

FIRST DIVISION

[G.R. NO. 157175, June 21, 2007]

**HILARIO P. SORIANO, PETITIONER, VS. ZENAIDA A. CABAIS,
RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is the instant Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolution^[1] of the Court of Appeals dated January 31, 2003 in CA-G.R. SP No. 74378.

Hilario P. Soriano, petitioner, is the President of the Rural Bank of San Miguel, Inc. (RBSM). On the other hand, Zenaida A. Cabais, respondent, is the comptroller designated by the Bangko Sentral ng Pilipinas (BSP) to oversee the bank's operations.

Eventually, the RBSM was closed and placed under receivership by the BSP. Thereupon, petitioner filed with the Court of Appeals a petition for review. In the course of the proceedings, respondent executed two affidavits stating that:

13. About a week before RBSM declared a "bank holiday" on January 4, 2000, RBSM on December 27, 1999 and December 29, 1999, paid Forcecollect Professional Solution, Inc. and Surecollect Professional Solution, Inc., entities owned/controlled by Mr. Soriano and other RBSM officers (Annexes "14" and "15") P5.300 million and P5.750 million (Annexes "16" and "17"), respectively, without any supporting documents, as payment of 25% collection fee;^[2] x x x (Affidavit dated February 17, 2000)

8. RBSM paid Manager Check Nos. 0000040071 and 0000040079 in cash on December 27 and 29, 1999, respectively, as evidenced by the attached Debit Advances of even dates (Annexes "1-B" and "2-B" respectively).^[3] x x x (Affidavit dated March 22, 2000)

On April 6, 2000, petitioner filed with the Office of the City Prosecutor of Manila a complaint for perjury defined and penalized by Articles 183 and 184 of the Revised Penal Code against respondent. Petitioner alleged that respondent committed perjury by narrating false statements in her affidavits.

On May 29, 2000, respondent filed with the Office of the City Prosecutor of Manila her counter-affidavit denying the charge and stating that the checks were validated by the RBSM as shown by the signature appearing thereon.

On March 4, 2002, then Manila City Prosecutor Ramon Garcia (now Associate Justice of the Court of Appeals), after finding that respondent is a public officer and that the

acts imputed against her are related to the performance of her duties, forwarded the complaint for perjury to the Office of the Ombudsman. Attached thereto was the Resolution of Assistant City Prosecutor Anabel D. Magabilin recommending the dismissal of the complaint.

On July 12, 2002, Graft Investigation Officer Lolita M. Bravo issued "Review and Recommendation," the dispositive portion of which reads:

WHEREFORE, premises considered, the Resolution of Assistant Prosecutor Magabilin recommending the DISMISSAL of the instant Complaint is hereby AFFIRMED.

Overall Deputy Ombudsman Margarito P. Gervacio, Jr. approved the "Review and Recommendation."

Petitioner seasonably filed a motion for reconsideration, but it was denied by the Office of the Ombudsman in its Order of November 4, 2002.

On December 26, 2002, petitioner filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 74378.

In its Resolution dated January 31, 2003, the Court of Appeals dismissed the petition, holding that:

This is an appeal, by way of petition for review under Rule 43 of the 1997 Rules of Civil Procedure, of the Ombudsman's resolution dismissing petitioner's criminal complaint for perjury against respondent. However, **a petition for review before this Court of the Ombudsman's decision will lie only if the proceedings had in that office pertains to purely administrative disciplinary cases** (Fabian vs. Desierto, 295 SCRA 470).

Hence, the instant petition for review on *certiorari*.

Petitioner contends that the Court of Appeals erred in invoking our ruling in *Fabian v. Desierto*.^[4]

The petition lacks merit.

In *Fabian*,^[5] we ruled that appeals from the decisions of the Office of the Ombudsman in **administrative disciplinary cases** should be taken to the Court of Appeals by way of a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, as amended. This ruling has been repeatedly reiterated in subsequent cases^[6] and continues to be the controlling doctrine.

Here, petitioner's complaint is **criminal in nature**. In *Estrada v. Desierto*,^[7] we held that the remedy of aggrieved parties from resolutions of the Office of the Ombudsman finding probable cause in **criminal cases** or **non-administrative cases**, when tainted with grave abuse of discretion, is to file an original action for *certiorari* with this Court, not with the Court of Appeals. In cases when the aggrieved party is questioning the Office of the Ombudsman's finding of **lack** of probable cause, as in this case, there is likewise the remedy of *certiorari* under Rule