

SECOND DIVISION

[G.R. No. 179333, August 03, 2010]

JOEPHIL C. BIEN, PETITIONER, VS. PEDRO B. BO, RESPONDENT.

D E C I S I O N

NACHURA, J.:

Before us is a petition for review on *certiorari* challenging the Court of Appeals (CA) decision in CA-G.R SP No. 92874^[1] which affirmed *in toto* the decision of the Deputy Ombudsman for Luzon in OMB-L-A-04-0488-H finding petitioner administratively liable for Abuse of Authority.^[2]

The factual antecedents, summarized by the CA, follow:

[Respondent Pedro B. Bo], since 1993, has applied with the Department of Environment and Natural Resources Community Environment and Natural Resources Office (DENR-CENRO) Legazpi City for the lease of a 10,000 square meter foreshore lot in Palale Beach, Bgy. San Isidro, Ilawod. Pending his application, he introduced improvements in the area necessary in putting up and in running a beach resort, secured DENR approval of his survey plan, obtained a barangay permit to operate his business, and paid the corresponding yearly occupation fees over the public land. The DENR in the meantime conducted an appraisal report on the status of the foreshore lot.

But a month before the DENR released its approval in April 2003 for the bidding of the lease covering the public land Col. Bo was applying for, his cottage and his coconut trees were destroyed. He had this occurrence entered in the police blotter in the Malilipot Municipal Police Station, and named Bgy. Captain Bello and Kgd. Bisona as those who led in the removal of his improvements to give way for the construction of twenty-two cottages, and that this was done in defiance of the directive of the DENR representative not to push through with this plan because they had no right to do so.

The bidding that was scheduled for June 2003 for the lease of the foreshore land never took place because the Sangguniang Barangay of San Isidro, Ilawod opposed Col. Bo's lease application before the DENR, reasoning that the land should be used instead for barangay projects and not to benefit private individuals.

The protest was then referred to the DENR-Provincial Environment and Natural Resources Office (PENRO) for resolution. Land Management Officer (LMO) Santiago Olfindo took hold of the dispute and on October

21, 2003 conducted an ocular inspection on the public land. He noted in his findings the list of improvements as of that time and the owners of the cottages located therein:

"At the time of the ocular inspection, the actual improvements found on the area are reflected on a matrix hereto attached. Some of the owners of the cottages constructed on the area covered by the application of Applicant-Respondent [Bo] were not present during the inspection but were identified by the Barangay Officials who were present on the premises. From the attached matrix it must be noted that almost all of the Barangay Officials had their own cottages and that the total cost of all improvements on the area subject of this case amounts to Four Hundred Seventy Nine (*sic*) (P479,000.00) Pesos.

During the field inspection, the improvements made by the Applicant-Respondent [Bo] as reflected in the Appraisal Report was not anymore around. The area occupied by his improvement, (Cottage) is already occupied by a certain Carmelo Tuyo and Jimeno Balana.

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The matrix referred to by LMO Olfindo included [petitioner] Joephil Bien as one of the owners of the cottages built on Palale Beach on March 2003, and said report of LMO Olfindo became the DENR Regional Director's basis for denying the Sangguniang Barangay's protest, finding that the cottages found therein were privately owned and illegally constructed, *i.e.*, without securing the DENR's permit. Thus, the bidding for the public lease of a portion of Palale Beach was upheld.

As regards Col. Bo's complaint before the Ombudsman, he pinpointed not only the barangay officials of San Isidro, Ilawod as the culprits responsible for the destruction of his cottage and plantation but also [petitioner] Joephil Bien. Col. Bo stressed that all of them connived in doing this injustice to him in order that respondents [including herein petitioner] may be able to construct their own private cottages for their own benefit.

Defending himself separately from his co-respondents, [petitioner] Joephil Bien maintained his innocence and vehemently denied ownership of the cottage. To prove the latter, he averred that it is not he who owns the cottage but a certain Renaldo Belir. He affixed as evidence in his position paper the affidavit of Renaldo Belir affirming that it is he and not Bgy. Captain Bien who constructed the cottage. As his additional proof, he included an official receipt issued to Belir as payment for the barangay permit.^[3]

As previously adverted to, the Deputy Ombudsman for Luzon found all respondents

therein, including herein petitioner Bien, administratively liable for Abuse of Authority, to wit:

WHEREFORE, premises considered, it is hereby respectfully recommended that respondents **JULIO BELLO, JOEL BISONA, ROLANDO VOLANTE, MARTINEZ BEA, RICARDO BILAN, RENATO BARIAS, HERBES BOTIS, MILAGROS BALANA, and JOEPHIL BIEN,** be meted out the penalty of **three (3) months suspension without pay** for Abuse of Authority.

SO RESOLVED.^[4]

Objecting to the penalty meted out by the Deputy Ombudsman, petitioner appealed to the CA which ruled, thus:

WHEREFORE, the instant petition is ***DENIED*** for lack of merit. The September 5, 2005 Decision and November 23, 2005 Order of the Deputy Ombudsman for Luzon anent OMB-L-A-04-0488-H are ***AFFIRMED in toto.***

SO ORDERED. ^[5]

Hence, this appeal by petitioner hinging on the singular issue of whether he is liable for abuse of authority.

Petitioner seeks to evade liability on the following grounds:

1. Respondent failed to prove petitioner's participation in the destruction of the improvements introduced by the former on the subject property;
2. Corollary thereto, respondent failed to establish petitioner's ownership of one of the twenty-two (22) cottages on the subject property found by the DENR to have been illegally erected; and
3. Petitioner is not a *barangay* official of San Isidro Ilawod; thus, he has no authority and jurisdiction over the subject property.

We are in complete accord with the Deputy Ombudsman for Luzon's and the appellate court's uniform rulings.

Petitioner's participation in the destruction of the improvements on the subject property introduced by the respondent, as well as petitioner's ownership of one of the cottages subsequently erected therein, were supported by substantial evidence.

In administrative cases, the requisite proof is substantial evidence, *i.e.*, that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.^[6] In the case at bar, substantial evidence consisted in the findings of