

THIRD DIVISION

[G.R. NO. 161077, March 10, 2006]

**SAMSON B. BEDRUZ AND EMMA C. LUNA, PETITIONERS, VS.
OFFICE OF THE OMBUDSMAN, YOLANDA P. LIONGSON,
RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Assailed via petition for review on certiorari is the Court of Appeals April 30, 2003 Decision [1] affirming that of the Office of the Deputy Ombudsman for Luzon dated May 8, 2001 [2] finding then Tagaytay City Engineer Samson B. Bedruz and City Administrator Emma C. Luna (petitioners) administratively liable in connection with their issuance of a permit to fence a lot.

In May 1999, spouses Reynaldo and Maria Lourdes Suarez (Suarez spouses), through their attorney-in-fact Edgardo Peña (Peña), filed with the City Engineer's Office of Tagaytay City an application for fencing permit covering a lot situated in **Barangay Tubig, Tagaytay.** [3]

It appears that in the processing of the application, the following documents were considered: copies of Transfer Certificate of Title (T.C.T.) No. T-21997 issued in the names of the Suarez spouses on September 27, 1990 covering a 415 square meter lot situated "in the Barrio of **Anuling,**" [4] a lot plan, an undated *Pahintulot ng Punong Barangay* to fence "dito sa **Barangay Bagong Tubig,**" [5] Certification of Engineer Emilma Pello of the City Planning and Development Office, and Tax Declaration No. 98-002-0127 which states that it "begins with the year 1998" in the name of spouses Suarez but which do not bear their signatures nor show that it was received at the proper office. [6]

The Certification [7] dated June 7, 1999 of Engineer Pello shows that the lot covered by the application is located at **Barangay Neogan,** while T.C.T. No. T-21997 shows that, as reflected above, the lot covered thereby is situated in **Barrio Anuling.** [8]

Entries under "BOXES" 7 and 8 in the fencing permit application which were required to be accomplished by the architect/civil engineer who signed and sealed the plan and specifications of the fencing work, and the architect/civil engineer incharge of the construction of the fence, respectively, were filled up by the City Assessor, Gregorio Monreal (Monreal). [9]

Despite the patent conflicting data relative to the location of the lot subject of the application, petitioner Bedruz and his co-petitioner Luna approved the application and issued on June 23, 1999 Fencing Permit No. 23-99-55808 to the Suarez

spouses. [10]

By Peña's information to the City Mayor in his letter of July 6, 1999, the fencing of the "lot situated in Barangay Neogan" could not be started as the workers were "being intimidated by the presence and movement of several men at the adjoining lot." [11]

Over the objection of the son and caretaker of herein respondent Yolanda P. Liongson (Yolanda) who claimed ownership of part of the lot by virtue of a Deed of Absolute Sale dated July 6, 1995 [12] executed in her and her husband's favor, the fencing proceeded. The "front and middle portions" of what Yolanda claimed to be part of her lot were fenced with bamboo slate or *sawali*, shutting the stairway to her house. [13]

Yolanda and her now deceased husband thus filed on April 6, 2000 before the Office of the Ombudsman a complaint-affidavit [14] against petitioners, along with other government employees, for violation of the Constitution, the Civil Service Rules and Regulations, the Code of Conduct and Ethical Standards for Public Officials, and the Anti-Graft and Corrupt Practices Act in "manifest[ing] arrogance, bias, abuse and crystal personal interest" in favor of the Suarez spouses. [15]

Resolving in the affirmative the issue of whether the acts of petitioners, among other government employees, in issuing the fencing permit violated the Anti-Graft and Corrupt Practices Act, the Deputy Ombudsman, by decision of May 8, 2001, FINED them in an amount equivalent to One (1) Month Salary.

Petitioners' motion for partial reconsideration of the Deputy Ombudsman's decision was denied by Order of August 14, 2001 [16] bearing the approval of the Ombudsman. Hence, petitioners brought the case to the *Court of Appeals via certiorari*, [17] imputing grave abuse of discretion on the part of the Office of the Ombudsman in holding them administratively liable.

By the assailed decision, the appellate court denied the petition for lack of merit and AFFIRMED the decision of the Ombudsman respecting petitioners. [18]

Hence, the present petition faulting the appellate court to have, in the main, "COMMITTED GRAVE ERROR AND MISTAKE OF LAW IN DENYING THE PETITION FOR CERTIORARI."

Petitioners assail the appellate court's decision in affirming the Ombudsman's decision which, so they contend, considered "insignificant and immaterial matters in the fencing permit application." [19]

Petitioners argue that as the Suarez spouses have a title and tax declaration in their name over the lot, they are entitled to its possession and may exclude any stranger from its enjoyment. [20] Additionally, they argue that they relied on the subordinate officers who processed the application before it reached them for approval, hence, they acted in good faith and, following the doctrine laid down in *Arias v. Sandiganbayan*, [21] they are not liable.

The petition fails.

Findings of fact of the Office of the Ombudsman are conclusive when supported by substantial evidence^[22] and are accorded due respect and weight especially when they are affirmed by the Court of Appeals.^[23] It is only when there is grave abuse of discretion by the Ombudsman that a review of factual findings may aptly be made.^[24]

A review of the records of the case shows that the following factual findings of the Ombudsman, upon which its decision of May 8, 1999 was based, and which were cited by the appellate court in arriving at its assailed decision, are supported by the evidence on record:

. . . [A] scrutiny of the aforesaid documents shows that the undated Tax Declaration is not duly signed by the owner and/or administrator but only signed by Teodoro C. Baybay as Assessor which refer to lot denoted as TCT No. T-21997 located at **Bagong Tubig**. While TCT No. T-21997 pertains to a Four Hundred Fifteen (415) square meter lot located at **Barrio Anuling** registered to Spouses Suarez, copy of which was issued on 26 May 1999 upon the request of respondent Monreal for legal purposes, duly inscribed at the back of the title...

A Pahintulot ng Barangay was issued by Barangay Ba[g]ong Tubig to the Spouses Suarez relative to the fencing application, however, the document is **undated and the signatory is not specified** . . . Relative to the permit application, a certification dated 07 June 1999 was issued by Engr. Emilma U. Pello, OIC-City Planning and Development Office, Tagaytay City certifying that the proponent, Reynaldo Suarez, complied in [sic] the requirements needed in securing a fencing permit located at Barangay Neogan, Tagaytay City.. On the basis of the aforesaid documents, Fencing Permit No. 23-99-55808 dated 23 June 1999 was issued to applicant Suarez with Barangay Bagong Tubig as the location of fencing work. A scrutiny of the permit showed that **the accompanying documents submitted were only the copies of the TCT and lot plan as checked in the appropriate boxes under Box 2, sans the defense raised by the respondents that the applicant submitted, copies** of the TCT, Tax Declaration, Pahintulot ng Barangay, and Certification of the OIC-City Planning and Development Office . . . Further scrutiny reveals **that Boxes 7 and 8 of the said permit was [sic] signed by respondent Monreal, Box 7 refer to the Architect/Civil Engineer who signed and sealed the plans and specifications while Box 8 refers to the Architect/Civil Engineer in charge of the construction** . . . It is highly irregular for respondent Monreal, the City Assessor, to sign on the boxes designated for the person who is in charge of the construction and the engineer/architect who signed and sealed the plans and specifications of the construction in a fencing work that was asserted by the respondents as a private undertaking. This fact gave color to the assailed transaction wherein the complainants raised their doubt as to real personalities involved in the fencing work concerned.

The fact that respondent Monreal, despite being the City Assessor, signed Boxes No. 7 and 8 negates the defense that the respondents took no part in a private fencing work. Furthermore, records show that the document[s] that accompanied the application w[ere] only the copies of the TCT and lot plan but nevertheless was approved by the respondents. A scrutiny of the certification issued by Engr. Pello disclosed that the permit application was for a lot located at Barangay **Neogan**, while the tax declaration and the fencing application pertains to a lot located at Barangay Bagong Tubig, and TCT No. T-21997 pertain to a Four Hundred Fifteen (415) square meter lot located at **Barrio Anuling**. **Despite the fact that the location of the subject lot has been referred to in several documents in different Barangays**, the respondents approved the fencing application, thereby raising the issue of the propriety of the issuance of the same in view of the blatant defects existing during its processing. The defense raised by the respondents of the regularity of their function do not necessary [sic] exculpate them of any administrative liability as it was shown that **through bad faith and manifest partiality said permit was granted by Bedruz and Luna regardless of the blatant defects and the highly irregular signing of the respondent City Assessor as the person who signed the plans and is in charge of the construction to the prejudice of the complainants. It is incumbent upon the public respondents to be diligent in performing their task.** Despite the fact that the same be considered routinary, it raises no doubt that the assailed approval made by respondents Bedruz and Luna were discretionary on their part. **The approval made by the two (2) respondents was premised on the fact that the application and its supporting documents were in order, overlooking the existing defects, thereby, being partial to the applicant.** Thus, the respondents' knew that respondent Monreal was not authorized to sign box number 7 and 8 of the subject application for reasons stated earlier, despite thereof, they approved the same. **The manifest partiality of respondents Bedruz and Luna in approving said application is a wrongful act which amounts to misconduct in office.** Respondent Monreal being the City Assessor has no legal basis to sign the application as earlier mentioned, since it is not part of his functions to do the same neither has it been shown that the same was designated to him. Documents revealed that the signing of the subject document by respondent Monreal disclosed his participation to the fencing permit application as the engineer in charge of the construction in contravention [sic] to the conduct required of a public officer. The wrongful act of respondent Monreal is contrary to law, public policy, rule or regulation which is injurious to the image of the public service and the rights of Spouses Liongson.

x x x x ^[25] (Emphasis and underscoring supplied)

Clearly, the appellate court did not err in finding that the Ombudsman did not commit grave abuse of discretion.

As for petitioners' complaint that the Ombudsman did not express in a clear manner the law on which its decision was based, thereby violating Section 14, Article VIII of the 1987 Constitution which provides that "[n]o decision shall be rendered by any