

FIRST DIVISION

[G.R. No. 168157, August 19, 2015]

HILARIO P. SORIANO, PETITIONER, VS. DEPUTY OMBUDSMAN FOR LUZON VICTOR C. FERNANDEZ, FLORIZA A. BRIONES, GRAFT INVESTIGATION AND PROSECUTION OFFICER II, DONNA B. PASCUAL, GRAFT INVESTIGATION AND PROSECUTION OFFICER II, AND ATTY. ADONIS C. CLEOFE, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

The discretion of the Office of the Ombudsman in the determination of probable cause to charge a respondent public official or employee cannot be interfered with in the absence of a clear showing of grave abuse of discretion amounting to lack or excess of jurisdiction.

The Case

By petition for *certiorari*, the complainant assails the resolution issued on August 30, 2004 dismissing for lack of probable cause the criminal complaint he had filed on February 27, 2003 in the Office of the Deputy Ombudsman for Luzon charging respondent Adonis C. Cleofe, Acting Registrar of Deeds of Batangas City, with violation of Section 3(e) of Republic Act No. 3019 (*Anti-Graft and Corrupt Practices Act*), docketed as OMB-L-C-04-0292-C. It is noted that the dismissal of the charge had been recommended by Floriza A. Briones, Graft Investigation and Prosecution Officer II of the Office of the Ombudsman; endorsed by Director Emilio A. Gonzales, III, CESO III; and approved by respondent Victor C. Fernandez, as Deputy Ombudsman for Luzon.^[1]

The petitioner moved to reconsider the dismissal, but his motion was denied on March 1, 2005 for its lack of merit.^[2]

Antecedents

The petitioner was the president of Soriano Holdings Corporation. He attested that on September 8, 1999, one Romeo L. Santos executed a Deed of Assignment^[3] transferring and conveying to Soriano Holdings Corporation the parcel of land situated on P. Burgos Street, Batangas City, where the First Coconut Rural Bank, Inc. (First Coconut) conducted its business. As a consequence, Santos delivered the owner's copy of Transfer Certificate of Title No. T-43029 to Soriano Holdings Corporation. However, the petitioner was not able to register the Deed of Assignment because of some urgent business transactions that then required his full attention.

Prior to the assignment on September 8, 1999, however, Santos and First Coconut

had a standing lease contract covering the parcel of land that would expire on February 3, 2008. Thus, although TCT No. T-43029 was still in the name of Santos, First Coconut paid its monthly rentals directly to Soriano Holdings Corporation with the acquiescence of Santos.

On or about August 25, 2003, First Coconut received a copy of the writ of possession issued by then Presiding Judge Romeo F. Barza of the Regional Trial Court, Branch 3, in Batangas City (RTC) directing First Coconut to vacate the leased premises within five days from notice. First Coconut then learned for the first time that the land had been the subject of a litigation between Santos and one Ma. Teresa Robles.^[4]

First Coconut further learned from its inquiries that the RTC had earlier disposed of the case between Santos and Robles through its order dated January 28, 2002,^[5] as follows:

WHEREFORE, in view of the foregoing, the instant motion is hereby granted and order is hereby given:

1. Divesting defendants spouses Romeo L. Santos and Florencia P. Puno of their title over the parcel of land covered by TCT No. T-43029 and vesting title thereof to plaintiff Ma. Teresa S. Robles;
2. Directing the Batangas City Register of Deeds to cancel the outstanding owner's duplicate copy of TCT No. T-43029 issued in the name of Romeo L. Santos, married to Florencia Puno and issue in lieu thereof a new owner's duplicate copy in the name of Ma. Teresa S. Robles containing a memorandum of annulment of outstanding duplicate **after payment of proper taxes and fees**;
3. Directing the Branch Clerk of Court to issue the writ of possession.

The order of January 28, 2002 was the product of the order earlier issued on February 28, 2001 to resolve Robles' *Motion For Judgment on the Pleadings* by directing, on one hand, the Spouses Romeo L. Santos and Florencia Puno (Spouses Santos) to cause the Deed of Absolute Sale to be notarized before a Notary Public; to deliver the notarized Deed of Absolute Sale to Robles; and to surrender possession of TCT No. T-43029 to Robles; and, on the other hand, Robles to execute a Special Power of Attorney authorizing the Spouses Santos to sell the property covered by TCT No. T-43029 at a price higher than P20,000,000.00, and afterward to divide the difference between the purchase price and the P20,000,000.00 equally between herself, and the Spouses Santos.^[6]

Robles complied with the order of February 28, 2001, but the Spouses Santos did not. Hence, Robles moved for the issuance of the writ of execution to compel the Spouses Santos to comply with the order.^[7]

On September 25, 2001, the RTC issued the writ of execution.^[8] However, on October 15, 2001, the sheriff reported that the Spouses Santos did not comply with the writ of execution.^[9] Hence, Robles sought an order from the RTC to:

(1) direct the sheriff or the clerk of this Court to execute a deed of sale over the subject property in favor of the plaintiff or in lieu of directing a conveyance, divesting the title of the defendants over the said property and vesting said title in the plaintiff, under Sec. 10 (a) of Rule 39 of the Revised Rules of Civil Procedure; (2) annul owner's duplicate certificate of TCT No. T-43029 and direct the Register of Deeds of Batangas City to issue a new certificate of title in lieu thereof in the name of plaintiff upon payment of the necessary taxes and fees; and (3) issue a writ of possession over the subject property in favor of the plaintiff.^[10]

On January 28, 2002, the RTC issued the writ of possession.^[11]

On August 27, 2003, First Coconut filed an *Urgent Motion to Quash Writ of Possession* in order to protect its interest in the parcel of land.^[12]

Respondent Atty. Cleofe, then the Acting Registrar of Deeds, canceled TCT No. T-43029, and issued a new owner's TCT in the name of Robles without the payment of proper taxes and fees.^[13]

Consequently, on August 29, 2003,^[14] the petitioner, through counsel, wrote to Atty. Cleofe for enlightenment on the transfer of the parcel of land without the payment of the capital gains tax and related fees. Atty. Cleofe's reply did not satisfy the petitioner.^[15]

On February 27, 2004, therefore, the petitioner charged Atty. Cleofe in the Office of the Deputy Ombudsman for Luzon with the violation of Section 3 (e) of Republic Act No. 3019, as amended.^[16] He alleged in his affidavit that Atty. Cleofe had given Robles unwarranted advantage or preference by illegally canceling TCT No. T-43029 and then issuing a new owner's TCT without the payment of the proper taxes and fees, and had caused First Coconut, Soriano Holdings Corporation and the Government undue injury through manifest partiality, evident bad faith and gross inexcusable negligence.^[17] He insisted that the Deed of Sale between the Spouses Santos and Robles was void because the parcel of land had already been sold/assigned to Soriano Holdings Corporation; and that Soriano Holdings Corporation still held the owner's copy of TCT No. T-43029.^[18] He argued that Atty. Cleofe had thereby prejudiced not only First Coconut and Soriano Holdings Corporation by depriving them of their lease, possession, and ownership of the parcel of land, but had also thereby deprived the Government P1,500,000.00 by way of capital gains tax and related fees based on the consideration of P20,000,000.00; and that Atty. Cleofe had further besmirched the reputation of Soriano Holdings Corporation.^[19]

On June 7, 2004, Atty. Cleofe submitted his counter-affidavit,^[20] stating that the petitioner had filed on September 11, 2003 a complaint against him in the Office of the City Mayor of Batangas City, to which he filed his answer; that not contented with this complaint, the petitioner filed another complaint upon the same issue in the Land Registration Authority (LRA), to which he also submitted his answer; that the complaint in the Ombudsman was but a reiteration of the previous complaints,

thereby showing a pattern of harassment and malice geared towards the destruction of his good name, and in evident violation of Circular No. 28-91 prohibiting forum shopping, which was a ground for the summary dismissal of the complaint; that the requirement of paying capital gains tax was not applicable to involuntary transactions like the transfer by virtue of the court order, but only to voluntary transactions where there was a Deed of Absolute Sale by which the computation of the tax would be based; that the absence of the Deed of Sale had been caused by the Spouses Santos' refusal to execute the same; and that the RTC divested the Spouses Santos of the title, and vested it in Robles.

Atty. Cleofe further averred that the petitioner actually nurtured his ire against him because of the unregistrability of the Deed of Assignment executed in favor of Soriano Holdings Corporation due to the lack of the consent of Puno as the spouse of assignor Santos; that the petitioner had no one to blame except himself because he did not register the Deed of Assignment at the earliest opportune time; that the petitioner's proper remedy was to file the appropriate action in the regular courts; that the petitioner's complaint was nothing more than a saving device to exculpate himself from being answerable for his miserable acts to the Board of Directors of the Soriano Holdings Corporation; and that the petitioner's demand for P10,000,000.00 as moral and exemplary damages was ridiculous because he represented a corporation that could not experience physical suffering or mental anguish.^[21]

On August 30, 2004, respondent Briones rendered her findings on the lack of probable cause to hold Atty. Cleofe liable as charged, and recommended the dismissal of the criminal complaint of the petitioner,^[22] viz.:

After a careful evaluation of the records of the case, we do not find probable cause to hold the respondent liable as charged.

Section 3(e), R.A. 3019, as amended, requires proof of manifest partiality or evident bad faith or gross inexcusable negligence. The circumstances obtaining in the case before Us, failed to show the presence of any of these elements. Indeed, the complainant failed to overcome the presumption of good faith to which every public official, acting in the discharge of his official duties is entitled.

xxx The record is bereft of any evidence to prove that the respondent was actuated with malice and/or bad faith when he issued a new title in the name of Ma. Teresa Robles. Neither was there evidence to show that respondent had gained pecuniary benefit from his act of issuing the new title, which in the first place was ordered by the court of competent jurisdiction.

Also, the respondent, in issuing the new title, even without the payment of taxes, is guided by the Order previously issued by the LRA in a similar case, (Consulta Case No. 2402), which was brought in *consulta* to the LRA, wherein it was ruled that payment of transfer tax, capital gains tax and documentary stamp tax and the submission of a real estate tax clearance do not apply to court order. Respondent is on the honest belief that the matter at hand involved an involuntary transaction to which payment of taxes and fees may no longer be required. Whether or not such transaction is involuntary, or otherwise, is no longer the concern of

the instant proceedings. As pointed out by the respondent, the LRA is governed by its own rules and regulations the wisdom of which cannot be looked into by this Office, as the land Registration Authority is possessed with the necessary special knowledge and expertise to interpret and implement the same.

In passing, the cause of action of herein complainant is more civil, rather than criminal in nature, against Mr. Romeo Santos and/or Ma. Teresa Robles, which can be properly ventilated in the regular court of justice.

[23]

On September 21, 2004, the petitioner sought reconsideration,^[24] which Atty. Cleofe opposed.^[25]

On March 1, 2005, the Office of the Deputy Ombudsman for Luzon denied the petitioner's *Motion For Reconsideration*,^[26] holding that there were no compelling grounds to reverse its earlier resolution; that the Spouses Santos refused to have the Deed of Sale notarized, thus removing the contract out of the scope of voluntary transactions; that Atty. Cleofe was justified in canceling the TCT of the Spouses Santos and issuing a new TCT in favor of Robles without payment of the capital gains taxes and fees based on the ruling in LRA Consulta Case No. 2402; and that Atty. Cleofe had not shown manifest partiality or evident bad faith in complying with the order of the RTC.

Issues

The petitioner avers that the public respondents acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

In its comment,^[27] the Office of the Solicitor General (OSG) prays that the petition for *certiorari* be dismissed because: (a) the petitioner deviated from the settled meaning of *grave abuse of discretion*; (b) the public respondents followed and applied the accepted principles on the determination of probable cause; and (c) the petition for *certiorari* was contrary to the evidence on record. The OSG argues:

It can be seen that the Ombudsman's finding of lack of malice/bad faith on the part of private respondent proceeds from the fact that private respondent's act of canceling the subject TCT and issuing another one in the name of Ma. Teresa Robles was based on the Order of the presiding Judge Romeo F. Barza of RTC Branch 3, Pallocan, Batangas City in relation to Consulta case No. 2402. Therefore, it can neither be said that private respondent acted with "palpable and patent fraud with dishonest purpose to do moral obliquity, nor with conscious wrongdoing for some some perverse motive or ill will" (**Llorente vs. Sandiganbayan**, 287 SCRA 382 [1998]; **Sistoza vs. Desierto**, 388 SCRA 307 [2002]) x x x.

It is a settled rule that the courts do not interfere in the determination of the Ombudsman regarding the existence of probable cause, provided there is no grave abuse in the exercise of such discretion (**Esquivel and Esquivel vs. The Hon. Ombudsman**, 389 SCRA 143 [2002]). xxx

Likewise, a thorough evaluation of petitioner's discussion supporting his