

## FIRST DIVISION

[ G.R. No. 194157, July 30, 2014 ]

**ROMEO R. ARAULLO, PETITIONER, VS. OFFICE OF THE OMBUDSMAN, HON. MERCEDITAS N. GUTIERREZ, HON. GERARDO C. NOGRALES, HON. ROMEO L. GO, HON. PERLITA B. VELASCO, HON. ARDEN S. ANNI, ATTY. FILOMEMO B. BALBIN, ATTY. ERNESTO P. TABAO AND ATTY. ROBERTO F. DE LEON, RESPONDENTS.**

### DECISION

**REYES, J.:**

This resolves the Petition for *Certiorari*<sup>[1]</sup> filed by petitioner Romeo R. Araullo (Araullo) to assail an undated Resolution<sup>[2]</sup> issued by the Office of the Ombudsman dismissing his criminal complaint docketed as OMB-C-C-09-0410-H.

The records indicate that Araullo had previously obtained a favorable judgment in a labor complaint for illegal dismissal which he filed against Club Filipino.<sup>[3]</sup> He first worked for Club Filipino as an electrician, and was Maintenance Supervisor at the time of his dismissal from employment on December 23, 2000.<sup>[4]</sup> His labor complaint was initially dismissed by Labor Arbiter Fedriel Panganiban (LA Panganiban), whose ruling was affirmed by the National Labor Relations Commission (NLRC). Upon appeal, however, both the Court of Appeals and this Court ruled that Araullo was illegally dismissed from employment. Club Filipino was then ordered to reinstate Araullo and to pay him his full backwages and other monetary benefits.<sup>[5]</sup>

Following the finality of the decision in his favor, Araullo filed with LA Panganiban a motion for issuance of a writ of execution. LA Panganiban, however, inhibited from further hearing the action, resulting in a re-raffle and assignment of the case to LA Arden S. Anni (LA Anni).<sup>[6]</sup> Araullo's motion for execution was approved by LA Anni, who issued a writ of execution ordering the sheriff's collection of the amount of ? 2,338,152.25, as determined by the Computation and Examination Unit.<sup>[7]</sup> The issuance of the writ was questioned by Club Filipino on the ground that it had filed a Motion to Recompute<sup>[8]</sup> the judgment award, which remained unresolved by the LA. Club Filipino then filed its Motion to Quash the Writ of Execution.<sup>[9]</sup>

Before the motion to quash could be heard, LA Anni issued an Order<sup>[10]</sup> dated August 12, 2008 quashing the writ and lifting the notice of garnishment that was previously served by Sheriff Noli S. Nicdao upon Metrobank and Bank of the Philippine Islands. LA Anni also later inhibited from further hearing the case, concerned that his impartiality might be questioned because Club Filipino's President, Atty. Roberto F. De Leon (Atty. De Leon), and counsel, Atty. Ernesto P. Tabao (Atty. Tabao), were his fraternity brothers in San Beda College of Law.<sup>[11]</sup>

Dissatisfied with the quashal of the writ, Araullo filed a petition<sup>[12]</sup> to set aside LA Anni's order, which was denied in a Resolution<sup>[13]</sup> dated October 29, 2008 issued by the NLRC First Division, composed of NLRC Chairman Gerardo C. Nograles (Chairman Nograles), Commissioner Romeo L. Go (Commissioner Go) and Commissioner Perlita B. Velasco (Commissioner Velasco). The NLRC ordered that the case records be forwarded to the arbitration branch of origin, which should decide on the issues leading to the final computation of the award and the issuance of a writ of execution.<sup>[14]</sup>

When Araullo's motion for reconsideration was denied by the NLRC,<sup>[15]</sup> he filed with the Office of the Ombudsman the criminal complaint docketed as OMB-C-C-09-0410-H against respondents LA Anni, Chairman Nograles, Commissioner Go, Commissioner Velasco, Atty. Tabao, Atty. De Leon and Atty. Filomemo B. Balbin (Atty. Balbin).<sup>[16]</sup> He charged them of violating Article 206 of the Revised Penal Code (RPC) and Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The Office of the Ombudsman summarized his arguments as follows:

[Araullo] alleged that [LA Anni] is guilty of issuing an unjust interlocutory order for granting the motion to quash filed by Club Filipino despite the fact that his counsel was not furnished with a copy of the said motion. [LA Anni] ordered the quashal of the writ of execution without conducting any hearing which was tantamount to a denial of [Araullo's] right to due process.

The order of [LA Anni] was issued hastily and purposely to delay the execution of the judgment in the labor case which was decided in [Araullo's] favor.

The act of [LA Anni] in ordering the quashal of the writ of execution and lifting the notice of garnishment and thereafter inhibiting himself from taking further cognizance of the case were done in order to give undue advantage and benefit to Club Filipino whose President and counsel were fraternal brothers of [LA Anni].

The belated appearance of [Atty. Balbin] also as counsel of Club Filipino at the stage of execution of the labor judgment was considered highly irregular by [Araullo] who submits that Atty. Balbin was hired only to influence the decision of the public respondents as he was the former Executive Assistant IV of retired NLRC Chairman Roy Señeres.

[Araullo] averred that [LA] Anni and the lawyers of Club Filipino conspired together to delay the implementation of the decision of the court in the labor case. Thus, he also sued [Atty. De Leon], [Atty. Tabao] and [Atty. Balbin] for graft and corruption and held them responsible for the issuance of an unjust interlocutory order.

On the other hand, the act of the respondent NLRC Commissioners in sustaining the unjust interlocutory order of [LA] Anni made them

responsible for issuing their own unjust interlocutory order. The manifest partiality of [LA Anni] towards his fraternity brothers was tolerated and supported by the respondent Commissioners when they affirmed the order that quashed the writ of execution and lifted the notice of garnishment. As a result[,] [Araullo] was back to where he started and would have to undergo through all the efforts again if only to receive the award due him in the labor case. The delay caused [Araullo] so much pain and stress that he sued the respondent Commissioners for causing undue injury to him. Moreover, the affirmation given by the respondent Commissioners to [LA] Anni only meant that the said Commissioners gave undue advantage and favor also to Club Filipino.<sup>[17]</sup>

Araullo's charges were dismissed by the Office of the Ombudsman via the now assailed resolution<sup>[18]</sup> issued by Graft Investigation and Prosecution Officer I Romualdo V. Francisco and approved by then Ombudsman Ma. Merceditas N. Gutierrez. It reasoned that the deferral in the execution of the judgment in favor of Araullo could not be attributed to the respondents in the criminal complaint.<sup>[19]</sup> The presumption that the respondents regularly performed their official duty was not overcome by sufficient evidence. The LA's and NLRC's rulings were rendered pursuant to the Rules of Procedure of the NLRC. This finding then barred a prosecution for violation of Article 206 of the RPC. For the claim of violation of R.A. No. 3019, the Office of the Ombudsman also found no probable cause given Araullo's failure to establish that the respondents to his complaint gave undue advantage to Club Filipino, or that they acted with manifest partiality, evident bad faith, or gross and inexcusable negligence.

Feeling aggrieved, Araullo filed this petition for *certiorari* to assail the Office of the Ombudsman's dismissal of his criminal complaint.

The Court dismisses the petition.

The Court reiterates its policy of non-interference with the rulings of the Office of the Ombudsman, except in a clear case of grave abuse of discretion. The Court has emphasized in *Casing v. Ombudsman*<sup>[20]</sup> the nature and extent of the powers, authority and findings of the Office of the Ombudsman, as we held:

The Constitution and R.A. No. 6770 endowed the Office of the Ombudsman with wide latitude, in the exercise of its investigatory and prosecutory powers, to pass upon criminal complaints involving public officials and employees. Specifically, the determination of whether probable cause exists is a function that belongs to the Office of the Ombudsman. Whether a criminal case, given its attendant facts and circumstances, should be filed or not is basically its call.

As a general rule, the Court does not interfere with the Office of the Ombudsman's exercise of its investigative and prosecutorial powers, and respects the initiative and independence inherent in the Office of the Ombudsman which, "beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service." While the Ombudsman's findings as to whether probable cause exists are generally

not reviewable by this Court, where there is an allegation of grave abuse of discretion, the Ombudsman's act cannot escape judicial scrutiny under the Court's own constitutional power *and* duty "to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."<sup>[21]</sup> (Citations omitted)

Given the subject of the present petition, the Court's inquiry shall then be limited to the question of whether the Office of the Ombudsman committed grave abuse of discretion in dismissing the criminal complaint filed by Araullo. By jurisprudence, "[g]rave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction; or the exercise of power in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility. The abuse must be in a manner so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."<sup>[22]</sup>

Upon review, the Court has determined that the Office of the Ombudsman did not commit grave abuse of discretion. Explained clearly in the assailed resolution were the grounds that supported its finding of lack of probable cause, and which then justified the dismissal of the criminal complaints filed by Araullo.

Probable cause is defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed, and that the persons being charged are probably guilty thereof.<sup>[23]</sup> "[It] can only find support in facts and circumstances that would lead a reasonable mind to believe that the person being charged warrants a prosecution."<sup>[24]</sup> To establish probable cause, Araullo, being the complainant, then should have proved the elements of the crimes alleged to have been committed. In addition, there should have been a clear showing of the respective participation of the respondents, to at least support a ruling that would call for their further prosecution.

Specifically for the charge of violation of Article 206<sup>[25]</sup> of the RPC which penalizes the issuance of unjust interlocutory orders, it was necessary to show that, *first*, the orders issued by the respondents to his complaint were unjust, and *second*, the said orders were knowingly rendered or rendered through inexcusable negligence or ignorance. On this matter, the Office of the Ombudsman correctly held that LA Anni's order for the quashal of the writ of execution, and the NLRC's resolution affirming it, were not unjust. Contrary to Araullo's claim, the rulings of the labor officials were in accordance with law and the rules of the NLRC, specifically since Rule XI, Section 4 of the 2005 NLRC Revised Rules of Procedure provided that:

*Sec. 4. Computation during execution.* – Where further computation of the award in the decision, resolution or order is necessary during the course of the execution proceedings, no writ of execution shall be issued until after the computation has been approved by the [LA] in an order issued after the parties have been duly notified and heard on the matter.

Given this provision, the quashal of the writ was then only necessary to rectify LA