

THIRD DIVISION

[G.R. No. 239416, July 24, 2019]

MELCHOR J. CHIPOCO, CHRISTY C. BUGANUTAN, CERIACO P. SABIJON, THELMA F. ANTOQUE, GLENDA G. ESLABON, AND AIDA P. VILLAMIL, PETITIONERS, V. THE HONORABLE OFFICE OF THE OMBUDSMAN, REPRESENTED BY HONORABLE CONCHITA CARPIO-MORALES, IN HER OFFICIAL CAPACITY AS TANODBAYAN, HONORABLE RODOLFO M. ELMAN, IN HIS OFFICIAL CAPACITY AS DEPUTY OMBUDSMAN FOR MINDANAO, HONORABLE HILDE C. DELA CRUZ-LIKIT, IN HER OFFICIAL CAPACITIES AS GRAFT INVESTIGATION AND PROSECUTION OFFICER III AND OFFICER-IN-CHARGE, EVALUATION AND INVESTIGATION BUREAU-A, OFFICE OF THE OMBUDSMAN-MINDANAO, AND HONORABLE JAY M. VISTO, IN HIS OFFICIAL CAPACITY AS GRAFT INVESTIGATION AND PROSECUTION OFFICER II, AND ROBERTO R. GALON, RESPONDENTS.

DECISION

A. REYES, JR., J.:

This resolves a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court with Prayer for Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction assailing the Resolution^[2] dated December 8, 2017 and the Order^[3] dated March 5, 2018 issued by the Office of the Ombudsman (Ombudsman) in OMB-M-C-16-0112.

Factual Antecedents

On November 26, 2010, then Mayor Wilfredo S. Balais (Balais) sold his Nissan Patrol Wagon 2001 model (subject vehicle) to Eduardo A. Ayunting (Ayunting) for P500,000.00. On January 28, 2011, Ayunting sold the subject vehicle to the local government unit of the Municipality of Labason, Zamboanga del Norte, represented by then Vice Mayor Virgilio J. Go (Go), for P960,000.00.^[4]

On August 1, 2011, the Sangguniang Bayan of Labason passed Resolution No. 117, authorizing Balais to negotiate the rescission of the contract of sale of the subject vehicle as it was found that the purchase price of it was quite high compared when it was first sold to the vendor, thus, disadvantageous and prejudicial to the government.^[5]

Thereafter, Roberto R. Galon (private respondent) filed a Complaint-Affidavit^[6] dated August 22, 2011 with the Ombudsman against petitioners Melchor J. Chipoco (Chipoco), in his capacity as then municipal treasurer and Bids and Awards Committee (BAC) chairperson; Christy C. Bugarutan (Bugarutan), in her capacity as then municipal accountant; Ceriaco P. Sabijon (Sabijon), Thelma F. Antoque (Antoque), and Aida P. Villamil (Villamil), in their capacity as then BAC members;

and Glenda G. Eslabon (Eslabon), in her capacity as then BAC secretariat, charging them with violation of Sections 3(e), 3(g), and 3(h) of Republic Act (R.A.) No. 3019, or the "Anti-Graft and Corrupt Practices Act"; R.A. No. 9184, or the "Government Procurement Reform Act"; Government Auditing Rules and Regulations; R.A. No. 6713; Article 217 of the Revised Penal Code (RPC); and Presidential Decree No. 1829.^[7]

Also impleaded were Balais, in his capacity as then municipal mayor; Go, in his capacity as municipal vice mayor; Riza T. Melicor, Shane C. Galon, Alfie L. Roleda, Clark C. Borromeo, Lucio S. Panos, Armony S. Delos Reyes, Allan B. Digamon, Severino Bangcaya, Ma. Michelle M. Chipoco, and Rey B. Josue, in their capacity as then members of the Sangguniang Bayan, Ernesto B. Ramirez, in his capacity as then legislative staff officer of the Sangguniang Bayan; the state auditor; the general services officer; and Ayunting as the vendor of the subject vehicle.^[8]

Based on the foregoing facts, in OMB-M-C-11-0356-1, the Ombudsman found probable cause against Balais, Go, and Ayunting for violation of Section 3(e) of R.A. No. 3019.^[9] While the case was being tried in the Sandiganbayan, Ayunting turned as a state witness.^[10] On the basis of Ayunting's letter to the Ombudsman and the attached documents thereto, private respondent filed another Complaint-Affidavit^[11] dated February 5, 2016. Private respondent posited that with these new documents, there is sufficient evidence to hold the other local government officials named in his earlier complaint-affidavit as respondents liable as conspirators.^[12] This case was docketed as OMB-M-C-16-0112.

The new documents submitted by Ayunting are the: (1) subscribed letter of Ayunting; (2) Disbursement Voucher dated January 26, 2011; (3) Obligation Request dated January 21, 2011; (4) Requisition and Issue Slip dated January 24, 2011; (5) Acceptance and Inspection Report dated January 20, 2011; (6) Purchase Order dated January 20, 2011; (7) Notice of Award dated January 20, 2011; (8) Minutes of Opening of Bids dated January 19, 2011; (9) Abstract of Bids as Read dated January 19, 2011; (10) Purchase Price Request/Price Quotation dated January 11, 2011; (11) Purchase Price Request/Price Quotation dated January 10, 2011; (12) Purchase Price Invitation to Apply for Eligibility and to Bid; (13) Purchase Request dated January 7, 2011; (14) Price Quotation of Oro Cars Display Center (Oro Cars) dated January 10, 2011; (15) Official Receipt dated August 5, 2011 of the refund of the amount to the local government unit of Labason; and (16) the affidavits of Paz G. Tawi of Oro Cars and William B. Nuneza of Catmon Car Sales that they did not participate in the bidding.^[13]

Chipoco contended that the BAC members were not negligent in their duties and that they have no knowledge of any scheme defrauding the government.^[14] Meanwhile, Bugarutan, Sabijon, Antoque, and Villamil maintained that the expenditure of the subject vehicle was appropriated in their 2011 budget, that the required public bidding was conducted, and that the abstract of bids was prepared after the bidding and based on the bids submitted.^[15] For her part, Eslabon averred that her duty was only to record the proceedings and prepare the minutes as BAC secretariat and that she has no knowledge of the circumstances attendant to the sale.^[16]

On December 8, 2017, the Ombudsman issued the assailed Resolution^[17] disposing the case as follows:

WHEREFORE, finding probable cause, let the corresponding Informations be filed with the proper court for:

(1) Violation of Section 3(e) of Republic Act No. 3019 against Melchor J. Chipoco, Philip S. Balais, Ceriaco P. Sabijon, Aida P. Villamil, Thelma F. Antoque, Glenda G. Eslabon and Christy C. Bugarutan relative to the sham bidding for the purchase of a motor vehicle;

(2) Violation of Article 171(2) of the Revised Penal Code against Wilfredo S. Balais relative to the falsified Notice of Award;

(3) Violation of Article 171(2) of the Revised Penal Code against Melchor J. Chipoco and Glenda G. Eslabon relative to the falsified Minutes of Opening of Bids; and

(4) Violation of Article 171(2) of the Revised Penal Code against Virgilio J. Go, Melchor J. Chipoco, Philip S. Balais, Aida P. Villamil, Ceriaco P. Sabijon, and Christy C. Bugarutan relative to the falsified Abstract of Bids as Read.

As to the other respondents, the case is dismissed.

SO ORDERED.^[18]

Chipoco, Philip S. Balais, Sabijon, Villamil, Antoque, and Eslabon filed an Urgent Motion for Reconsideration (to the Resolution dated 08 December 2017)^[19] but the Ombudsman denied the same in the assailed Order.

Hence, the present recourse.

Petitioners argue that the Ombudsman gravely abused its discretion amounting to lack or excess of jurisdiction: (1) when it ruled that the BAC members gave "unwarranted benefits" to "Ayunting and/or Oro Cars" when they themselves have judicially admitted not having received anything of value from the BAC members or from Balais himself; (2) when it ruled that the BAC members gave "unwarranted benefits" to "Ayunting and/or Oro Cars" when there is allegedly no conspiracy linking the BAC with the negotiations of the sale; (3) when it refused to dismiss the complaint on the basis of the rescission of the contract of sale by virtue of Resolution No. 117; and (4) when it found basis to charge the BAC members with falsification of public documents contrary to the evidence on record and the testimony of Gloria Q. Vallinas (Vallinas)^[20] "pointing to Balais and Go as the culprits [of] the questioned transaction."^[21]

The Ombudsman, however, maintains that there was probable cause against petitioners, among others, for their respective violations of Section 3(e) of R.A. No. 3019 and Article 171(2) of the RPC.^[22] The Ombudsman asserts that the issues raised by petitioners are essentially evidentiary in nature, best passed upon in a full-blown trial, and cannot be categorically determined during the preliminary stage of the case.^[23]

The Issue

The sole issue for the resolution of this Court is whether or not the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction when it found probable cause to charge petitioners for their respective violations of Section 3(e) of R.A. No. 3019 and Article 171(2) of the RPC.

Ruling of the Court

The Court finds the instant petition bereft of merit. The assailed Resolution and the assailed Order of the Ombudsman are not tainted with grave abuse of discretion. Thus, the Court resolves to dismiss the petition on this ground.

While the investigatory and prosecutorial powers of the Ombudsman are plenary in nature, its acts may be reviewed by the Court when tainted with grave abuse of discretion.

Well settled is the rule that a petition for *certiorari* is a special civil action that may lie only to rectify errors of jurisdiction and not errors of judgment.^[24] In this regard, errors of jurisdiction arise from grave abuse of discretion or such capricious and whimsical exercise of judgment tantamount to lack of jurisdiction.^[25] Here, petitioners fault the Ombudsman for allegedly having gravely abused its discretion.

The 1987 Philippine Constitution and R.A. No. 6770, otherwise known as "The Ombudsman Act of 1989," vest the Ombudsman with great autonomy in the exercise of its investigatory and prosecutorial powers in resolving criminal complaints against public officials and employees.^[26] Said discretion of the Ombudsman is unqualified so as to shield it from external demands and persuasion.^[27]

Nonetheless, the said plenary powers of the Ombudsman do not exempt it from the Court's power of review.^[28] When the act of the Ombudsman is tainted with grave abuse of discretion, the Court may strike down the same under its expanded jurisdiction.^[29] The Ombudsman is considered to have gravely abused its discretion when it unduly disregarded crucial facts and evidence in the determination of probable cause or when it blatantly violated the Constitution, the law, or prevailing jurisprudence.^[30]

Observing the foregoing principles, the Court finds that the Ombudsman did not gravely abuse its discretion when it issued the resolution and the order. The issuance of the resolution and the order was properly grounded on probable cause to charge petitioners for their respective violations of Section 3(e) of R.A. No. 3019 and Article 171(2) of the RPC.

The Ombudsman duly exercised its investigatory and prosecutorial powers when it issued the assailed resolution and the assailed order.