



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated February 6, 2023, which reads as follows:

“G.R. No. 221230 – REGIDOR MARCOS DE LEON, Regional Executive Director, LEONARDO ZALUN AGGABAO, JR., Regional Technical Director for Lands, et al., Petitioners, v. HON. COURT OF APPEALS – MANILA, JAIME LAZARO, SALVADOR OSITA, et al., Respondents.

A petition for *certiorari* may be availed of only to correct an abuse of discretion on the part of a tribunal, board or officer exercising judicial functions or for the purpose of annulling the proceeding of such tribunal, board or officer when the proceeding has been taken without or in excess of its jurisdiction or has acted with grave abuse of discretion **and there is no appeal nor any fair, speedy and adequate remedy in the ordinary course of law.**¹

Notably, what is being assailed in this Petition is the Decision,² dated March 30, 2015, and the Resolution,³ dated August 20, 2015, of the Court of Appeals (CA) in Case No. CA-G.R. SP No. 134148. Pursuant to Rule 45 of the Rules of Court, an appeal is the proper remedy to obtain the reversal of judgments or final orders or resolutions of the CA.

In this case, petitioners Regidor M. de Leon (**de Leon**), Leonardo Z. Aggabao, Jr. (**Aggabao**), and Fernando S. Clerigo (**Clerigo**) (collectively, the **petitioners**) filed a Petition for *Certiorari*⁴ under Rule 65 to make up for the loss of their right to an ordinary appeal. It is elementary that *certiorari* is not and cannot be a substitute for a lost appeal, especially if one’s own negligence or error in one’s choice of remedy occasioned such loss or lapse.⁵ While the Court has, in several cases, previously granted a petition for *certiorari* despite

¹ RULES OF COURT, Rule 65, Section 1. Emphasis supplied.

² *Rollo*, pp. 41-68. Penned by Associate Justice Amy C. Lazaro-Javier (now a Member of the Court) and concurred in by Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang.

³ *Id.* at 70-80.

⁴ *Id.* at 3-31.

⁵ *Mariño for Himself and as Attorney-in-fact of Mariño-Regullano v. Sps. Antolin*, G.R. No. 252393, January 13, 2021.

the availability of an appeal, it only applies (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.⁶ However, this case does not fall under any of the exceptions.

Even assuming that the petitioners availed of the correct remedy, the Petition still lacks merit. There is no showing that the CA acted without or in excess of its jurisdiction or with grave abuse of discretion when it rendered its rulings.

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law

Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and jurisprudence. It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.⁷

The Court finds that the CA was correct in upholding the ruling of the Ombudsman, which found the petitioners guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

Misconduct pertains to a transgression of some established and definite rule of action, particularly, as a result of a public officer's unlawful behavior, recklessness, or gross negligence. A misconduct is grave when it involves any of the elements of corruption, clear willful intent to violate the law, or flagrant disregard of established rules.⁸

As held in *Mahinay v. Court of Appeals*,⁹ "clear intent to violate the law and flagrant disregard of established rule presupposes that there is an order or regulation defied by the public official. Intent, being a mental state, is often ascertained from the acts or conduct of the person. Meanwhile, flagrant disregard of established rule is demonstrated by the employee's propensity to ignore the rules as clearly manifested by his or her actions."

⁶ *Idul v. Alster Int'l Shipping Services Inc.*, G.R. No. 209907, June 23, 2021.

⁷ *Lee v. Hon. Sandiganbayan First Division*, G.R. Nos. 234664-67, January 12, 2021.

⁸ *Guerra, Jr. v. The Board of Regents, West Visayas State University*, G.R. No. 210512, July 27, 2022.

⁹ G.R. No. 230355, March 18, 2021.

In this case, the correctness of the cancellation of the survey plans is beside the point. It is the manner and motivation for such cancellation which led to the conclusion that the petitioners are administratively liable. It cannot be ignored that the respondents Jaime Lazaro, Salvador Osita, and Monico Waje (collectively, the **respondents**) were not afforded due process before their survey plans were cancelled. To make matters worse, the petitioners were made aware of the conflicting positions of the parties, however, the respondents were still not given the chance to ventilate their respective claims.

As the Court has consistently held, the essence of due process is simply the opportunity to be heard, or as applied to administrative proceedings, the opportunity to explain one's side, whether written or verbal.¹⁰ The petitioners' failure to give the respondents an opportunity to be heard is a blatant disregard of the Constitution and established rules, making them liable for Grave Misconduct.

Meanwhile, although Conduct Prejudicial to the Best Interest of the Service has no specific definition, jurisprudence provides that for an act to constitute such, it need not be related to or connected with the public officer's official functions. What is essential is that the questioned conduct tarnishes the image and integrity of his public office.¹¹

In this case, the petitioners' blatant disregard of laws, and their failure to discharge their duties properly tarnished the image and integrity of the office they held. Great damage comes with the public's perception of incompetence in the government.¹² It cannot be overstressed that the petitioners themselves had previously acted on the respondents' survey plans, granting the same and declaring that the lots are alienable and disposable. And yet in a complete turnabout, without any factual basis as the scheduled survey still had to be conducted, cancelled the same. Worse, they awarded the very same lots to a third party, to DMCI Holdings, Inc.

Thus, there was no error on the part of the CA in affirming that the petitioners are guilty not only of Grave Misconduct but also of Conduct Prejudicial to the Best Interest of the Service.

All told, the Court sees no reason to deviate from the conclusion reached by the CA. As a general rule, factual findings of the Ombudsman are conclusive when supported by substantial evidence and are accorded due respect and weight, especially when affirmed by the CA.¹³ The Court finds

¹⁰ *Samalio v. Court of Appeals*, 494 Phil 456, 466 (2005).

¹¹ *Gaspar, Jr. v. Field Investigation Office of the Ombudsman*, G.R. No. 229032, June 16, 2021.

¹² *Supra* note 3

¹³ *Concepcion v. The Field Investigation Office, Office of the Ombudsman*, G.R. No. 247677, October 11, 2021.

that the evidence on record satisfies the standard of substantial evidence, which is defined as that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.¹⁴

WHEREFORE, the Petition for *Certiorari* filed by petitioners Regidor M. de Leon, Leonardo Z. Aggabao, Jr., and Fernando S. Clerigo is **DISMISSED**.

SO ORDERED.

By authority of the Court:

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¹⁴ *Nolasco v. Atty. Renta*, A.C. No. 13237, April 26, 2022.