

SECOND DIVISION

[G.R. No. 171500, April 30, 2008]

FERNANDO C. PARMA, JR., Petitioner, vs. THE OFFICE OF THE DEPUTY OMBUDSMAN FOR LUZON and MAYOR LOURDES SEÑAR, Respondents.

DECISION

VELASCO JR., J.:

In this Petition for Certiorari^[1] under Rule 65, petitioner Fernando C. Parma, Jr. assails and seeks to nullify the Resolution^[2] dated August 17, 2005 of the Office of the Deputy Ombudsman for Luzon (Ombudsman) in OMB-L-C-05-0296-C finding probable cause to charge him with falsification of official document under paragraph 1 of Article 171, Revised Penal Code. Also assailed is the Ombudsman's Joint Order^[3] of November 30, 2005, denying petitioner's motion for reconsideration.

At times material to this case, Parma was a councilor of the municipality of Magarao, Camarines Sur, while private respondent Lourdes A. Señar was the incumbent municipal mayor. They then belonged to different political parties.

From June 14 to June 19, 2004, Parma, together with Magarao Vice Mayor Nelson B. Julia, followed up, on official time, the release by the Philippine Charity Sweepstakes Office (PCSO), with station in Quezon City, of a PhP 50,000 donation solicited by the Philippine Guardians Brotherhood, Inc. (PGBI), Magarao Chapter. The solicited amount was intended to defray the cost of PGBI's August 5, 2004 medical mission.

From June 21 to June 26, 2004, Julia and Parma again made another official trip for the same purpose. The PCSO eventually released the needed amount enabling PGBI to conduct its medical mission, as scheduled.

Before each trip, Parma and Julia drew the usual cash advances based on the requisite Travel Order and Itinerary of Travel. Upon their return, the advances were liquidated. The liquidation process required, among other things, the submission of the statement of actual itinerary and the certificate of appearance or attendance.

The subject matter of this petition relates to the authenticity of the certificate of appearance^[4] allegedly submitted by Parma in the liquidation of his travel cash advances.

Señar alleged that both Parma and Julia submitted, as attachments to their liquidation reports, spurious certificates of attendance, as evidenced by a November 10, 2004 letter^[5] from the PCSO which disowned said certificates of attendance.

On November 18, 2004, Señar, on the basis of what she alleged to be spurious

certificates submitted by Parma and Julia, filed with the Ombudsman the **first** Complaint-Affidavit,^[6] charging the latter two with falsification of official documents, docketed as OMB-L-C-04-1054-K, and, administratively, for dishonesty, docketed as OMB-L-A-04-0750-K. On January 3, 2005, in OMB-L-A-04-0750-K, the Ombudsman issued an Order,^[7] preventively suspending Parma and Julia for two months.

In their defense,^[8] Parma and Julia alleged that the spurious certificates of attendance were the handiwork of Señar, acting through Mrs. Ruena Tino, an employee of the municipal assessor's office. Parma and Julia also alleged that Señar detailed Tino at the Office of the *Sangguniang Bayan* of Magarao as evidenced by the Affidavit^[9] of Irene M. Durante (Durante), another municipal employee. Durante stated that Tino made her photocopy old certificates of attendance with the names and dates covered, with instructions to later fill-out the blank photocopied but signed certificates.

On February 4, 2005, Señar filed a **second** Complaint-Affidavit^[10] against Parma and Julia for alleged violation of Sections 4 (a) and 3 (e) of the *Anti-Graft and Corrupt Practices Act* (R.A. No. 3019, as amended), docketed as OMB-L-C-05-0165-B, while the accompanying administrative case for dishonesty was docketed as OMB-L-A-05-0120-B. The complaint-affidavit alleged that Parma and Julia used public funds for a private purpose, noting that PGBI, on whose behalf the duo made the trip to follow up the donation in question, is a private organization.

On March 3, 2005, Señar filed a **third** complaint-affidavit,^[11] this time solely against Parma, charging him with falsification of official document, docketed as OMB-L-C-05-0244-C. The administrative aspect of the complaint for dishonesty was docketed as OMB-L-A-05-0175-C. Stated as basis of this complaint is a spurious certificate of attendance^[12] allegedly submitted by Parma in his liquidation report for a February 2 to 7, 2004 trip to the office of Senator Ramon Magsaysay, Jr., which, however, later denied issuing the certificate of attendance thus submitted by Parma.^[13]

On March 15, 2005, Señar filed a **fourth** complaint-affidavit^[14] against Parma for the same crime and offense charged in the first and second affidavit-complaints, albeit the basis for the fourth complaint is, as couched, different. This time around, the inculpatory act has reference to the alleged submission by Parma of spurious certificates of attendance,^[15] one dated June 24, 2004 for his June 14 to 19, 2004 trip to Manila, while the other spurious certificate of attendance^[16] was dated June 18, 2004. The criminal charge was docketed as **OMB-L-C-05-0296-C**, while the administrative case for dishonesty was docketed as OMB-L-A-05-0211-C.

The foregoing four criminal complaints with the corresponding administrative cases were not consolidated and none of the parties moved for their consolidation.

On March 31, 2005 in OMB-L-C-05-0296-C, the Ombudsman ordered Parma to file his counter-affidavit. Despite his receipt of the order, Parma did not file his counter-affidavit. This failing or refusal apparently forced the hand of the Ombudsman to issue, on August 17, 2005, the assailed Resolution in OMB-L-C-05-0296-C, finding probable cause to charge Parma for the crime of falsification of official document, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, it is respectfully recommended that respondent FERNANDO C. PARMA, JR. be INDICTED for the crime of Falsification of Official Document defined and penalized under Article 171, paragraph 1, of the Revised Penal Code.

SO RESOLVED.

On August 22, 2005, the Ombudsman rendered a Decision in OMB-L-A-05-0211-C, finding Parma guilty of dishonesty and recommending a penalty of one year suspension from office.

On October 2, 2005, Parma, with respect to both the Ombudsman's August 17, 2005 resolution and August 22, 2005 decision, filed a Motion for Reconsideration and/or Reinvestigation and to Admit Counter-Affidavit, Affidavit of Witnesses and Other Evidences.^[17] Parma explained that he was indisposed for several months, suffering from a renal ailment which prevented him from filing his counter-affidavit. He added that the documentary evidence he intends to present together with his counter-affidavit^[18] and the affidavit^[19] of his witness, Durante, will likely exculpate him from any liability. To this motion, Señar interposed an opposition in which she informed the Ombudsman about the pendency of criminal complaints for perjury filed by Tino against Durante, docketed as I.S. Nos. 2005-093 and 2005-097.

As earnestly prayed in the motion, the Ombudsman admitted Parma's counter-affidavit and other documentary evidence presented.

On November 30, 2005, the Ombudsman issued the assailed Joint Order,^[20] denying Parma's motion for reconsideration aforementioned. The *fallo* of the Ombudsman's joint order reads:

WHEREFORE, PREMISES CONSIDERED, it is most respectfully recommended that the instant Motion for Reconsideration and/or Reinvestigation dated 27 September 2005 filed by respondent Fernando C. Parma, Jr. be DENIED.

The recommendations in the contested Resolution and Decision are hereby affirmed.

SO ORDERED.

Consequent to the foregoing denial order, an Information against Parma for falsification of official document was filed with the Regional Trial Court (RTC), Branch 21, in Naga City, docketed as Criminal Case No. 2006-0022.

The filing of the above information notwithstanding, Parma filed the instant Petition for Certiorari under Rule 65, ascribing grave abuse of discretion in the issuance of the resolution and joint order in the criminal complaint in OMB-L-C-05-0296-C.

For proper perspective, this petition is cast against the following relevant incidents that transpired before and after its filing:

(1) By Joint-Resolution^[21] dated August 25, 2005, the Ombudsman dismissed the

second complaint docketed as OMB-L-C-05-0165-B and OMB-L-A-05-0120-B for violation of the Anti-Graft Law and dishonesty, respectively, on the finding that Parma's and Julia's official trips redounded to the benefit of the residents of Magarao, Camarines Sur. Señor's motion for reconsideration was rejected by the Ombudsman through an Order (Motion for Reconsideration)^[22] dated October 21, 2005.

(2) By Joint-Resolution of November 16, 2005,^[23] the Ombudsman also dismissed the third complaint for falsification of official document and dishonesty, docketed as OMB-L-C-05-0244-C and OMB-L-A-05-0175-C, respectively. The Ombudsman found no probable cause to charge Parma with falsification and ruled, vis-à-vis OMB-L-A-05-0175-C, that a re-elected official is not amenable for an administrative offense committed during a previous term.^[24]

(3) The perjury cases filed against Durante, under I.S. Nos. 2005-093 and 2005-097, were dismissed by the City Prosecutor of Naga. The Secretary of Justice would later effectively affirm the dismissal per a Resolution^[25] dated January 23, 2006.

Parenthetically, available records do not show how the first complaint, docketed as OMB-L-C-04-1054-K and OMB-L-A-04-0750-K, was resolved.

(4) On April 18, 2006, the RTC issued in Criminal Case No. 2006-0022 an Order,^[26] denying Parma's motion to suspend proceedings^[27] after which it proceeded to arraign Parma. Following a preliminary conference, a pre-trial conference was held on September 12, 2006.^[28]

On May 9, 2007, this Court denied, through a Resolution,^[29] Parma's Urgent Motion for Issuance of Writ of Preliminary Injunction and Temporary Restraining Order^[30] for lack of merit.

In this recourse, Parma raises the following issues for our consideration:

- I. WHETHER OR NOT THE OFFICE OF THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ABUSED ITS DISCRETION WHEN IT CAPRICIOUSLY AND WHIMSICALLY ISSUED THE ASSAILED RESOLUTION AND JOINT ORDER (ANNEXES A AND B, RESPECTIVELY, PETITION);
- II. WHETHER OR NOT THE OFFICE OF THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ABUSED ITS DISCRETION IN NOT CONSIDERING ITS OWN FINDINGS IN OMB-L-C-05-0165-B; WHICH CASE IS DIRECTLY RELATED TO THE CASE AT BAR;
- III. WHETHER OR NOT THE OFFICE OF THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO CONSIDER ITS FINDING IN OMB-L-C-05-0244-C, WHICH FINDING SHOWS THE PROPENSITY OF THE PRIVATE RESPONDENT TO USE FALSIFIED AND FABRICATED CERTIFICATE OF APPEARANCE AGAINST THE PETITIONER.^[31]