

SPECIAL FOURTEENTH DIVISION

[CA-G.R. SP NO. 64324, August 18, 2006]

**ATTY. FRANCISCO GALMAN CRUZ AND DRA. AMANDA T. CRUZ,
PETITIONERS, VS. ROBERTO PAGDANGANAN, JR., ENGR. ROMEO
S. CASTRO AND THE OFFICE OF THE OMBUDSMAN,
RESPONDENTS.**

D E C I S I O N

CRUZ, J.:

Before the Office of the Ombudsman (or "OMB") was an administrative complaint for falsification, grave misconduct, abuse of authority and violation of Rep. Act No. 6713 filed by Atty. Francisco Galman Cruz (or "Atty. Galman Cruz") and his wife, Dr. Amanda T. Cruz (or "Dr. Cruz"), against former Governor Roberto Pagdanganan, Jr. (or "Gov. Pagdanganan") and Engr. Romeo S. Castro (or "Engr. Castro").

The administrative complaint stemmed from the filing on September 14, 1994 before the Municipal Trial Court (or "MTC") of Malolos, Bulacan of an action for unlawful detainer (or "ejectment case"), docketed as Civil Case No. 94-98 and entitled "Provincial Government of Bulacan, represented by its Provincial General Services Officer Engr. Romeo S. Castro, vs. Atty. Francisco Galman Cruz and Jimmy Legaspi."

The ejectment case involved the 400 square-meter portion (or "subject property") of that parcel of land situated at MacArthur Highway, Barrio Guinhawa, Malolos, Bulacan and covered by Original Certificate of Title (or "OCT") No. 104 in the name of the Province. The subject property was leased by the Province to Atty. Galman Cruz for a period of thirty years beginning on July 21, 1965 and ending on July 20, 1995.

For purposes of filing the ejectment case, Gov. Pagdanganan, then governor of the Province, executed a Special Power of Attorney dated September 5, 1994 (or "questioned SPA") designating Engr. Castro, Provincial Services Officer, as his "true and lawful attorney-in-fact for me and in my name, place and stead and for my own use and benefit, to do and perform the following acts, namely: x x x."

The unlawful detainer case was decided by the MTC in favor of the Province. Atty. Galman Cruz appealed the MTC decision to the RTC (Civil Case No. 884-M-97) of Bulacan (Malolos, Branch 80) and then to the Court of Appeals (CA-G.R. SP No. 52309), both of which sustained the MTC in their decisions dated March 3, 1999 and February 28, 2000, respectively. Atty. Galman Cruz elevated the matter to the Supreme Court (G.R. No. 143301) by way of petition for review on certiorari, the status of which does not appear in the records.

It was after the Court of Appeals rendered the decision in the ejectment case, or on

May 9, 2000, that Atty. Galman Cruz and Dr. Cruz (or "petitioners", when collectively) filed the abovementioned administrative complaint against Gov. Pagdanganan and Engr. Castro (or "private respondents", when collectively). Although Gov. Pagdanganan was no longer the governor of the Province as of the filing of the complaint, the OMB required the submission of his counter-affidavit since he is the main respondent in the complaint.

In their complaint-affidavit, petitioners averred that the questioned SPA was concealed from them and was revealed only on April 6, 2000, when Engr. Castro was made to produce the document authorizing him to file the ejectment case; that the SPA was executed in bad faith as it was for the benefit of Gov. Pagdanganan in his personal capacity and not of the Province; that said SPA rendered private respondents culpable for usurpation of legislative authority of the Sangguniang Panlalawigan of Bulacan since a board resolution is necessary to give them authority to file the ejectment case which was unfounded because the premises in their possession is not embraced in the land covered by OCT No. 104; and that the same case caused them undue injury through private respondents' manifest partiality, evident bad faith and gross inexcusable neglect.

On the other hand, Gov. Pagdanganan asserted in his counter-affidavit that the execution of the questioned SPA is proper and lawful and within the purview of his powers and duties as governor; that the phrase, "for my own use and benefit" appearing in the SPA was an innocuous phrase without malicious intent whatsoever; and that the aforesaid phrase, followed by the other phrase, "for me and in my name, place and stead", simply meant that instead of him personally filing the action, he delegated the matter to the proper public official of the Province, specifically Engr. Castro. He asserted that the filing of the ejectment case is valid and lawful because Engr. Castro merely acted as representative of the Province; and that there is no usurpation of legislative authority as a board resolution is not necessary since, as agent, he can do all the acts requisite or necessary to protect the interests of his principal, which is the Province.

Engr. Castro, in his counter-affidavit, alleged that the filing of the ejectment case was done in good faith and a valid exercise of government function; that he is duly authorized under the law and the questioned SPA; and that he merely performed his duties and functions as officer of the Province.

On October 11, 2000, the OMB rendered a decision dismissing the administrative complaint. The dispositive provision of the decision reads:

"WHEREFORE, premises considered, it is respectfully recommended that the complaint against Engr. Romeo S. Castro, presently the Provincial Engineer, Province of Bulacan be **DISMISSED** for lack of substantial evidence. The complaint against former Governor Roberto Pagdanganan is likewise recommended **DISMISSED** for lack of substantial evidence and lack of jurisdiction."

SO ORDERED."

Their motion for reconsideration of the OMB decision having been denied per order dated February 23, 2001, petitioners came to this Court *via* the instant petition for review which is anchored on the same grounds stated in their complaint-affidavit.