

THIRD DIVISION

[CA-G.R. SP No. 131084, February 20, 2015]

**LIAM S. PAGDANGANAN, PETITIONER, VS. HON. OMBUDSMAN
CONCHITA CARPIO-MORALES AND RONALD A. ANCHETA,
RESPONDENTS.**

CA G.R. SP No. 134518

**LIAM S. PAGDANGANAN, PETITIONER, VS. HONORABLE JUDGE
JOSE G. PANEDA, PRESIDING JUDGE OF THE REGIONAL TRIAL
COURT OF QUEZON CITY, BRANCH 220, AND NELSON O.
BRAGADO, RESPONDENTS.**

D E C I S I O N

CARANDANG, J.:

Before the Court are two (2) consolidated cases filed by petitioner Liam S. Pagdanganan which substantially involve the same sets of fact.

The first petition docketed as CA-G.R. SP No. 131084, is a Petition under Rule 43 of the Rules of Court seeking to reverse and set-aside the March 27, 2013^[1] Joint Resolution of the Office of the Ombudsman which dismissed petitioner Liam S. Pagdanganan's Complaint for Grave misconduct and Abuse of Authority against private respondent Ronald A. Ancheta in OMB-C-A-12-0310-G.

The second petition docketed as CA-G.R. SP No. 134518 is a special civil action for Certiorari and Prohibition under Rule 65 seeking to nullify the Order^[2] of the public respondent Judge Jose G. Paneda, dated November 20, 2013, which denied Pagdanganan's Motion to Suspend the proceedings of Criminal Case No. 12-174163.

The facts of the case are as follows:

Private respondent Ronald A. Ancheta (Ancheta) was a former Second Assistant City Prosecutor of the Office of the City Prosecutor's Office of Quezon City. Before his resignation as Prosecutor, he handled the preliminary investigation of a case involving petitioner Liam S. Pagdanganan (Pagdanganan) and Nelson O. Bragado (Bragado). Pagdanganan is a lawyer and was the counsel of Bragado in a suit filed by the latter against the Land Bank of the Philippines before the Regional Trial Court of Quezon City. The two, however, had a serious misunderstanding and conflict over the handling of the case, which eventually led to the filing by Bragado of a complaint for estafa against Pagdanganan before the City Prosecutor's Office of Quezon City on March 16, 2011.^[3] The complaint was assigned to private respondent Ancheta for preliminary investigation.

Ancheta claimed that immediately after receiving that records of the case, he

prepared and signed a subpoena commanding the parties to appear before him on April 11, and 18, 2011 for preliminary investigation. Following standard operating procedure, he had the subpoena sent to the parties by the Records and Docket Division.^[4] On the initial date of preliminary investigation, Bragado and his counsel appeared while Padanganan did not attend. Hence, the preliminary investigation was reset to April 18, 2011.^[5] On the latter date, Pagdanganan again did not show-up. With the non-appearance of Pagdanganan for the second time, Bragado moved that the case be submitted for resolution.^[6] Not wanting to be perceived favoring Pagdanganan, Ancheta granted the motion. Several months thereafter, on August 16, 2011, Ancheta issued a Resolution^[7] recommending that Pagdanganan be charged in court for estafa. The said Resolution was approved by the City Prosecutor. Thus, an Information^[8] for Estafa was lodged by the Office of the City Prosecutor before the Regional Trial Court of Quezon City against Pagdanganan, docketed as Criminal Case No. 12-174163.

In the meantime, on January 13, 2012, Padanganan received the Resolution recommending his prosecution for estafa. Immediately thereafter, he filed a Motion for Reconsideration before the Office of the City Prosecutor on the ground that his right to due process was violated. He claimed that he was never served a subpoena for him appear before the Office of the City Prosecutor and answer the criminal complaint filed against him by Bragado. His motion for reconsideration, however, was denied,^[9] Aggrieved, Pagdanganan elevated the matter to the Department of Justice for review. He then he filed with the trial court a Motion to Defer Arraignment and to Suspend Further Proceedings in Criminal Case No. 12-174163 on the ground of his pending appeal before the DOJ. His motion was granted and his arraignment was set to June 19, 2012. However, on June 13, 2012, or a few days before his scheduled arraignment he again filed second Motion to Defer Arraignment. But the trial court, mindful that the Rules allowed only sixty (60) days suspension, denied the Motion. Padanganan was thus arraigned on June 19, 2012.^[10]

On July 16, 2012, Pagdanganan filed for the third time a Motion to Suspend Proceedings^[11] reiterating as a ground the pendency of his Petition for Review before the DOJ which had not yet been resolved. The motion was, however, denied by the trial court.^[12] His subsequent Motion for Reconsideration was likewise denied by the trial court,^[13] hence, he filed before this Court a Petition for Certiorari and Prohibition under Rules 65, which is now that subject of CA-G.R. SP No. 134518.

Meanwhile, on July 6, 2012, Pagdanganan filed an administrative case^[14] before the Office of Ombudsman against Ancheta for a Grave Misconduct and Abuse of Authority and a criminal case^[15] for Violation of Section 3(e) of Republic Act No. 3019 and Article 183 of the Revised Penal Code against Ancheta, Bragado, and Marcos Estrada. The administrative case is now the subject of CA-G.R. SP No. 131084.

In his complaint, Padanganan alleged that Ancheta committed gross misconduct and abuse of authority when the latter permitted himself to be used by Bragado and his counsel in filing a case against him without observing due process. Padanganan insisted that he was never served a subpoena and was not notified of the criminal case against him. But Ancheta, with the connivance of Bragado and his counsel,

proceeded with the preliminary investigation of the case.

On March 27, 2013, the Ombudsman issued a Joint Resolution finding no substantial evidence to hold Ancheta administratively liable for Grave Misconduct and Abuse of Authority since Padanganan failed to overcome the presumption of regularity in the performance of official duties accorded to Ancheta and public officer. The Complaint of Padanganan was thus dismissed. His Motion for Reconsideration having been denied,^[16] Padanganan is now before this Court assailing the Joint Resolution of the Ombudsman, citing as errors the following:

I.

THE FINDINGS OF THE HONORABLE OMBUDSMAN ARE CONTRARY TO THE EVIDENCE ON RECORD.

II.

THE HONORABLE OMBUDSMAN MANIFESTLY OVELOOKED RELEVANT AND UNDISPUTED FACTS THAT, IF PROPERLY CONSIDERED, WOULD JUSTIFY A DIFFERENT CONCLUSION.

III.

THE HONORABLE OMBUDSMAN HAS DECIDED QUESTIONS OF SUBSTANCE WITHOUT DELVING INTO THE RECORDS OF THE CASE, THUS THE ASSAILED ORDER AND RESOLUTION WERE WITHOUT FACTUAL AND LEGAL BASIS.

Likewise, in CA-G.R. SP No. 134518, petitioner Padanganan assails the November 11, 2013 and January 8, 2014 Orders of the trial court in denying his Motion to Suspend Proceedings arguing that—

I.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN HE ISSUED THE ORDER DATED 11 NOVEMBER 2013 AND THE ORDER DATED 8 JANUARY 2014.

II.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN HE DIRECTED THAT CRIMINAL CASE NO. Q-12-174163 PROCEED DESPITE THAT THERE IS DENIAL OF DUE PROCESS.

We rule to deny the petitions.

We shall first tackle the issue which petitioner has been insisting from the beginning and the very core of his argument in his desire to suspend the proceedings in Criminal Case No. 12-174163 – the alleged violation of his right to due process. Reiterating his argument in his Motion for Reconsideration, petitioner asserts that his right to due process was violated when the Office of the City Prosecutor proceeded with the preliminary investigation of the case filed by Bragado and subsequently issued a resolution thereof despite the fact he was never subpoenaed or notified of the charge against him.

We do not find merit of the claim of petitioner that his right to due process was