking of Amkor's properties. The Ombudsman also observed that there was no showing that the respondents would stand to gain by or benefit anything by incriminating DPI. It pointed out that neither DPI nor any of its officers were even made party-respondents to the Anti-Fencing case filed by Amkor.

As regards the administrative charge, the Ombudsman held that DPI failed to meet the quantum of proof required to hold respondents administratively liable. Thus, the presumption of regularity in the performance of duty was upheld in favor of the respondents.

DPI moved for reconsideration, but the same was denied by the Ombudsman in its Joint Order dated January 28, 2013.

Hence, this petition for *certiorari*.^[14]

The Issue

WHETHER THE OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE CRIMINAL COMPLAINTS AGAINST RESPONDENTS FOR LACK OF PROBABLE CAUSE.

DPI argues that the allegations against respondents are duly supported by evidence. It insists that Manese corroborated its allegations in all material points; that its inventory could be used to prove that the respondents committed the crime of robbery; and that Manese's statement under oath that his and Seciban's cellular phones were taken is more than enough evidence that the respondents committed the crime of robbery as charged. DPI further avers that all the elements of the crimes of incriminating innocent persons, other forms of trespass, grave coercion, and violation of Section 3(e) of R.A. No. 3019, were sufficiently alleged in its complaint-affidavit.

In their Comment^[15] dated March 31, 2014, PCI Ana, PSI Failoga, and PO3 Prieto, maintain that the operation on September 13, 2011, was in pursuance of their police duties. Thus, the Ombudsman did not abuse its discretion when it sustained the presumption of regularity in the performance of their official duty over DPI's uncorroborated accusations. In his Comment^[16] dated March 7, 2014, PO1 Dones reiterates his defense that he was not part of the raiding team on September 13,