

SECOND DIVISION

[G.R. Nos. 200021-22, August 28, 2019]

**JASON ALVARES PARAN,* PETITIONER, VS. ERLINDA MANGUIAT
AND THE OFFICE OF THE OMBUDSMAN, RESPONDENTS.**

DECISION

J. REYES, JR., J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court which seeks to reverse and set aside the Office of the Ombudsman's Decision^[1] dated March 16, 2011, and Order^[2] dated October 4, 2011 in OMB-L-A-08-0432-G, an administrative case for Dishonesty, Grave Misconduct, Oppression, and Conduct Prejudicial to the Best Interest of the Service, as well as the Resolution^[3] dated March 16, 2011, and the Order^[4] dated October 4, 2011 in OMB-L-C-08-0520-G, which found probable cause to indict herein petitioner SPO1 Jayson Alvares Paran (SPO1 Paran) for the crime of Perjury.

The Facts

On March 22, 2008, between 10:00 p.m. and 11:00 p.m., a Barangay (Brgy.) Tanod from Brgy. Solis, Municipality of Balete, Province of Batangas, visited the Balete Police Station and reported that a dead person was found lying on the street of Brgy. Solis. SPO2 Melencio Landicho (SPO2 Landicho), SPO1 Paran, and three more policemen stationed at the Balete Police Station, proceeded to the alleged crime scene to verify the report. In Brgy. Solis, the policemen found the lifeless body of Damiano M. Manguiat (Damiano) sprawled on the roadside near the store of Brgy. Captain Vicente Bathan (Brgy. Captain Bathan), the Brgy. Captain of Brgy. Solis. Later, the policemen found the cadaver of Damiano's older brother, Victorio M. Manguiat (Victorio), in the forest.

On April 4, 2008, Erlinda B. Manguiat (Erlinda), the widow of Damiano, filed an Amended Complaint-Affidavit^[5] wherein she accused Brgy. Captain Bathan and six other persons for the killing of Damiano and Victorio. In her complaint, Erlinda alleged that on the night of March 22, 2008, she asked his sons, Lary Manguiat (Lary) and Dennis Manguiat (Dennis) to fetch their father and uncle at the house of a certain "Lando." However, when his sons returned, they told her that they saw Brgy. Capt. Bathan, together with several *barangay tanods* and private persons, mauling and shooting Damiano and Victorio. For fear that they would suffer the same fate, Lary and Dennis bitterly decided to leave their loved ones and fled. Attached to Erlinda's complaint-affidavit are the respective affidavits of Lary^[6] and Dennis.^[7]

On May 30, 2008, SPO1 Paran executed an affidavit^[8] wherein he declared that at dawn of March 23, 2008, after their investigation at the crime scene, he and SPO2 Landicho went to Lary's house to inform the latter of his father's death. He stated that he personally informed Lary that his father was killed; and that Lary replied by saying "*siningil agad si itay?*" The said affidavit was sworn and submitted to the Office of the City Prosecutor of Tanauan City, Batangas.

On June 11, 2008, Erlinda^[9] and Lary^[10] filed their respective affidavits to belie the statements made by SPO1 Paran in his affidavit. Lary, in particular, claimed that he does not know and that, never talked to SPO1 Paran. He stated that SPO2 Landicho was the only one who went to, and talked to him in his house on March 23, 2008, at around 2:00 a.m. He claimed, however, that he told SPO2 Landicho that he already knew what happened to his father.

On July 9, 2008, Erlinda filed before the Ombudsman an administrative complaint for Dishonesty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Oppression, and a criminal complaint for Perjury against SPO1 Paran.
^[11]

Ruling of the Ombudsman

In OMB-L-A-08-0432-G, the Ombudsman, in its Decision dated March 16, 2011, found SPO1 Paran guilty of Simple Dishonesty. He was suspended from office for a period of one month and one day, without pay. SPO1 Paran moved for reconsideration, but the same was denied by the Ombudsman in its October 4, 2011 Resolution.

In OMB-L-C-08-0520-G, the Ombudsman, in its Resolution dated March 16, 2011, ruled that there is probable cause to believe that SPO1 Paran committed the crime of Perjury. Thus, it recommended the filing of an Information for the crime of Perjury against SPO1 Paran with the appropriate court. The Ombudsman noted that the subject affidavit was sworn before, and submitted to the Office of the City Prosecutor. It also observed that the essence of SPO1 Paran's affidavit is to suggest that Lary's demeanor and/or actuation at the time he was allegedly informed of his father's and uncle's deaths were contrary to the behavior of a person who had just witnessed his family's killings. Consequently, SPO1 Paran's statement was executed upon a material matter as it legitimately affects Lary's credibility. It further opined that there was willfull and deliberate assertion of falsehood by SPO1 Paran. It found that Lary's statement that he never talked to SPO1 Paran was buttressed by SPO2 Landicho who, in his affidavit^[12] dated August 13, 2008, declared that he was the only one who talked to Lary. Thus, there is cause to believe that all of the elements of Perjury were present.

SPO1 Paran moved for reconsideration, but the same was denied by the Ombudsman in its Order dated October 4, 2011.

Hence, this petition.

The Issues

I

WHETHER THE OMBUDSMAN GRAVELY ABUSED ITS DISCRETION WHEN IT FOUND SPO1 PARAN GUILTY OF DISHONESTY AND ORDERED HIS SUSPENSION FOR 1 MONTH AND 1 DAY WITHOUT PAY.

II

WHETHER THE OMBUDSMAN SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT SPO1 PARAN COMMITTED THE CRIME OF PERJURY.

SPO1 Paran insists that the statements he made in the subject affidavit are true claiming that SPO2 Landicho's affidavit effectively corroborated his statements. He points out that even if it was SPO2 Landicho who informed Lary of his father's death, it would be immaterial to the issue of whether Lary indeed witnessed the killing of his father and uncle.

In its Comment,^[13] the Office of the Solicitor General avers that the instant petition must be denied for the following reasons: *first*, the decisions and resolutions of the Ombudsman in administrative cases may be appealed to the Court of Appeals (CA) under Rule 43 of the Rules of Court, and may not be directly elevated to this Court; and *second*, the Ombudsman did not err when it found probable cause against SPO1 Paran for the crime of Perjury as the evidence sufficiently shows that more likely than not the crime of Perjury has been committed and there is enough reason to believe it was committed by SPO1 Paran.

The Court's Ruling

At the onset, the Court notes that SPO1 Paran indeed availed of the wrong remedy which necessitates the denial of this petition.

It must be stressed that a petition for review on *certiorari* under Rule 45 is limited only to questions of law. Factual questions are not the proper subject of an appeal by *certiorari*.^[14] "A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts."^[15] A question of fact requires the court to review the truthfulness or falsity of the allegations of the parties.^[16]

In this case, SPO1 Paran's main argument that he did not lie in his affidavit is obviously a question of fact. Indeed, an examination of the said allegation would be necessary to determine whether it is true or not. Clearly, this question is not proper in a petition for review on *certiorari*.

Further, it is settled that appeals from the decisions of the Ombudsman in administrative disciplinary cases should be elevated to the CA under Rule 43 of the Rules of Court.^[17] It is clear that OMB-L-A-08-0432-G involves an administrative disciplinary case. As such, the decision and order therein should have been taken to the CA under Rule 43 and not directly to this Court. For failure to comply with this