

SECOND DIVISION

[G.R. NO. 156394, January 21, 2005]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE
HONORABLE SANDIGANBAYAN, FOURTH DIVISION AND SERGIO
F. EMPRESE, SR., RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before the Court is a petition for *certiorari* under Rule 65 of the Rules of Court filed by the People of the Philippines through the Office of the Ombudsman, assailing the 02 August 2002 Resolution of the Fourth Division of the Sandiganbayan (public respondent) which granted the Motion to Quash the Information filed by Sergio F. Emprese, Sr. (private respondent) in Criminal Case No. 27136, entitled "People of the Philippines versus Sergio Emprese, Sr.," and the 11 September 2002 Resolution denying petitioner's Motion for Reconsideration.^[1]

It would be useful to trace the origin of the case.

On 22 June 1998, private complainants in the above case, i.e., Ariel A. Castro, Ramon B. Lustanas, Julia F. Avelino, Butche P. Reyes, Jurly L. Reta, Jr., Rene L. Dadace, Ramon Isidro U. Reyes, Jr., Judith B. Montero and Anastacia V. Edar, were appointed by the then Mayor of the Municipality of San Andres, Quezon, Francisco de Leon, Jr., as Agricultural Technologist, Utility Worker II, Utility Worker II, Construction and Maintenance Man, Construction and Maintenance Man, Utility Worker II, Utility Worker II, Clerk II and Utility Worker II, respectively, for the Municipality of San Andres, Quezon.

On 01 July 1998, when private respondent assumed office, he revoked the appointments of private complainants.

Aggrieved, private complainants filed with the Civil Service Commission, Regional Office No. IV, Quezon City (CSCRO-IV) a complaint for illegal termination and nonpayment of salaries.

On 05 March 1999, the CSCRO-IV issued an order in favor of private complainants directing private respondent to reinstate the former with payment of back wages and other monetary benefits from the time they were illegally terminated from service until their actual reinstatement.^[2]

On 04 May 1999, private respondent filed a notice of appeal with the Civil Service Commission, Central Office (CSC Central).

On 29 February 2000, the CSC Central issued a resolution reversing the order of CSCRO-IV and declaring the termination of the services of private complainants

valid.^[3] Private complainants filed a Motion for Reconsideration of the resolution, but the same was denied.

Private complainants elevated the case to the Court of Appeals. In a decision dated 31 July 2001, the Court of Appeals ruled in their favor.^[4] It reversed the order of CSC Central and reinstated the order of the CSCRO-IV. The Court of Appeals found that the CSC Central's resolution was issued without jurisdiction as the CSCRO-IV's order dated 05 March 1999 had already become final and executory for failure of private respondent to appeal seasonably and was therefore beyond the power of review by the CSC Central.

On 18 October 2001, private complainants filed complaints with the Office of the Ombudsman against private respondent Sergio F. Emprese, Sr., for violation of Republic Act No. 3019, Section 3(e) and an administrative case for Grave Misconduct.^[5]

On 22 October 2001, private respondent filed before this Court a petition for *certiorari* under Rule 65^[6] seeking to nullify the 31 July 2001 decision of the Court of Appeals for allegedly being rendered in grave abuse of discretion amounting to lack of jurisdiction. This Court denied the petition for being filed beyond the prescriptive period and for failure to pay the prescribed legal fees and deposit for costs.^[7]

Private complainants filed with the CSC Central an Urgent Motion for Execution dated 22 October 2001 of the 31 July 2001 decision of the Court of Appeals.^[8]

On 28 January 2002, the Office of the Ombudsman filed an Information with the Sandiganbayan charging private respondent for violation of Section 3(e) of Rep. Act No. 3019. It was docketed as Criminal Case No. 27136 and was raffled to the Fourth Division.^[9] The Information reads:

That on or about September 11, 2001, or immediately prior or subsequent thereto, in San Andres, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Sergio F. Emprese, Sr., a public officer, being then the Municipal Mayor of San Andres, Quezon, committing the crime herein charged in relation to and taking advantage of his official functions, and through manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and criminally fail to reinstate the complainants to their position and to pay back wages due them despite the finality of the Order of the Court of Appeals, thereby causing undue injury to the complainants.

On 20 February 2002, the CSC Central granted private complainants' Urgent Motion for Execution dated 22 October 2001 seeking the implementation of the decision of the Court of Appeals dated 31 July 2001.^[10] Private respondent filed a motion for reconsideration which was denied by the CSC Central in an order dated 23 April 2002.^[11]

On 09 May 2002, private respondent filed a Motion to Quash with the Sandiganbayan on the grounds that the acts for which the accused is charged do not

constitute a violation of Section 3(e) of Rep. Act No. 3019 and that the Information does not conform substantially to the prescribed form pursuant to Section 3(d) of Rule 117 of the Rules of Court.^[12]

On 13 June 2002, private respondent manifested before the Office of the Ombudsman that private complainants had been reinstated to their former positions and that they have been receiving partial payments for their back wages as evidenced by the Allotment and Obligation Slip dated 23 May 2002 and the Payroll for the month of May, 2002.^[13]

On 19 June 2002, private respondent further filed with the Office of the Ombudsman a Supplemental Manifestation attaching therewith the Joint Affidavit of Desistance of private complainants dated 11 June 2002.^[14] On the same date, the Office of the Ombudsman dismissed the administrative case against private respondent for lack of interest to prosecute.^[15]

On 25 June 2002, private respondent filed with the Sandiganbayan a Manifestation informing the said court of the Affidavit of Desistance executed by private complainants.^[16]

On 02 August 2002, public respondent issued the assailed Resolution granting the Motion to Quash filed by private respondent.^[17] Public respondent ruled:^[18]

It strains reason how could accused (sic) be charged criminally in this Court for failure to enforce a decision, the execution of which the private complainants asked in the Civil Service Commission.

What is apparent is the good faith shown by the obedience of the accused in reinstating the private complainants after receiving the Civil Service Commission's Order denying his Motion for Reconsideration. This, the accused did, when his Motion for Clarification has yet to be resolved in the Court of Appeals.

. . .

IN VIEW HEREOF, the instant Information is hereby DISMISSED. The cash bail bond posted by the accused for his provisional liberty is cancelled and the Hold Departure Order issued by this Court is hereby lifted and set aside.

Petitioner sought a reconsideration thereof which was denied by public respondent in a resolution dated 11 September 2002.^[19]

On 13 November 2002, petitioner received a copy of the above resolution.^[20]

On 10 January 2003, petitioner filed before this Court the instant petition imputing grave abuse of discretion and lack or excess of jurisdiction to respondent court in granting the motion to quash the Information and in denying the motion for reconsideration.^[21]

Petitioner filed the instant petition seeking to annul the Resolutions of the Sandiganbayan raising the sole issue:

Whether or not the Sandiganbayan acted without jurisdiction or in excess of jurisdiction or with grave abuse of discretion in quashing the Information.

In support of its claim, petitioner asserts that the Sandiganbayan committed grave abuse of discretion when it quashed the Information on the basis of an Affidavit of Desistance signed only by one of the eight (8) complaining witnesses. Such being the case, the said affidavit cannot be used as a basis for dismissing the case insofar as the other remaining witnesses were concerned. The petitioner likewise alleged that the resolution which quashed the Information merely concluded, without any evidence on record to support such conclusion, and without giving it the opportunity to present contrary evidence, that private respondent had acted in good faith.

Private respondent, on the other hand, contends that the instant petition should be dismissed on the ground that the present recourse is an improper remedy to assail the resolutions of the Sandiganbayan. The resolution, being a final order, should have been appealed via petition for review on *certiorari* under Rule 45 of the Rules of Court. Unfortunately, petitioner cannot make use of the said remedy after it failed to file an appeal within the reglementary period. Private respondent further contends that the Information was quashed not primarily on the basis of the Affidavit of Desistance but on the ground that the acts for which the accused is charged do not constitute a violation of Section 3(e) of Rep. Act No. 3019. Finally, the charges in the Information were rendered moot and academic because private complainants were duly reinstated by private respondent pursuant to the writ of execution issued by the Civil Service Commission (CSC).

Court's Ruling

The petition must fail.

It must be stated that the filing of the instant petition for *certiorari* under Rule 65 of the Rules of Court is inappropriate. Considering that the Resolution of the Sandiganbayan which quashed the Information was a final order that finally disposed of the case, the proper remedy therefrom is a petition for review under Rule 45 of the Rules of Court.^[22] Section 1 of said rule provides:

Filing of petition with Supreme Court. – A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

Section 2 of the same rule provides for the period within which to file the appeal:

Time for filing; extension. – The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful