

FIRST DIVISION

[G.R. No. 172218, November 26, 2014]

FELICIANO B. DUYON, SUBSTITUTED BY HIS CHILDREN: MAXIMA R. DUYON-ORSAME, EFREN R. DUYON, NOVILYN R. DUYON, ELIZABETH R. DUYON-SIBUMA, MODESTO R. DUYON, ERROL R. DUYON, AND DIVINA R. DUYON-VINLUAN, PETITIONERS, VS. THE FORMER SPECIAL FOURTH DIVISION OF THE COURT OF APPEALS AND ELEONOR P. BUNAG-CABACUNGAN, RESPONDENTS. FELICIANO B. DUYON, SUBSTITUTED BY HIS CHILDREN: MAXIMA R. DUYON-ORSAME, EFREN R. DUYON, NOVILYN R. DUYON, ELIZABETH R. DUYON-SIBUMA, MODESTO R. DUYON, ERROL R. DUYON, AND DIVINA R. DUYON-VINLUAN, PETITIONERS, VS. THE FORMER SPECIAL FOURTH DIVISION OF THE COURT OF APPEALS AND ELEONOR P. BUNAG-CABACUNGAN, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Challenged in this petition for *certiorari* is the September 16, 2005 Decision^[1] and April 6, 2006 Resolution^[2] of the Court of Appeals in **CA-G.R. SP No. 86630**.

Herein petitioner Feliciano B. Duyon (Duyon), on August 27, 1979, was issued Certificate of Land Transfer (CLT) No. 0-005224^[3] over the 6,358-square meter parcel of land (subject land) he had been tilling since 1957. The subject land was denominated as Lot 20 of Lot 797 under subdivision plan PSD-03-012599 dated January 7, 1987.^[4]

Apparently, the same parcel of land was also covered by Transfer Certificate of Title (TCT) E.P. No. 44097^[5] under Emancipation Patent No. A-347307, which had been issued to herein private respondent Eleonor P. Bunag-Cabacungan (Bunag-Cabacungan) on June 6, 1989.

Sometime in November 2002, Duyon discovered the double registration and filed a complaint-affidavit^[6] for misconduct or abuse of authority, docketed as OMB-L-A-03-0111-A (administrative aspect of the case) and for violation of Republic Act No. 3019 and Falsification of Public Documents under Article 171 of the Revised Penal Code, docketed as OMB L-C-03-0125-A (criminal aspect of the case) against Bunag-Cabacungan, who was an employee of the Municipal Agriculture Office of Nueva Ecija under the Department of Agriculture, and her husband, Eutiquio Cabacungan (Cabacungan), who then worked at the Department of Agrarian Reform (DAR), for allegedly taking advantage of their official positions to cause the issuance of the TCT in favor of Bunag-Cabacungan. Duyon further asseverated that Bunag-Cabacungan misrepresented herself in her application with the DAR by stating therein that she

was single despite having been married to Cabacungan since 1979.^[7]

Explaining their side, Cabacungan and Bunag-Cabacungan, in their Joint Counter-Affidavit,^[8] denied Duyon's accusations and alleged that he was never deprived possession of the subject land. They claimed that an error had been made in the issuance of the Emancipation Patent, such was not their fault, and that the DAR Office in Nueva Ecija had already requested for its correction. Moreover, they argued, the lot Bunag Cabacungan applied for had a bigger land area at 18,257 square meters than the 6,358-square meter subject land of Duyon.

Finding that the Cabacungan spouses flaunted unlawful behavior and intentional neglect, the Office of the Deputy Ombudsman (OMB) for Luzon, on December 11, 2003, issued its Decision^[9] in **OMB-L-A-03-0111-A**, finding the spouses guilty of simple misconduct, to wit:

WHEREFORE, premises considered, it is respectfully recommended that the respondents Eutiquio Cabacungan and Eleonor P. Bunag-Cabacungan be meted a penalty of suspension of SIX (6) **MONTHS WITHOUT PAY** for Simple Misconduct. Respondents are sternly warned that repetition of the same or similar acts in the future shall be dealt with more severely.
^[10]

The same OMB for Luzon recommended in **OMB-L-C-03-0125-A**, the filing of an Information for Violation of Section 3(e) of Republic Act No. 3019 against the Cabacungan spouses in its Resolution dated December 11, 2003 for causing undue injury to Duyon by evident bad faith.^[11]

However, acting on the Motions for Reconsideration filed by the Cabacungan spouses and the Partial Motion for Reconsideration filed by Duyon, the OMB for Luzon, in a Joint Order^[12] dated August 27, 2004, modified its December 11, 2003 Decision and Resolution by dismissing the charges filed against Cabacungan, and reducing the suspension imposed against Bunag-Cabacungan. The dispositive portion of the Joint Order reads as follows:

WHEREFORE, PREMISES CONSIDERED, it is most respectfully recommended that the Resolution and Decision both dated 11 [December] 2003 be MODIFIED as follows: The criminal as well as the administrative case filed against respondent Eutiquio Cabacungan are hereby DISMISSED for insufficiency and lack of substantial evidence, respectively. The recommendation for the filing of an information for violation of Section 3(e) of Republic Act No. 3019 against respondent Eleonor Bunag-Cabacungan is AFFIRMED. The penalty of six (6) months suspension imposed upon Eleonor Bunag[-Cabacungan] is hereby REDUCED to three (3) months suspension from office without pay.

The Provincial Prosecutor of Nueva Ecija is hereby ordered to file the hereto attached information against respondent Eleonor Bunag-Cabacungan before the proper court.^[13]

Accordingly, Bunag-Cabacungan filed a Petition for Review on *Ceriorari*^[14] before the Court of Appeals, docketed as CA-G.R. SP No. 86630, seeking the reversal of the December 11, 2003 Decision and August 27, 2004 Joint Order with respect to the administrative aspect of the case; while Duyon filed his own Petition for *Certiorari* before the Court of Appeals, docketed as CA-G.R. SP No. 87325, assailing the Joint Order dated August 27, 2004 and a motion to consolidate CA-G.R. SP No. 87325 with CA-G.R. SP No. 86630.

In a Resolution^[15] dated January 27, 2005, the Court of Appeals resolved Duyon's petition for *certiorari* and his motion to consolidate the aforementioned cases, as follows:

WHEREFORE, premises considered, we hereby DISMISS the petition for petitioner's failure to avail of the proper mode of appeal (with respect to the administrative disciplinary aspect of the case) and for lack of jurisdiction (with respect to the criminal as Bect of the case), and DENY as well petitioner's Motion for Consolidation.^[16]

Laying down the grounds for its dismissal of the petition for *certiorari* and denial of the motion for consolidation, the Court of Appeals held:

Our examination of the present petition shows that it is, on its face, fatally defective so that a consolidation with a pending related case is legally inappropriate.

The defect in the present petition is rooted in the petitioner's use of a petition for *certiorari* as a remedy against the assailed order. Under current case law, all appeals from decisions of the Ombudsman in administrative disciplinary cases shall be taken to this Court under Rule 43 of the Rules of Court; on the other hand, decisions of the Ombudsman in criminal cases are unappealable. However, where the findings of the Ombudsman on the existence of probable cause (in criminal cases) are tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, the aggrieved party may file before the Supreme Court a petition for *certiorari* under Rule 65 of the Rules of Court.^[17] (Citations omitted.)

Duyon filed a Motion for Reconsideration of the Court of Appeals' Resolution, claiming that a Petition for *Certiorari* would best serve him.^[18]

Verily, the Court of Appeals denied such motion for lack of merit on August 12, 2005.^[19]

Emphasizing the grounds for such denial, the Court of Appeals held:

The petitioner completely misses our point. We dismissed the petition not because of strict adherence to the rules of court on matters of appeal but because of jurisdictional grounds.

Jurisprudence dictates that all appeals from decisions of the Ombudsman in administrative disciplinary cases shall be taken to this Court under Rule 43 of the Rules of Court. The Rules only allow fifteen (15) days from notice of the award, decision or order within which to file a petition for review. The petitioner filed this petition for *certiorari* sixty (60) days from receipt of the assailed order. Thus, the decision of the Office of the Ombudsman (as to the administrative aspect of the case) was already final at the time this petition was filed. As a final decision, the Ombudsman's decision on the administrative aspect of the case is no longer within the scope of the power of review of any court in the absence of grounds for review affecting jurisdiction. This ground for dismissal is a substantive ground rather than mere technicality. The Honorable Supreme Court in its Circular No. 2-90 specifically commands that, "an appeal taken to the Court of Appeals by the wrong or inappropriate mode shall be dismissed. "

We cannot entertain the criminal aspect of the case for lack of jurisdiction. By law, decisions of the Ombudsman in criminal cases are unappealable. However, where the findings of the Ombudsman on the existence of probable cause (in criminal cases) are tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, the remedy is a petition for *certiorari* under Rule 65 filed, not with us, but before the Honorable Supreme Court.^[20] (Citations omitted.)

However, notwithstanding that the issue raised in Bunag Cabacungan's petition in CA-G.R. SP No. 86630 was limited to the administrative aspect of the case, the Court of Appeals promulgated a contrary decision dated September 16, 2005, which reversed and set aside the assailed Decision and Joint Order and dismissed Duyon's complaint against Bunag-Cabacungan for violation of Section 3(e) of Republic Act No. 3019.

In resolving the criminal aspect of the case, the Court of Appeals found that the elements of Section 3(e) of Republic Act No. 3019 were not present in the case, given the evidence on record. Thus, it held that "no probable cause exists to warrant the filing of charges against [Bunag Cabacungan]."^[21] The Court of Appeals added that there was nothing to show that Bunag-Cabacungan, an employee of the Department of Agriculture, had acted in conspiracy with the officers or officials of the DAR, the office responsible for the issuance of the Emancipation Patent. Moreover, the Court of Appeals said, while Duyon alleged undue injury, he nevertheless failed to present proof of such on him or to the Government.^[22]

The *fallo* of the Court of Appeals decision, reads:

WHEREFORE, the petition is **GRANTED**. The assailed decision dated December 11, 2003 and the joint order dated August 27, 2004 are hereby **REVERSED AND SET ASIDE**. The complaint of respondent

Feliciano Duyon against petitioner Eleonor Bunag-Cabacungan for violation of Section 3(e), R.A. No. 3019 is accordingly **DISMISSED**.^[23]

Duyon filed a Motion for Reconsideration^[24] on October 10, 2005, which the Court of Appeals denied for lack of merit in its Resolution^[25] dated April 6, 2005.^[26]

Issues

Now before us is a petition for *certiorari*, filed by Duyon, questioning the aforementioned decision and resolution of the Court of Appeals in CA G.R. SP No. 86630, which reversed and set aside the OMB for Luzon's December 11, 2003 Decision, which found Bunag-Cabacungan and her husband, Cabacungan, guilty of simple misconduct; and August 27, 2004 Joint Order, which modified the December 11, 2003 Decision (for Simple Misconduct) and December 11, 2003 Resolution (for violation of Section 3[e] of Republic Act No. 3019) by: 1) reducing the administrative penalty on Bunag-Cabacungan; 2) affirming the recommendation of filing an information for violation of Section 3(e) of Republic Act No. 3019 against her; and 3) dismissing both administrative and criminal charges against Bunag-Cabacungan's husband, Cabacungan.

The following are the issues presented for our resolution:

WHETHER OR NOT THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN ACTING UPON AND DISMISSING THE CRIMINAL ASPECT OF THE CASE NOTWITHSTANDING THE CLEAR IMPORT OF THE FABIAN CASE THAT IT HAS NO JURISDICTION OVER THE DECISIONS OF THE OFFICE OF THE OMBUDSMAN WITH RESPECT TO CRIMINAL CASES.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN REVERSING THE OMBUDSMAN'S DECISION WITH RESPECT TO ITS FINDINGS OF PROBABLE CAUSE.^[27]

Duyon^[28] argues that the Court of Appeals acted with grave abuse of discretion as it has no power to review the criminal aspect of Ombudsman cases, which was also the subject of the August 27, 2004 OMB for Luzon Joint Order. Duyon contends that although Bunag-Cabacungan correctly filed a Petition for Review before the Court of Appeals, such review should have been limited **only** to the administrative aspect covered by the OMB for Luzon's Decision of December 11, 2003.^[29]

To reiterate his point, Duyon cited and attached the Resolutions of the Court of Appeals in CA-G.R. SP No. 87325, wherein the Court of Appeals, in resolving his petition for *certiorari*, elaborated on the remedies the parties to an Ombudsman case may take with regard to both its administrative and criminal aspects.

Bunag-Cabacungan, in her Comment,^[30] avers that the Court of Appeals has now appellate jurisdiction to review orders and decisions of the Ombudsman regardless of its nature by reason of Section 7 of Administrative Order No. 17, dated