

## FIRST DIVISION

[ G.R. NO. 151138, February 16, 2005 ]

**FELIPE L. MELCHOR, PETITIONER, VS. GERTY R. GIRONELLA,  
RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

This petition for review seeks to nullify (a) the *Decision*<sup>[1]</sup> dated December 29, 2000, of the Court of Appeals in CA G.R. SP No. 51596, which annulled the decision of the Ombudsman in OMB-ADM 1-97-0075; and (b) the *Resolution*<sup>[2]</sup> dated December 13, 2001, denying the petitioner's motion for reconsideration.

The case stemmed from the administrative complaint for immorality before the Department of Education Culture and Sports (DECS) and the criminal complaint for bigamy before the Provincial Prosecutor, both filed by the petitioner Felipe L. Melchor against respondent Gerty R. Gironella.

In the bigamy case, respondent Gironella presented a certification from the Local Civil Registry that her first husband, Jimmy Santiago, was already dead. On April 18, 1994, the complaint was dismissed.<sup>[3]</sup>

In the administrative complaint, the DECS director initially found respondent guilty of immorality.<sup>[4]</sup> Respondent filed a motion for reconsideration and attached the death certificate of Jimmy Santiago issued by Local Civil Registrar Eliseo Firmalo on May 18, 1994.<sup>[5]</sup> Consequently, the DECS reversed its ruling and acquitted the respondent on October 31, 1996.<sup>[6]</sup>

On February 17, 1997, petitioner Melchor filed before the Office of the Ombudsman, an administrative complaint for dishonesty and conduct unbecoming a public officer against respondent, respondent's second husband (Jose Gironella), and Local Civil Registrar Eliseo Firmalo. The complaint involved (1) the issuance of a falsified death certificate and (2) its use in a judicial proceeding.

In the proceedings before the Ombudsman, the petitioner presented a death certificate issued by the National Census and Statistics Office (NCSO) bearing the same LCR number of the entry of death as Jimmy Santiago's death certificate. He also presented the death certificates of the succeeding entries which were chronologically numbered. Since the NCSO had no record of the death of Jimmy Santiago, petitioner contended that Eliseo Firmalo, in connivance with respondent, must have merely inserted the entry of death of Jimmy Santiago in the register. Petitioner also presented a joint-affidavit of Renerio S. Maligo, Sr. and Cristita Maligo-Prado, alleged half-brother and half-sister of Jimmy Santiago, stating that Jimmy Santiago is still alive.<sup>[7]</sup>

On June 10, 1998, the Ombudsman rendered judgment finding respondent and Firmalo guilty of the charge and imposed the penalty of dismissal from service, but dismissed the complaint against Jose Gironella as he was not a public officer.<sup>[8]</sup>

Respondent and Firmalo seasonably filed a petition for review on certiorari with the Court of Appeals. They averred that the records of the NCSO were incomplete. Moreover, the very same NCSO certification stated that further verification may be requested from the concerned civil registrar. They also stressed that petitioner failed to establish the existence of conspiracy. They also maintained that it was the regular courts, not the Ombudsman, who has the power to decide if the death certificate was falsified. Lastly, they claimed that the action had already prescribed as it was filed beyond the one-year period provided in Section 20<sup>[9]</sup> of Republic Act No. 6770.<sup>[10]</sup>

On December 29, 2000, the Court of Appeals ruled that the findings of the Ombudsman were speculative and exonerated respondent and Firmalo for lack of substantial evidence.<sup>[11]</sup> Petitioner moved for reconsideration but was denied by the appellate court.

Hence, this appeal by certiorari alleging that the Court of Appeals erred in holding that

I. . . . THE FINDINGS OF FACTS OF THE OMBUDSMAN IN OMB-ADM-1-97-0075 ARE MERELY CONJECTURAL AND THE QUANTUM OF SUBSTANTIAL EVIDENCE NECESSARY TO CONVICT THE RESPONDENT IN AN ADMINISTRATIVE COMPLAINT IS LACKING.

II. . . . PRESCRIPTION HAS SET IN WHEN THE OMBUDSMAN TOOK ACTION ON THE ADMINISTRATIVE COMPLAINT OF DISHONESTY AND CONDUCT UNBECOMING OF A PUBLIC OFFICER AGAINST THE RESPONDENT.<sup>[12]</sup>

Simply, the issues raised before us concern the prescription of the administrative action and the sufficiency of evidence to condemn respondent.

Petitioner avers that the action has not prescribed. He points out that the use of a falsified document was committed only on August 31, 1996, when petitioner moved for the reconsideration of the findings of the DECS director, while the administrative complaint was filed on February 17, 1997, or less than one year after the act complained of was committed.

Likewise, petitioner assails the Court of Appeals' ruling that the Ombudsman's findings were speculative and conjectural as these were based on properly presented public documents. He asserts that the patent alterations in the entries of the Registry Book and the obvious discrepancy between the records of the local civil registrar with those of the NCSO shore up the findings that the death certificate was falsified. Moreover, petitioner invokes the established doctrine that findings of fact of administrative agencies are accorded not only respect but also finality when supported by substantial evidence.

For her part, respondent Gironella argues that the action has indeed prescribed since the questioned death certificate was first used when she moved for the