

# FIRST DIVISION

[ G.R. No. 229634, January 15, 2020 ]

**ATTY. AROLF M. ANCHETA, PETITIONER, VS. FELOMINO C. VILLA, RESPONDENT.**

## DECISION

**CAGUIOA, J:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assailing the Resolutions dated September 20, 2016<sup>[2]</sup> and December 28, 2016<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 147457. The CA dismissed outright the petition for *certiorari* filed by petitioner Arolf M. Ancheta (Ancheta).

### The Facts

This case stemmed from an administrative complaint filed by respondent Felomino C. Villa (Villa) against Ancheta, former Provincial Agrarian Reform Adjudicator (PARAD) of the Department of Agrarian Reform Adjudication Board (DARAB) Regional Office No. III, Talavera, Nueva Ecija for Grave Misconduct and Dishonesty and for violation of Republic Act No. (R.A.) 3019 in connection with Ancheta's alleged irregular Issuance of an Order granting the quashal of a writ of execution in favor of Villa.<sup>[4]</sup>

According to Villa's complaint, he was the winning party in a case before the CA, the Decision of which was promulgated on June 30, 2004. On May 12, 2010, he filed a Motion for Immediate Issuance of a Writ of Execution and Urgent Manifestation before the DARAB-Talavera to implement said Decision. On June 23, 2010, Villa filed an Urgent Manifestation with Motion for Early Resolution because the five-year execution period for the CA Decision would expire in October 2010. On September 8, 2010, Ancheta issued an Order granting Villa's motion for issuance of a writ of execution, which was implemented on October 4, 2010.<sup>[5]</sup>

On November 23, 2010, the opposing party filed a Motion to Quash the Writ of Execution. On December 6, 2010, the opposing party also filed a Complaint for Enforcement of Judgment by Action/Revival of Judgment. On January 12, 2011, Villa filed a Verified Answer with Motion to Admit the Answer as Opposition to the Motion to Quash Writ of Execution.<sup>[6]</sup>

Subsequently, Villa learned from close friends and relatives that the opposing party was allegedly boasting that the latter would soon recover the subject property after giving a huge amount of money to Ancheta. He also learned that a resolution or order was already issued and that the opposing party already went to DARAB-Talavera to get a copy of the same.<sup>[7]</sup> Villa further claimed that some employees of the DARAB-Talavera secretly told him that there was indeed a resolution or order

reversing the writ of execution earlier issued in his favor. Thus, Villa was constrained to file an Urgent Motion for Inhibition against Ancheta.<sup>[8]</sup>

On June 10, 2011, Ancheta issued an Order granting the motion for inhibition and inhibited himself from handling the case. The case was then indorsed to the DARAB Regional Office at San Fernando City, Pampanga.<sup>[9]</sup>

Meanwhile, Villa sent a copy of the Motion for Inhibition to Director Marlyn Torres-Galvez (Dir. Torres-Galvez) of the Public Assistance Bureau, Office of the Ombudsman. Because of this, Dir. Torres-Galvez wrote Ancheta on July 18, 2011 asking about the status of said motion. In the last week of August 2011, Dir. Torres-Galvez sent a letter to Villa informing him that the case records were already turned over to the DARAB Regional Office.<sup>[10]</sup>

Villa alleged that after his initial follow-up on the case, he observed that there was still no "Order" added to the case records. However, after his next follow-up on October 27, 2011,<sup>[11]</sup> he was surprised that a supposed Order dated May 18, 2011 by Ancheta granting the quashal of the writ (subject Order) was added to the records of the case. According to Villa, the subject Order might have been secretly put into the case records to influence the Regional Adjudicator in resolving the case in favor of the other party.<sup>[12]</sup> Thus, Villa claimed that Ancheta's acts made him liable for Dishonesty and Grave Misconduct and for violation of R.A. 3019.<sup>[13]</sup>

In his counter-affidavit, Ancheta denied the charges against him, mainly arguing that Villa's claims were all hearsay and unsupported by evidence. Ancheta claimed that if there was indeed a resolution on the opposing party's motion, then the parties would have received it officially. Ancheta pointed out that Villa himself admitted that he only got a copy of the subject Order from the DARAB Regional Office which is already beyond his jurisdiction as PARAD.<sup>[14]</sup>

Moreover, Ancheta contended that even if the subject Order existed, it was unenforceable and invalid as it was not released officially. Also, he averred that Villa was not prejudiced as he was still in possession of the subject landholding. Additionally, Ancheta claimed that he could not influence the Regional Adjudicator who inherited the case since the latter was higher in rank than him and has a mind of his own.<sup>[15]</sup>

### **The Ruling of the Ombudsman**

In a Decision<sup>[16]</sup> dated May 7, 2013, the Ombudsman found Ancheta guilty of simple neglect of duty and imposed on him a fine in lieu of suspension, to wit:

Considering that this is respondent's first offense and that he is already separated from public service, we deem it proper to impose a fine, in lieu of suspension, equivalent to **one (1) month of his salary** which shall be reckoned at the time of his resignation on December 1, 2011.

**WHEREFORE, PREMISES CONSIDERED,** judgment is hereby rendered finding respondent AROLF M. ANCHETA **guilty** of Simple Neglect of Duty and is hereby meted the penalty of **fine, in lieu of suspension, equivalent to one (1) month of his salary**, pursuant to Section 46 (D), Rule 10 of the Revised Rules in Administrative Cases in the Civil Service (RRACCS), in relation to Section 10, Rule III of Administrative

Order No. 07, as amended by Administrative Order No. 17, and Section 25 of R.A. No. 6770.<sup>[17]</sup>

The Ombudsman found no relevant and competent evidence linking Ancheta to the alleged inclusion of the subject Order in the case records because the statements of Villa and his witnesses were all hearsay.<sup>[18]</sup> The Ombudsman also pointed out that if Ancheta was indeed biased and partial against Villa, the former would not have inhibited from the case but would have resolved it in the other party's favor.<sup>[19]</sup>

However, the Ombudsman found it perplexing that despite Ancheta's inhibition from the case, the subject Order still found its way in the case records which was already reassigned to the Regional Adjudicator. Thus, the Ombudsman ruled that Ancheta either neglected to tear or pierce the printed unofficial order, or delete the same in his computer files after he inhibited from the case. According to the Ombudsman, this has unreasonably led to the filing of the instant case which could have been avoided had Ancheta not been remiss with his duty. Thus, the Ombudsman found Ancheta guilty of neglect of duty classified as simple considering that the subject Order did not cause undue injury or prejudice to Villa.<sup>[20]</sup>

Ancheta moved for reconsideration, which was denied in an Order<sup>[21]</sup> dated March 7, 2016. On May 26, 2016, Ancheta filed an Appeal to the Head Office, which was likewise denied in an Order<sup>[22]</sup> dated June 14, 2016. The Ombudsman treated said appeal as a second Motion for Reconsideration (MR), which is a prohibited pleading.<sup>[23]</sup>

Aggrieved, Ancheta filed a petition for *certiorari* before the CA.

### **The Ruling of the CA**

In a Resolution<sup>[24]</sup> dated September 20, 2016, the CA dismissed the petition outright for the following procedural defects: 1) there was no allegation as to when Ancheta received a copy of the assailed Decision and when he filed the MR; 2) the assailed Decision and Resolution stemmed from an administrative disciplinary complaint before the Ombudsman; hence, a petition for review under Rule 43 was the proper remedy, not a petition for *certiorari* under Rule 65; 3) the "Appeal to the Head of Office," being in the nature of a second MR, did not toll the running of the period to file a petition for review; and 4) payment of docket and other legal fees is short by P1,180.00.

Ancheta filed an MR, which was denied in a Resolution<sup>[25]</sup> dated December 28, 2016. Hence, the instant petition.

### **Petition before the Court**

In his Petition for Review on Certiorari,<sup>[26]</sup> Ancheta argues that the CA erred in dismissing his petition outright based on technicalities. On the lack of allegation as to when he received a copy of the assailed Ombudsman Decision, Ancheta claims that the same was indicated in his petition and in any case, the lack of allegation of such is not sufficient to dismiss his appeal.<sup>[27]</sup> Further, Ancheta argues that the CA erred in ruling that a Rule 43 petition, instead of a Rule 65 petition, was the proper remedy in questioning the Ombudsman's Decision.<sup>[28]</sup> Also, Ancheta avers that he filed, in good faith, the Appeal to the Head of Office in order to exhaust

administrative remedies.<sup>[29]</sup> Finally, Ancheta claims that he already paid the correct docket fees.<sup>[30]</sup>

Even assuming that the petition had procedural lapses, Ancheta insists that the CA should not have dismissed the petition outright considering the merits of the petition.<sup>[31]</sup>

In its Comment,<sup>[32]</sup> the Ombudsman, through the Office of the Solicitor General, maintains that the CA correctly dismissed Ancheta's petition. According to the Ombudsman, the CA was within its right to choose not to apply liberality of the rules considering the numerous errors in the petition and its lack of merit.<sup>[33]</sup>

In the meantime, Villa's wife sent a letter informing the Court of the death of Villa and reiterating the arguments of her late husband.<sup>[34]</sup>

In his Reply,<sup>[35]</sup> Ancheta reiterates his position, asserting anew that there is no evidence pointing to his liability.<sup>[36]</sup>

### **Issue**

Whether the CA erred in dismissing the petition outright, and in the affirmative, whether Ancheta is administratively liable.

### **The Court's Ruling**

The petition is meritorious.

*On the outright dismissal  
of the petition before the  
CA*

To begin with, it should be emphasized that compliance with procedural rules is necessary for an orderly administration of justice. Nevertheless, these rules are not to be rigidly applied so as to frustrate the greater interest of substantial justice. As stated in the Rules of Court, these rules "shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding."<sup>[37]</sup>

To recall, the CA outrightly dismissed Ancheta's petition on the following grounds: 1) failure to pay the correct docket fees; 2) failure to state the date of receipt of a copy of the assailed decision; 3) filing before the Ombudsman of an Appeal to the Head of Office which was treated as a second MR, a prohibited pleading; hence, the reglementary period was not tolled; and 4) availing of the wrong remedy. The Court shall discuss these grounds *ad seriatim*.

As regards the payment of the correct docket fees, the Court gives credence to Ancheta's claim that there was no intention on his part to defraud the CA when he failed to pay the full amount of docket fees. According to him, he immediately paid the correct amount upon learning of the shortage,<sup>[38]</sup> as evidenced by the postal money order in the amount of P1,180.00.<sup>[39]</sup>

On Ancheta's failure to state the date of receipt of the assailed decision and for his filing of a prohibited second MR, while these are indeed procedural irregularities, the

same do not warrant a dismissal of the petition. Litigations should, as much as possible, be decided on the merits and not on technicalities.<sup>[40]</sup> Here, a relaxation of the technical rules of procedure is warranted considering the substantial merits of the case, as will be explained later.

Finally, as regards the propriety of the petition for *certiorari* filed by Ancheta, the CA erred in dismissing his petition for being the wrong remedy. Contrary to the ruling of the CA, Ancheta correctly filed a petition for *certiorari* under Rule 65 instead of a petition for review on *certiorari* under Rule 43. Even the Ombudsman conceded in its Comment that Ancheta availed of the correct remedy.<sup>[41]</sup>

Indeed, the Court had ruled in *Fabian v. Desierto*<sup>[42]</sup> that appeals from the decisions of the Ombudsman rendered in administrative disciplinary cases should be filed before the CA through a Rule 43 petition. However, the CA's reliance<sup>[43]</sup> on *Fabian* in dismissing Ancheta's petition is misplaced. The CA failed to consider that Ancheta was meted the penalty of a fine equivalent to one-month salary by the Ombudsman. Such penalty was final, executory, and unappealable under Section 7, Rule III; of Administrative Order No. 07, issued by the Ombudsman to implement Section 27 of R.A. 6770,<sup>[44]</sup> which reads in part:

SEC. 7. *Finality and execution of decision.*—Where the respondent is absolved of the charge, and **in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable.** In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the motion for Reconsideration. (Emphasis and underscoring supplied)

Given the final, executory and unappealable nature of the Ombudsman's decision, Ancheta's remedy is a Rule 65 Petition, as held in *Dagan v. Office of the Ombudsman*.<sup>[45]</sup>

x x x In *Republic v. Francisco*, we ruled that decisions of administrative or quasi-administrative agencies which are declared by law final and unappealable are subject to judicial review if they fail the test of arbitrariness, or upon proof of gross abuse of discretion, fraud or error of law. **When such administrative or quasi-judicial bodies grossly misappreciate evidence of such nature as to compel a contrary conclusion, the Court will not hesitate to reverse the factual findings. Thus, the decision of the Ombudsman may be reviewed, modified or reversed via petition for *certiorari* under Rule 65 of the Rules of Court,** on a finding that it had no jurisdiction over the complaint, or of grave abuse of discretion amounting to excess or lack of jurisdiction.

That said, there still is the question which court has jurisdiction over a *certiorari* petition under Rule 65.

x x x x