

## FIRST DIVISION

[ G.R. No. 249834, January 19, 2021 ]

**DOMINIC MELECIO M. TOLEDO, WILFREDO J. AGCAOILI,  
FERDINAND H. MUNSAYAC, TEDDY J. SEBASTIAN, MARIE TESS B.  
GASPAR, JAMES S. GALANG, CHRISTIAN J. ADINA,  
PETITIONERS, VS. OFFICE OF THE OMBUDSMAN, CESARIO D.  
GABRIEL AND ARNOLD B. BARENG, RESPONDENTS.**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to reverse the Resolution<sup>[2]</sup> dated February 22, 2019 and the Resolution<sup>[3]</sup> dated October 14, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 1 55974 dismissing the petition for *certiorari*<sup>[4]</sup> filed by petitioners. The petition for *certiorari* assailed the Decision<sup>[5]</sup> dated May 10, 2016 and Order<sup>[6]</sup> dated February 19, 2018 of the Office of the Ombudsman in OMB-L-A-15-0268 finding the petitioners administratively liable for Grave Misconduct for falsifying Barangay Resolution No. 10, series of 2014 (Resolution No. 10) of Barangay Suyo (30-A), Laoag City and ordering their dismissal from public service with accessory penalties.<sup>[7]</sup>

### Antecedents

Petitioners Dominic Melecio M. Toledo (Toledo), Wilfredo J. Agcaoili (Agcaoili), Ferdinand H. Munsayac (Munsayac), Teddy J. Sebastian (Sebastian), Jefferson R. Palting (Palting), Marie Tess B. Gaspar (Gaspar), James S. Galang (Galang), and Christian J. Adina (Adina) were officers of Barangay Suyo (30-A), Laoag City, along with private respondent Arnold B. Bareng (Bareng). Toledo was the Barangay Chairman while Agcaoili, Munsayac, Sebastian, Palting, Gaspar, Galang and Bareng were Barangay Councilors. Marinell R. Galang (Marinell) was the Barangay Treasurer and Adina was the appointed Barangay Secretary. Meanwhile, private respondent Cesario D. Gabriel (Gabriel) is a resident of their barangay and was the competitor of Toledo for the barangay chairmanship.<sup>[8]</sup> Gabriel filed administrative complaints for grave misconduct against petitioners before the Office of the Ombudsman in relation to the alleged misappropriation of funds committed by petitioners. Gabriel averred that petitioners failed to explain the unauthorized or illegal use of the quarry fees and fees for fishing gadgets thus, he instituted the complaints for violation of Republic Act No. (R.A.) 3019 (Anti-Graft and Corrupt Practices Act) and for grave misconduct, docketed as OMB-L-A-14-0290 and OMB-L-A-14-0703, respectively. Petitioners offered in evidence in OMB-L-A-14-0703 Resolution No. 10, which according to Gabriel and Bareng is a falsified public document. However, these complaints are separate and independent from the case at hand.<sup>[9]</sup> On the basis of Resolution No. 10, private respondents Gabriel and Bareng instituted another complaint for grave misconduct before the Office of the Ombudsman against the petitioners docketed as OMB-L-A-15-0268, which complaint is the subject matter of this case. They alleged that Resolution No. 1 Oentitled "*A Resolution Revoking Chapter IV. Service Fees Article A. Section 21. Imposition of Fee of Quarry*

*Operators Amounting P50.00/Truck Load and Chapter V. Barangay Charges Article A. Rental Fee Under Sec. 26. Imposition of Fee of Fishing Gadgets of Barangay Ordinance No. 01 entitled Revenue Code of Barangay 30-A"* was falsified. Bareng avers that Resolution No. 10 is fake since no such resolution was passed during the session of the barangay council held on November 16, 2014. According to Bareng, the signature beside his name as appearing in the minutes of the session was not his. Further, the main topic during the session was the accretion of a land in their barangay. They discussed whether the claimants have proof of ownership over the accretion and that the barangay needs to validate their proof of ownership.<sup>[10]</sup> Consequently, a criminal complaint<sup>[11]</sup> for falsification and perjury was filed against petitioners by Gabriel before the Office of the City Prosecutor of Laoag City, which was dismissed for lack of probable cause.<sup>[12]</sup> The prosecutor therein ruled that the complainant failed to adduce sufficient evidence to support the complaint for falsification of a public document and perjury, thus the complaint must be dismissed.<sup>[13]</sup> Respondent Gabriel filed another criminal complaint for falsification of public document against petitioners before the Office of the Ombudsman and the Graft Investigation and Prosecution Officer of the Office of the Deputy Ombudsman for Luzon found probable cause. The pertinent criminal case, which is related to this administrative case under review, was raffled to Regional Trial Court (RTC) of Laoag City, Branch 16, docketed as Criminal Case No. 17756-16.<sup>[14]</sup> Petitioners argue that in the conduct of the proceedings for falsification of public document in Criminal Case No. 17756-16, Bareng admitted that the revocation on the collection of quarry fees was deliberated and approved during the barangay council sessions held on October 5, 2014 and November 16, 2014. The minutes of the October 5, 2014 session would show that Bareng even participated in the discussion.<sup>[15]</sup>

### **Ruling of the Office of the Ombudsman**

On May 10, 2016, the Ombudsman found petitioners Toledo, Agcaoili, Munsayac, Sebastian, Palting, Gaspar, Galang, and Adina guilty of grave misconduct and ordered their dismissal from the service with accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examination. Meanwhile, Marinell Galang was acquitted.<sup>[16]</sup> The Ombudsman held that petitioners falsified Resolution No. 10 by making it appear that the barangay council enacted and approved the said resolution. In addition, it gave credence to the sworn statement of Bareng that he was present during the barangay council's session held on November 16, 2014 and there was no mention at all about the passage and approval of Resolution No. 10.<sup>[17]</sup> The Ombudsman noted that the minutes of November 16, 2014 session discussed the accretion and the barangay officials agreed to invite those who conducted the survey and to require claimants to present their evidence of ownership. There was no mention about the revocation of Section 21 and Section 26 of the Suyo Revenue Code nor was there a discussion on the passage of Resolution No. 10.<sup>[18]</sup> Aggrieved, petitioners filed a Motion for Reinvestigation/Reconsideration arguing that there was no deliberate intent on their part to violate the law. The passage of the resolution was done to address the public clamor on the imposition of quarry fees and fees on fishing gadgets.<sup>[19]</sup> To prove that Resolution No. 10 was deliberated upon, petitioners attached the minutes of their sessions on September 21, 2014,<sup>[20]</sup> October 5, 2014<sup>[21]</sup> and November 16, 2014.<sup>[22]</sup> It was during their October 5, 2014 session that the council made mention of the quarry fee collection

and the need to pass an ordinance or resolution to revoke Section 21 (Imposing Quarry Fees) of the Suyo Revenue Code.<sup>[23]</sup> Petitioners submitted a Supplemental Motion for Reconsideration<sup>[24]</sup> attaching a copy of the Transcript of Stenographic Notes (TSN)<sup>[25]</sup> of the testimony of Bareng in Criminal Case No. 17756-16 before the RTC of Laoag City, Branch 16. In open court, Bareng admitted that he was present during the September 21, October 5, and November 16 sessions and that the revocation of Sec. 21 on quarry fee collection was mentioned during one of these sessions.<sup>[26]</sup> Lastly, petitioners argue that the barangay has no authority to impose quarry fees and fees on fishing gadgets as the power resides with the provincial government under the Local Government Code.<sup>[27]</sup> On February 19, 2018, the Ombudsman denied the Motion finding no error in its Decision.<sup>[28]</sup> Petitioners filed their petition for *certiorari*<sup>[29]</sup> under Rule 65 before CA.

### **Ruling of the Court of Appeals**

On February 22, 2019 the CA dismissed the petition for *certiorari* since the petitioners availed of the wrong remedy.<sup>[30]</sup> The proper mode of appealing decisions of the Ombudsman in administrative cases is a petition for review under Rule 43 of the Revised Rules of Court.<sup>[31]</sup> The CA noted that petitioners failed to pay the full docket and other lawful fees. Further, petitioners did not attach to their petition certified true copies of relevant documents.<sup>[32]</sup> Petitioners filed a Motion for Reconsideration<sup>[33]</sup> begging the CA for liberal application of the procedural rules and to consider their petition filed under Rule 43 of the Rules of Court.<sup>[34]</sup> They attached a check for the deficiency in the docket fees paid pleading honest mistake, not knowing that the docket fees have already been increased. They also attached certified true copies of the relevant documents listed by the CA.<sup>[35]</sup> On the merits, petitioners argue that there was no ground to hold them liable for grave misconduct because they did not falsify Resolution No. 10. To support their claim, petitioners attached the Order dated August 24, 2018 of the RTC in Criminal Case No. 17756-16 granting their Demurrer to Evidence and dismissing the case against them. In the Order, the RTC ruled that Resolution No. 10 was not falsified since the evidence show that Bareng actively participated in the deliberation and it was the intention of the council to pass a resolution revoking the collection of quarry fees. Further, Bareng admitted in open court that there are two ways to pass an ordinance or resolution are: (1) the votes cast are reflected in the minutes and the members sign the minutes; or (2) the votes cast are reflected in the ordinance or resolution itself and the Chairman and Secretary sign it.<sup>[36]</sup> In a Resolution<sup>[37]</sup> dated October 14, 2019, the CA denied the Motion for Reconsideration finding no sufficient and valid justification for the procedural error committed by petitioners.<sup>[38]</sup> Aggrieved, petitioners filed a petition for review on *certiorari*<sup>[39]</sup> before this Court. On March 9, 2020, the Court directed the Clerk of Court of the CA, the Office of the Ombudsman and the RTC Branch 16 of Laoag City to elevate the complete records of Criminal Case No. 17756-16.<sup>[40]</sup>

### **Petitioner's Arguments**

Petitioners admitted that ordinary appeal under Rule 43 of the Rules of Court was available to them and it was an honest mistake that a petition for *certiorari* under

Rule 65 was resorted to. Thus, in its motion for reconsideration before the CA, it immediately complied with the requirements under Rule 43. Petitioners added that the resort to the special civil action of *certiorari* under Rule 65 was based on their belief that the Ombudsman committed grave abuse of discretion in issuing its Decision dated May 10, 2016 finding the petitioners guilty of grave misconduct and perpetually dismissing them from service.<sup>[41]</sup> Petitioners cited the Order dated August 24, 2018 of the RTC finding that Resolution No. 10 was not falsified inasmuch as Bareng actively participated in the deliberation of the said resolution. They contend that the CA erred in dismissing their petition on procedural grounds without considering the merits of the case. Petitioners were not remiss in pointing out to the Ombudsman and the CA that the council conducted deliberations in relation to the passage of Resolution No. 10. Further, Bareng admitted in open court that he participated in the aforementioned deliberations. Thus, there was no basis to support the complaint for grave misconduct filed against them since Resolution No. 10 was not falsified.<sup>[42]</sup>

### **Respondent's Arguments**

Even without an order from this Court to file a comment, respondents merely stated that in the Joint Counter-Affidavit<sup>[43]</sup> and Verified Position Paper<sup>[44]</sup> of petitioners, they were insistent that the resolution was indeed approved and passed during the barangay council's session on November 16, 2014, which is belied by the minutes of the meeting held on that day.<sup>[45]</sup>

### **Issues**

The issues to be resolved are: (1) whether the Court of Appeals properly dismissed the Petition for *Certiorari* because it was the wrong mode of appeal; and (2) whether petitioners are administratively liable for grave misconduct.

### **Ruling of the Court**

The petition is meritorious. At the outset, the Court agrees with the CA that the proper mode of appeal on the Decision of the Ombudsman in an administrative case is Rule 43 of the Revised Rules of Court. Decisions, awards, final orders, or resolutions of quasi-judicial bodies in the exercise of their quasi-judicial functions are appealable under Rule 43. Recourse to a special civil action of *certiorari* under Rule 65 of the Revised Rules of Court is a ground for dismissal for being the wrong remedy. However, the Court has allowed a recourse to a Rule 65 petition for *certiorari*, in certain exceptional cases, to wit: (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.<sup>[46]</sup> In the case of *Tanenglian v. Lorenzo*,<sup>[47]</sup> the Court treated a petition for *certiorari* under Rule 65 as an appeal filed under Rule 43 despite the availability of appeal, late payment of appeal fee and the lapse of the 15-day appeal period. In that case, Lorenzo and 22 others filed a Petition for Redemption of Ancestral Land before the Regional Arbitrator against *Tanenglian*. The Regional Arbitrator ruled against *Tanenglian* and declared the lands under his name to be ancestral lands which were awarded to Lorenzo. *Tanenglian* questioned the decision of the Regional Arbitrator via petition for *certiorari* before the CA, which the CA dismissed for being the wrong mode of

appeal. The Court ruled that due to the importance of the issues raised in the petition and what the petitioner stands to lose, justice would have been better served if the CA resolved the issues instead of dismissing the petition on procedural grounds. The Court therein held:

The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.<sup>[48]</sup>

Similar to *Tanenglian*, petitioners herein availed of petition for *certiorari* under Rule 65 instead of a petition for review under Rule 43 to assail the decision of the Ombudsman, a quasi-judicial body, in their administrative case. They also filed their petition beyond the period of appeal under Rule 43. Akin to the Court's ruling in *Tanenglian*, We find that interest of justice will be better served if the petition will be given due course rather than deny it on procedural grounds particularly because the issues raised by the petitioners are important and deserve consideration. Further, petitioners have been imposed the penalty of dismissal from office with perpetual disqualification to run for public office and to take civil service examination. Time and again, this Court has exercised its power to suspend or relax the rules of procedure upon finding that its rigid application will result in obstruction rather than promotion of the interests of justice.<sup>[49]</sup> However, this power of the Court can only be resorted to in exceptional cases such as when the decision rendered was "legally erroneous," "patently unjust," or "potentially capable of causing unwarranted and irreparable injury or damage to the parties." We rule that the Decision of the Ombudsman is patently unjust and caused unwarranted and irreparable injury to petitioners since they have not just been dismissed from office but also barred from seeking any public office or taking the civil service examination despite their innocence. In this case, the Ombudsman in its Decision dated May 10, 2016 found petitioners administratively liable for grave misconduct and meted out the penalty of dismissal from service with accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examination. Petitioners contend that the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding them administratively liable for grave misconduct.<sup>[50]</sup> Upon judicious review of the records of the case, there is basis to overturn the findings of the Ombudsman and absolve the petitioners of their administrative liability. The basis for the complaint for grave misconduct against petitioners is the alleged falsification of Resolution No. 10. The Ombudsman relied on the sworn testimony of Bareng that the council did not deliberate on the revocation of Sections 21 and 26 of the Suyo Revenue Code and that he did not vote on the passage of Resolution No. 10. However, upon review of the minutes of the other sessions of the council, the members discussed the revocation of the collection of quarry fees, to wit: