

FIRST DIVISION

[G.R. No. 146376, April 23, 2014]

RODOLFO M. AGDEPPA, PETITIONER, VS. HONORABLE OFFICE OF THE OMBUDSMAN, ACTING THROUGH THE OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY, MARYDEL B. JARLOS-MARTIN, EMMANUEL M. LAUREZO AND ILUMINADO L. JUNIA, JR., RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court filed by petitioner Rodolfo M. Agdeppa (Agdeppa) assailing the Resolution^[1] dated July 31, 2000 and Order^[2] dated September 28, 2000 of respondent Office of the Ombudsman. The Office of the Ombudsman dismissed OMB-MIL-CRIM-00-0470, the administrative complaint initiated by Agdeppa against respondents Marydel B. Jarlos-Martin (Jarlos-Martin), Emmanuel M. Laurezo (Laurezo), and Iluminado L. Junia, Jr. (Junia).

OMB-MIL-CRIM-00-0470 arose from OMB-0-99-1015, another administrative complaint before the Office of the Ombudsman.

Junia, then Group Manager for the Project Technical Services Group of the National Housing Authority (NHA), filed on May 25, 1999 a Complaint^[3] before the Office of the Ombudsman against several NHA officials, together with Agdeppa and Ricardo Castillo (Castillo), resident auditors of the Commission on Audit (COA) at the NHA. Junia's Complaint was docketed as **OMB-0-99-1015**. Junia alleged that Supra Construction (SupraCon), the contractor for the NHA project denominated as Phase IX, Packages 7 and 7-A in Tala, Caloocan City (NHA Project), was overpaid in the total amount of P2,044,488.71. The overpayment was allegedly facilitated through the dubious and confusing audit reports prepared by Agdeppa and endorsed by Castillo, to the detriment, damage, and prejudice of the Government.

Junia also mentioned in his Complaint that Agdeppa had initiated several cases, arising from the same NHA project, against Junia and other NHA officials. While the other cases had already been dismissed for lack of merit, the Office of the Ombudsman endorsed OMB-0-94-2543 to the Office of the City Prosecutor of Quezon City where it was docketed as **I.S. No. 99-1979**.

Notably, the Complaint in OMB-0-99-1015 was signed by Junia, and certified and verified by him, but not under oath.^[4]

On June 10, 1999, Jarlos-Martin, then Graft Investigation Officer II of the Office of the Ombudsman, issued an Order^[5] in OMB-0-99-1015 giving the following directives: (1) for Agdeppa and Castillo to file their respective counter-affidavits,

witnesses' affidavits, and other supporting evidence in answer to Junia's Complaint within 10 days from notice; and (2) for Junia to file his reply within five days from receipt of copies of Agdeppa's and Castillo's counter-affidavits.

Agdeppa filed his Answer^[6] on July 26, 1999, denying Junia's allegations against him and praying for the dismissal of the Complaint in OMB-0-99-1015 for utter lack of merit. According to Agdeppa, Junia's claims that Agdeppa had manipulated audit reports of overpayments to SupraCon to create confusion and defraud the Government, were unfortunate, irresponsible, and malicious. Agdeppa also clarified that I.S. No. 99-1979, against Junia and other NHA officials, was now **Criminal Case No. Q-99-81636** before the Quezon City Regional Trial Court (RTC), Branch 86, and a Warrant of Arrest^[7] had already been issued on March 15, 1999 for Junia and Evaristo B. Macalino.

Junia immediately filed his Reply^[8] to Agdeppa's Answer on July 30, 1999.

On September 6, 1999, Castillo filed his Answer^[9] likewise denying the allegations in Junia's complaint in OMB-0-99-1015. Castillo contended that Junia's claims of overpayment were the result of the latter's erroneous appreciation of existing documents; that the computations by the COA audit team assigned at the NHA were issued with complete transparency and after undergoing the process of check and countercheck; and that he had no participation in the computation and payment made to SupraCon after his reassignment on July 6, 1987.

Junia filed a Reply^[10] to Castillo's Answer on September 20, 1999.

At around the same time the foregoing events were unfolding, Agdeppa wrote a letter^[11] dated March 3, 1999 addressed to Senator Renato S. Cayetano (Sen. Cayetano), who was then the Chairperson of the Senate Committee on Justice and Human Rights. Agdeppa requested Sen. Cayetano to conduct an investigation of incumbent officials of the Civil Service Commission (CSC) and COA who purportedly committed irregularities in the resolution of the administrative case against the government officials and employees involved in the reconsideration of the disallowed money claims of SupraCon in the NHA Project. Agdeppa attached to said letter his Sworn Statement^[12] dated March 3, 1999, detailing under oath his accusations against the COA and CSC officials. In a 1st Indorsement^[13] dated April 23, 1999, Atty. Raul M. Luna, Sen. Cayetano's Chief of Staff, referred Agdeppa's letter dated March 3, 1999 to Ombudsman Aniano A. Desierto (Desierto) for appropriate action.

Agdeppa then wrote a letter^[14] dated July 12, 1999 addressed to Ombudsman Desierto inquiring as to the status of the 1st Indorsement from Sen. Cayetano's office. Failing to receive any reply, Agdeppa wrote another letter^[15] dated August 19, 1999 addressed to Ombudsman Desierto, pertinent parts of which are reproduced below:

This is to inform you Sir, that I have not yet receive[d] any kind of communication from you or from your good office concerning my letter dated July 12, 1999 (Annex "A" hereof) which was received by your Dibisyon ng Rekords Sentral on July 14, 1999 inquiring on the status of

my letter with its accompanying Sworn Statement, dated March 3, 1999, to Senator Renato L. Cayetano, which was instead endorsed to you by his Chief of Staff, Atty. Raul M. Luna, in a 1st Indorsement dated April 23, 1999 for appropriate action.

x x x x

One of the reasons why I am writing to you again, Sir, is to be sure that I will not be remiss in reminding you that your good office has still to act on my letter of July 12, 1999.

I also want you to know, Sir, that I am now being harassed by certain elements in your honorable office. This is manifest in the hasty evaluation of the counter-complaint (Annex "E" hereof) (now OMB-0-99-1015) filed by one of the respondents in OMB-0-94-2543 (now Criminal Case No. Q-99-81636 before QC RTC Branch 86), which complaint was received by your Dibisyon ng Rekords Sentral on May 23, 1999, and which was given due course by MARYDEL B. JARLOS-MARTIN, Graft Investigation Officer II, through her ORDER dated 10 June 1999 (Annex "F" hereof) directing me to answer OMB-0-99-1015.

Please note, Sir, that the ORDER of June 10, 1999 was served only on July 15, 1999 or the day after your office had received my letter of July 12, 1999, giving the impression that the said order was issued as an after-thought and meant as a leverage, if not a veiled warning, to stop me from pursuing the endorsement of my letter of March 3, 1999 to you.

Please be informed too that the above-mentioned counter-complaint could not be the basis of the Order dated June 10, 1999 because the said complaint was not an affidavit-complaint, contrary to what was indicated in the said order. Hence, there must be compliance first with Section 4 and 4(A) of Administrative Order No. 07 dated April 10, 1990 (Rules of Procedure of the Office of the Ombudsman) before Atty. Jarlos-Martin could issue her order of June 10, 1999, x x x:

x x x x

Notwithstanding a clear violation of my substantive right, I had nevertheless opted to answer OMB-0-99-1015 on July 26, 1999 without raising the issue on procedural due process and without disturbing the deadline set by Atty. Jarlos-Martin because I wanted the said case to be resolved for lack of merit.

The fact, therefore, that there was great haste in the commencement of the preliminary investigation of OMB-0-99-1015 while my letter of July 12, 1999 remains un-answered until now could not but evoke my suspicion that your honorable office is being used for other purposes.

x x x x

x x x I would like to request that you require Atty. Jarlos-Martin to resolve OMB-0-99-1015 with the same dispatch by which she had given

due course to the counter-complaint of Mr. Iluminado L. Junia, Jr., on one hand, and to direct the graft investigation officer handling the endorsement of my letter of March 3, 1999 to inform me about the status of the said endorsement.

Realizing from Agdeppa's letter dated August 19, 1999 that Junia's Complaint in OMB-0-99-1015 was not under oath, Jarlos-Martin issued an Order^[16] on September 23, 1999 with the following directive for Junia:

You are hereby ordered to appear before the undersigned at the Office of the Ombudsman, Room 210, located at the 2nd Floor, Evaluation and Preliminary Investigation Bureau, immediately upon receipt hereof, in order to swear to your complaint dated May 18, 1999, pursuant to Section 4(a), Rule II, Administrative Order No. 07, otherwise known as the Rules of Procedure of the Office of the Ombudsman.

Pursuant to the aforementioned Order, Junia personally appeared before Laurezo on October 6, 1999 to swear to his Complaint.^[17]

Also on October 6, 1999, Jarlos-Martin issued another Order^[18] addressed to Agdeppa and Castillo that reads:

You are hereby directed to file your counter-affidavit, the affidavit/s of your witness/es and other supporting evidences, if any, in answer to the hereto attached copy of the Complaint-Affidavit dated May 18, 1999, **which is now under oath**, within TEN (10) DAYS from receipt hereof, with proof of service upon the complainant who may file a reply thereto within FIVE (5) DAYS from receipt, if he so desire/s.

Your failure to do so within the aforesaid period shall be deemed a waiver of your right to submit controverting evidence and this preliminary investigation shall proceed accordingly. Thereafter, this case shall be deemed submitted for resolution on the basis of the evidence presented by the parties whose presence may be dispensed with, unless otherwise required for clarificatory hearing.

Agdeppa, in a Motion to Resolve^[19] submitted on November 8, 1999, opposed Jarlos-Martin's Order dated October 6, 1999, asserting as follows:

25. With due respect, [Agdeppa] finds the order of October 6, 1999 directing him to answer OMB-0-99-1015 anew and for [Junia] to reply if he so desires as a blatant disregarding of Section 4, Rule II of the Rules of Procedure of the Office of the Ombudsman **(Annex "18" hereof)** or of Section 3, Rule 112 of the Rules of Court **(Annex "18-A" hereof)**;

26. From either of the above-mentioned rules relative to the procedure in the preliminary investigation of criminal cases, x x x the next step after

the filing of the respondent's counter-affidavit is the setting of a hearing for clarificatory questioning by the investigating officer if there are matters that need to be clarified, and/or the investigating officer shall forward the records of the case together with his/her resolution to the designated authorities for their appropriate action thereon;

x x x x

27. With due respect, the new order is no longer a means to carry out the so-called due process of law in the preliminary investigation of the above-entitled case, which is a criminal case falling within the jurisdiction of the Sandiganbayan and/or Regional Trial Court;

28. Rather, the new order became a tool to enhance or modify the substantive rights of [Junia] to the injury of [Agdeppa] for giving the former unwarranted benefits, advantage or preference in the discharge of official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;

29. This is manifest because of the records of OMB-0-99-1015 (the above-entitled case) is already complete as of September 6, 1999, which was the date of receipt of the answer of [Castillo] by this honorable office, a copy of its first and last page are hereto attached as **Annex "19" hereof** and it would be, therefore, anomalous to further delay the evaluation of the said case by directing [Agdeppa] to answer OMB-0-99-1015;

30. To reiterate with stress, [Agdeppa] already answered OMB-0-99-1015 through his answer which was executed on July 26, 1999 and filed with this honorable office'[s] DIBISYON NG REKORDS SENTRAL on even date;

31. It is likewise reiterated that [Junia] had even furnished [Agdeppa] with his reply dated July 30, 1999 (Annex "O");

32. What will happen to the priceless effort and money that went with the preparation and submission of the aforementioned pleadings vis-à-vis the service of the order dated October 6, 1999 to [Agdeppa] only?

33. It appears that it was only [Agdeppa] who was targeted by the Order dated October 6, 1999 because [Castillo], who lives a block from [Agdeppa's] residence at Roque Drive, declared in his Affidavit executed on November 4, 1999 (**Annex "20" hereof**) that he had received only one order relative to OMB-0-99-1015 and that was the Order dated June 10, 1999 and nothing more;

34. For another, was the reply of [Junia] not enough to find probable cause to warrant the filing of a criminal information against [Agdeppa] that is why he was given another chance, through the Order dated October 6, 1999, to do a clinching one;

35. Furthermore, it is not difficult to deduce from the complete records of OMB-0-99-1015 that [Junia] is on a fishing for evidence expedition