



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 13, 2023** which reads as follows:*

“G.R. No. 218100 (*James D. Dellosa v. Office of the Ombudsman-Visayas, Teresito P. Mariñas, Aniceto P. Mariñas, and Vicente Villarín*). – This is a Petition for *Certiorari*¹ assailing the Joint Resolution² dated May 6, 2014 and the Joint Order³ dated September 4, 2014 of the Ombudsman in OMB-V-C-13-0157 and OMB-V-A-13-0167.

The Antecedents

In 2013, petitioner James D. Dellosa (petitioner) filed before the Ombudsman⁴ criminal and administrative complaints against respondents Teresito P. Mariñas (Teresito), Vicente Villarín (Vicente), and Aniceto P. Mariñas (Aniceto; collectively, respondents). At the time, respondents were all occupying positions within the municipal government of Barili, Cebu. Teresito was the municipal mayor, Vicente was a job order worker, and Aniceto was an administrative assistant.

The criminal aspect of the complaint charged Teresito and Vicente with committing the following crimes:

¹ *Rollo*, pp. 3-21.

² *Id.* at 22-37. Penned by Graft Investigation and Prosecution Officer I Eileen Mae B. Lagat-Alde; reviewed by Evaluation and Investigation Office Team B OIC Jane Aguilar; and approved by Ombudsman Conchita Carpio Morales.

³ *Id.* at 46-48.

⁴ Through the Office of the Ombudsman – Visayas.

1. Against Teresito – Falsification by a Public Officer under Article 171(4) of the Revised Penal Code (RPC),⁵ Falsification of Certificate of Merit under Art. 174(2) of the RPC,⁶ and Violation of Section 3(e) of Republic Act (RA) No. 3019.⁷
2. Against Vicente – Use of Falsified Documents under Art. 172 of the RPC,⁸ Use of False Certificate under Art. 175 of the RPC,⁹ and Violation of Sec. 3(e) of RA No. 3019.

The administrative aspect of the complaint, on the other hand, charged respondents of the offense of Grave Misconduct.

The material averments behind petitioner's complaint, as well as the defenses raised by respondents, were summarized by the Ombudsman as follows:

⁵ Act No. 3185, as amended. Entitled "AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS." Approved: December 8, 1930. Article 171(4) of the RPC states:

ARTICLE 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of [their] official position, shall falsify a document by committing any of the following acts:

x x x x

4. Making untruthful statements in a narration of facts[.]

⁶ Art. 174(2) of the RPC states:

ARTICLE 174. *False Medical Certificates, False Certificates of Merit or Service, etc.* The penalties of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period and a fine not to exceed 1,000 pesos shall be imposed upon:

x x x x

2. Any public officer who shall issue a false certificate of merit or service, good conduct or similar circumstances.

⁷ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: August 17, 1960. Sec. 3(e) of RA No. 3019 states:

SECTION 3. *Corrupt practices of public officers.* — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of [their] official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

⁸ Art. 172 of the RPC states:

ARTICLE 172. *Falsification by Private Individuals and Use of Falsified Documents.* — The penalty of *prisión correccional* in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

x x x x

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

⁹ Art. 175 of the RPC states:

ARTICLE 175. *Using False Certificates.* — The penalty of *arresto menor* shall be imposed upon any one who shall knowingly use any of the false certificates mentioned in the next preceding article.

The present complaint is an offshoot of three (3) criminal cases filed by [petitioner] against [Vicente], one of which is Criminal Case No. 12-MR-4590 for Opening of Closed Documents under Article 228 of the RPC. [Petitioner] alleges that in [Vicente's] Counter-Affidavit in said case, the latter stated "1. That I am a staff of the Mayor's Office of Barili designated as Mayor's secretary, hereby attached is my designation as Annex A[.]"

Annex "A" is a Certification dated April 11, 2012 issued by [Teresito], certifying among others, that [Vicente] was designated as Local Projects Coordinator/Secretary at the Office of the Mayor, who was also tasked to oversee the operation of the motorpool.

The Listing of Job Workers as of March 1, 2012, submitted by HRMO-Designate Richel Montemayor, however, stated that [Vicente] was merely listed as Job Order under Motorpool.

[Petitioner] alleges that there was no record of [Vicente's] appointment to other position or designation as claimed by the latter and certified by [Teresito] but it was only made to appear that he was, in order to justify the acts he committed on January 18, 2012 which were the subject matter of the three (3) criminal cases.

[Petitioner] states that due to the issuance of the false and falsified certification [by] [Teresito] in order to give unwarranted benefits, advantage or preference to [Vicente], who is his known political supporter and ally, [Teresito] violated Section 3 (e) of RA [No.] 3019. Likewise, for making untruthful statements in a narration of facts in the certification and for issuing such false certification as to merit, service, good conduct or similar circumstances in [favor] of [Vicente], [Teresito] violated Article[s] 171 and 174, respectively, of the [RPC].

[Petitioner] likewise points out that the use of [Aniceto's] personal e-mail address as the official e-mail address of the Municipality of Barili is violative of RA [No.] 6713 as it is highly anomalous and unethical.

[Petitioner] further asserts that [Vicente] violated Articles 172 and 175 of the RPC and Section 3 (e) of RA [No.] 3019 for using a falsified document and introducing such as evidence in support of his defense in a judicial proceeding before the Municipal Trial Court of Barili.

x x x x

In their Joint Counter-Affidavit, respondents vehemently denied all the allegations of [petitioner].

As regards [Teresito], he avers that he could not be made guilty of violating Articles 171 and 174 of the RPC for making untruthful statements and issuing false certification of merit in favor of [Vicente] since the issuance of said certification was based on the records available from the Human Resource Management Office of the Municipality. Further, [Teresito] could not be made liable for violation of Section 3 (e) of RA [No.] 3019 since [Vicente], to whom he had issued the Certification and supposedly given an unwarranted benefit, is not a

private person but an employee of the Local Government Unit (LGU) of Barili.

[Aniceto], for his part, claims that the use of his personal e-mail address “apmar_volt@yahoo.com” as the e-mail address of the LGU of Barili has no malice and did not affect public service as no hidden transactions were transpiring with the use of such e-mail address. Further, said e-mail address is no longer used by any personnel of the LGU of Barili. [Aniceto], likewise denies any violation of RA [No.] 6713 since he did not commit any act amounting to serious or grave misconduct.

For his part, [Vicente] maintains that he could not be made liable for any violation since he did not falsify any document which he presented as part of his evidence in the criminal cases against him. He admits that he was a Job Order Employee assigned at the motorpool and was designated as Local Projects Coordinator which relates to Heavy Equipment under the custody of the motorpool. He likewise acted as Mayor’s Secretary at the time of the incident but was later made to focus on the local projects implemented by the LGU.

In his Reply-Affidavit, [petitioner] asserts that the Joint Counter-Affidavit of respondents merely contain unsubstantiated denials and assertions. He points out that, contrary to respondents’ assertion, [Vicente], as a Job Order Employee, is not an employee of the LGU of Barili. According to the Revised Omnibus Rules on Appointments and Other Personnel Actions or the Civil Service Commission [(CSC)] Memorandum Circular [(MC)] No. 4, [s]eries of 1998, as amended by [MC] No. 15, [s]eries of 1999, the services of a Job Order Employee is not considered a government service. [Petitioner] also asserts that the designation of [Vicente] as Local Projects Coordinator and Mayor’s Secretary was unlawful since he was neither a public official nor appointed to a plantilla position.¹⁰

On May 6, 2014, the Ombudsman issued the assailed Joint Resolution¹¹ dismissing both criminal and administrative aspects of petitioner’s complaint. The dispositive portion of the said resolution reads:

WHEREFORE, premises considered, finding no sufficient ground to engender a well-founded belief that respondents **TERESITO P. MARIÑAS**, and **VICENTE VILLARIN**, are probably guilty of the crimes charged against them, the criminal complaint against them is **DISMISSED**.

Likewise, finding lack of substantial evidence to hold respondents **TERESITO P. MARIÑAS**, **ANICETO P. MARIÑAS**, and **VICENTE VILLARIN** liable for Grave Misconduct, the administrative case against them are [sic] likewise **DISMISSED**.

¹⁰ *Rollo*, pp. 23-27.

¹¹ *Id.* at 22-37.

SO RESOLVED.¹²

Petitioner filed a Motion for Reconsideration,¹³ but the Ombudsman remained steadfast. Hence, this *certiorari* petition.

Our Ruling

We should stress at the outset that the scope of Our review in this present petition must be—as it is—confined exclusively to the criminal aspect of the Ombudsman’s disposition.

As Our current jurisprudence stands, decisions of the Ombudsman in administrative cases are reviewable by appeal to the Court of Appeals (CA) under Rule 43 of the Rules of Court.¹⁴ Since administrative findings of the Ombudsman are appealable to the CA, the same cannot be challenged directly to this Court through a *certiorari* petition under Rule 65. It is elementary that the special civil action of *certiorari* is only appropriate in the absence of an appeal or other adequate remedy in the ordinary course of law.¹⁵ Hence, by the foregoing, only the disposition of the Ombudsman relating to the criminal aspect of petitioner’s complaint could be validly considered in the present *certiorari* petition.

The sole issue to be resolved here then is whether the Ombudsman gravely abused its discretion when it found no sufficient ground to file criminal charges against Teresito and Vicente. To that, We answer in the negative. Hence, We dismiss the petition.

The criminal aspect of petitioner’s complaint is hinged entirely on the assumption that the Certification dated April 11, 2012 issued by Teresito in favor of Vicente had been *false*. As can be recalled, Teresito, in the said Certification, attested to two critical facts: *one*, that Vicente was designated on a coterminous basis as Local Project Coordinator/Secretary at the Office of the Mayor, and *two*, that Vicente had performed his job assignments well and had exhibited skill and excellence in his tasks. The Certification, at full length, reads:

CERTIFICATION

To Whom It May Concern:

This is to certify that as per records available at the Human Resources Management Office and the Office of the Mayor, Municipality of Barili, Cebu, MR VICENTE VILLARIN, of legal age, married and resident of Vito, Barili, Cebu, is a bona fide worker at the municipality of

¹² Id. at 36-37.

¹³ Id. at 38-45.

¹⁴ *Fabian v. Desierto*, 356 Phil. 787, 808 (1998).

¹⁵ See Section 1 of Rule 65 of the Rules of Court.

Barili, having been designated on a coterminous basis as LOCAL PROJECTS COORDINATOR/SECRETARY at the office of the Mayor. He has been likewise tasked to oversee the operation of the municipality's motorpool from July 2011 until the present.

This is to certify further that MR. VICENTE VILLARIN has performed his job assignments well and exhibited skill and excellence in his assigned tasks. He has earned the respect of peers and subordinates alike for his tact and proficiency in his field of expertise.

This certification is issued to MR. VICENTE VILLARIN for whatever legal purposes it may serve.

Given this 11th day of April 2012 at Barili, Cebu, Philippines.

SGD.
Teresito P. Marinas, MD
Municipal Mayor¹⁶

As held by the Ombudsman, however, there is actually no evidence on record which shows that the facts attested in the Certification is false. We agree.

First. There is no evidence on record, apart from petitioner's bare allegation, which refutes the statement in the Certification that Vicente had been designated as a Local Project Coordinator/ Secretary at the Office of the Mayor. On the contrary, the fact that there had been such a designation cannot entirely be ruled out since Vicente was indeed already working in the municipality's motorpool since July 2011, as evidenced in the Listing of Job Order workers issued by the Human Resource Management Office of Barili.¹⁷

Petitioner's insistence that the designation of Vicente as a Local Project Coordinator/ Secretary at the Office of the Mayor could not have taken place since the same would violate MC No. 4, s. 1998, as amended by MC No. 15, s. 1999 of the CSC, is beside the point. Assuming *arguendo* that the designation of Vicente was invalid per CSC regulations, the same still does not establish that the designation did not take place as a *matter of fact*. The truthfulness of the Certification is certainly not compromised by the potential irregularity of Vicente's designation.

Second. Similarly, there is likewise no evidence disproving the statement in the Certification that Vicente had performed his job assignments well and had exhibited skill and excellence in his tasks. As noted by the Ombudsman, Vicente's performance evaluation reports were never submitted before it, hence, there were no documents upon which the veracity of the statement in the Certification could be compared.

¹⁶ *Rollo*, p. 55.

¹⁷ *Id.* at 56-59.

Since the Certification was not shown to be false, the criminal charges for violations of Articles 171(4) and 174 of the RPC against Teresito, and for violations of Articles 172 and 175 of the same code against Vicente, would have no leg to stand on. All of the aforesaid crimes require, as an indispensable element, the falsity of a particular narration of facts or of a certification as to a person's merit.

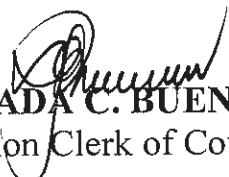
On the same rationale, the criminal charge for violation of Sec. 3(e) of RA No. 3019 against Teresito and Vicente necessarily fails. If the Certification spoke only of the truth, as what seems to be the case here, then the conclusion that Teresito acted with "*manifest partiality, evident bad faith or gross inexcusable negligence*" when he executed such document would lack factual mooring. Any consequent benefit that Vicente may have realized from the use of such certification, then, cannot also be considered as "*unwarranted.*"

All in all, We find no cogent reason to depart from the findings of the Ombudsman.

WHEREFORE, premises considered, the instant petition is **DISMISSED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
4/3/23

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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