

THIRD DIVISION

[G.R. No. 201320, September 14, 2016]

**WILSON T. LIM, PETITIONER, VS. OFFICE OF THE DEPUTY
OMBUDSMAN FOR THE MILITARY AND OTHER LAW
ENFORCEMENT OFFICES (MOLEO) AND P/S INSP. EUSTQUIO
FUENTES, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a Petition for *Certiorari* under Rule 65 assailing the Order^[1] of the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (*MOLEO*) dated March 31, 2011 and its Joint Order^[2] dated September 7, 2011 in OMB-P-C-05-1361-K.

The pertinent factual and procedural antecedents of the case are as follows:

Petitioner Wilson Lim and Rex Lazo were engaged in the business of buying and selling second-hand vehicles in Iloilo City, where Lim agreed to be the financier. In November and December 2002, they bought pre-owned cars in Iloilo and Manila, and sold them at their Wheels to Go showroom in Iloilo. In March 2003, Lim learned from his neighbor that he had bought a second-hand Mitsubishi Adventure for only P332,000.00 through a car agent named Raquim Salvo based in Iligan City. He then became interested in buying similar cars so he contacted Salvo and sent Lazo to Iligan to check the units and examine the documents of ownership. On or about April 7, 2003, Lim sent Lazo to Iligan again. Lazo then personally met Salvo and other second-hand car agents who all assured him that the units were properly documented and cleared by the Iligan Traffic Management Group (*TMG*). Salvo likewise introduced Lazo to the supposed owners of the vehicles and showed him the alleged original copies of Certificates of Registration (*CRs*) and Motor Vehicle Registration Renewal (*MVRR*) Official Receipts (*ORs*) issued by Rex Pangandag, Head of Land Transportation Office (*LTO*) Tubod Extension Office, Iligan, and affidavits of ownership of the registered owners. Salvo further brought Lazo to the office of the Iligan *TMG*, headed by respondent Philippine National Police (*PNP*) Police Senior Inspector (*PSI*) Eustiquio Fuentes, who was the one who issued the *PNP* Motor Vehicle Clearance Certificates (*MVCCs*), one of the *LTO* requirements for the transfer of ownership to the buyer. On the basis of the *CRs* and *ORs* issued by the *LTO* Tubod Extension Office and the *TMG* Clearance issued by Fuentes, Lim and Lazo purchased two (2) units of Isuzu XUV Crosswind at a total purchase price of P1,150,000.00. They then displayed and sold the vehicles at Wheels to Go. Subsequently, the ownership over the vehicles was transferred to the buyers using the aforementioned *CRs*, *ORs*, and *TMG* Clearance.

Shortly thereafter, Lazo again went to Iligan and, following the same procedure, purchased three (3) more vehicles through Salvo: two (2) units of Isuzu XUV Crosswind and one (1) unit of Isuzu XT Crosswind. Said vehicles were likewise sold

at their car shop in Iloilo. For their next purchase, Salvo was able to convince Lim and Lazo to simply transact from Iloilo and leave the verification of the documents to him in order to save time and money. The car agents assured them that all their vehicles were supported with the necessary documents and cleared by the Iligan TMG. They also faxed copies of the CRs, ORs, MVCCs, and affidavits of the alleged registered owners of the cars. Fully relying on the veracity of said documents, Lim and Lazo purchased through Salvo several second-hand vehicles for a total of P6,075,000.00. Lim made the payments to the owners through bank deposits after the bills of lading for the vehicles had been confirmed. Upon receipt of the vehicles and their supporting documents, they then sold the vehicles at Wheels to Go. The ownership over the vehicles was later transferred to the buyers using the original copies of the CRs and ORs issued by Pangandag, and the TMG Clearance issued by Fuentes.

However, in June 2003, Lim and Lazo decided to stop buying from Iligan when the Iloilo TMG informed them that one (1) Isuzu Crosswind was actually stolen or carnapped. Unfortunately, this had already been sold to Lim's brother-in-law, Frederick Chua, in Zamboanga. Lim then immediately contacted Salvo and demanded a refund for the alleged carnapped unit. Salvo told him he could not refund the purchase price so he simply replaced the Crosswind with an old model of a Mitsubishi Pajero instead. Consequently, the Iloilo TMG ordered them to submit the registration papers and documents of all the units at Wheels to Go.

In September 2004, Lim and Lazo started receiving complaints from their buyers that the Iloilo TMG had seized and impounded their vehicles at Camp Delgado since these allegedly had fake plate numbers, the motor and chassis numbers were tampered, or for being "hot cars," as these were supposedly stolen or carnapped. Shocked, Lim and Lazo tried to contact Salvo and confront him but the latter and the other car agents could no longer be reached.

Thereafter, the Iloilo TMG filed criminal complaints against Lim and Lazo for Carnapping, Anti-Fencing, Estafa, and Violation of Presidential Decree (*P.D.*) 1730. However, finding that they acted in good faith and were, in fact, victims themselves, the Iloilo Prosecutor's Office dismissed the criminal complaints. To protect their names and reputation as legitimate businessmen, and to show their good faith in buying and selling pre-owned cars, Lim refunded the purchase price to the buyers on installment basis.

Subsequently, Lim and Lazo filed a complaint against Pangandag and Fuentes before the Office of the Ombudsman (*OMB*) for defrauding them through false pretenses and falsification of documents, in conspiracy with Salvo and the other car agents, and the persons who represented or agreed to be represented as the lawful owners of the seized vehicles.

For their defense, Fuentes asserted that he issued and signed only the MVCC pertaining to one (1) unit of Mitsubishi Pajero with Plate Number No. UEH-951, the engine and chassis numbers of which had been certified by the Iligan PNP Crime Laboratory Service as real and not tampered as of June 17, 2003, and said vehicle was likewise not included in the list of wanted or stolen cars as of June 18, 2003. He maintained that he had no participation in the issuance of the other MVCCs, and that he could not have conspired with Salvo and the other car agents since he had not met any one of them.

On February 24, 2009, the Deputy Ombudsman for MOLEO found probable cause and recommended the filing of Informations for violation of Section 3(e), Republic Act (R.A.) No. 3019 and Estafa Thru Falsification against Fuentes and his co-respondents in OMB-P-C-05-1361-K.^[3]

Thus, Pangandag and Fuentes filed separate Motions for Reconsideration (*MRs*). On March 31, 2011, the Deputy Ombudsman denied Pangandag's MR but granted that of Fuentes, to wit:

WHEREFORE, in view of the aforesaid discussions, respondent-movant Fuentes' Motion for Reconsideration is hereby **GRANTED**. Accordingly, the criminal charges for violation of Republic Act 3019, Sec. 3(e) and Estafa Thru Falsification against said respondent-movant are hereby **DISMISSED**.

Respondent-movant Pangandag's Motion for Reconsideration, on the other hand, is hereby **DENIED** and the charges for violation of Republic Act 3019, Sec. 3(e) and Estafa Thru Falsification against said respondent-movant, together with his co-respondents Raquim Salvo, Sanakira Dianaton, Azis Lagundab, Potri Utak, Avelino Intal, Fred Simbrano, Alicia Estoque, Ramon Bongaros, Michael Sandoval, Adela Pasbal Marabong, Marlon Hamoy, Hindawi Yonos and Miguel Mejos **AFFIRMED**.

SO ORDERED.^[4]

Lim and Lazo, therefore, moved for partial reconsideration. On September 7, 2011, the Deputy Ombudsman denied their motion and affirmed its March 31, 2011 Order.^[5] However, since Lazo had already left the country, Lim filed the petition on April 23, 2012 by himself.

The petition is meritorious.

Lim alleges that the Deputy Ombudsman committed grave abuse of discretion when it disregarded its own Rules of Procedure in granting Fuentes's Motion for Reconsideration and dismissing the criminal complaint against him. Under the Rules of Procedure of the OMB,^[6] a motion for reconsideration of an approved order or resolution shall be filed within five (5) days from notice. Settled is the rule that procedural rules are tools designed to facilitate the adjudication of cases, thus, courts and litigants alike are enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, it must be emphasized once again that the same was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. In general, procedural rules, like all rules, should be followed except only when, for the most persuasive of reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure. The rules were instituted to be faithfully complied with, and allowing them to be ignored or lightly dismissed to suit the convenience of a party should not be condoned. Such rules, often derided as merely technical, are to be relaxed only in the furtherance of justice and to benefit the deserving. Their liberal

construction in exceptional situations should then rest on a showing of justifiable reasons and of at least a reasonable attempt at compliance with them.^[7] The Court wishes to stress that the bare invocation of "for the interest of substantial justice" is not a magic wand that will automatically compel the suspension of the existing applicable rules.^[8] Here, Fuentes failed to present such exceptional justification. Fuentes only had until November 27, 2010 to file his MR since he received a copy of the Resolution on November 22, 2010. However, he filed his MR only on December 2, 2010, which was already outside the required reglementary period.

Even assuming, for argument's sake, that the Deputy Ombudsman was justified in taking cognizance of the belatedly filed MR, it still acted with grave abuse of discretion in not finding probable cause against Fuentes and dismissing the criminal charges against him.

It must be pointed out that in the present case, the criminal action had already been instituted by the filing of the Information with the court. Once that happens, the court acquires jurisdiction and is given the authority to determine whether to dismiss the case or convict or acquit the accused. However, when the prosecution is convinced that the evidence is insufficient to establish the guilt of an accused, it may move for the withdrawal of the Information, which the court cannot simply ignore. But the court must judiciously evaluate the evidence in the hands of the prosecution before granting or denying the motion to withdraw. The court's exercise of judicial discretion in such a case is not limited to the mere approval or disapproval of the stand taken by the prosecution. The court must itself make its own assessment of said evidence and be convinced as to the presence or lack of sufficient evidence against the accused.^[9]

The present Constitution and R.A. 6770, otherwise known as *The Ombudsman Act of 1989*, have endowed the OMB with wide latitude, in the exercise of its investigatory and prosecutorial powers, to pass upon criminal complaints involving public officials and employees. Hence, the courts will not generally interfere with its findings and will respect the initiative and independence inherent in its office. However, when the OMB's ruling is tainted with grave abuse of discretion, the aggrieved party may resort to *certiorari* for correction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or an obstinate 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 and despotic manner by reason of passion or hostility.^[10]

Applying the foregoing principles to the case at bar, the Court finds that the Deputy Ombudsman gravely abused its discretion when it unjustifiably turned a blind eye to the essential facts and evidence in ruling that there was no probable cause against Fuentes for the crimes of Violation of Section 3(e), R.A. 3019 and Estafa Through Falsification. For the purpose of filing a criminal information, probable cause exists when the facts are sufficient to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof. In order to engender such well-founded belief that a crime has been committed, and to determine if the suspect is probably guilty of the same, the elements of the crime charged should, in all reasonable likelihood, be present. This is based on the principle that every crime is defined by its elements, without which there should be, at the most, no criminal offense.^[11]