

[G.R. NO. 161179, August 07, 2007]

**NACE SUE P. BUAN, PETITIONER, VS. FRANCISCO T. MATUGAS,
RESPONDENT.**

D E C I S I O N

GARCIA, J.:

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court are the following issuances of the Court of Appeals (CA) in *CA-G.R. SP No. 74094*, to wit:

1. Decision^[1] dated September 4, 2003, reversing and setting aside the resolutions of the Secretary of Justice which overturned that of the City Prosecutor of Pasay City and directed him to cause the filing of an information for attempted rape against herein respondent; and
2. Resolution^[2] dated December 9, 2003, denying petitioner's motion for reconsideration.

The current proceedings were started on May 9, 2001 with a complaint for attempted rape filed by petitioner against the herein respondent, alleging the following facts:

Back in 1995, petitioner was a regular employee of the provincial government of Surigao del Norte where respondent, Francisco Matugas, was then the provincial governor. Sometime from July 22 to 28, 1995, respondent asked petitioner to accompany him to Manila, allegedly on the pretense that the trip was work-related.

The complaint alleges that on one of those days from July 22 to 28, 1995, respondent asked petitioner to join him for lunch at Heritage Hotel. Upon arriving at the hotel, however, respondent allegedly asked her to accompany him first to his room to get some important papers. Once inside the room, respondent opened his attache case to look for his papers while petitioner excused herself to go to the comfort room. After she came out of the comfort room, the Governor also used the comfort room.

Afterwards, the Governor came out of the comfort room allegedly without any shirt on, explaining that he would have to change his shirt to be dressed properly when meeting some guests during lunch. Then, without any warning, he suddenly grabbed petitioner by her shoulder as he passed by the chair she was seated on, embraced and kissed her, prompting her to resist by pushing and elbowing him, causing him to lose his balance and immediately desisted.

Thereafter, petitioner reported the incident to her mother who prevailed on her not to file any complaint yet since respondent was still powerful and influential being the

Provincial Governor of Surigao del Norte at that time. Petitioner nevertheless decided to immediately resign from her work at the Provincial Government.

Almost six years later, or on May 9, 2001, petitioner finally gathered enough courage to execute and file an affidavit-complaint against the respondent before the Office of the City Prosecutor of Pasay City. On the same date, petitioner's mother executed a corroborating affidavit.

On June 22, 2001, the respondent executed and submitted his counter-affidavit belying petitioner's allegations. He averred that he was never billeted in Heritage Hotel and his tight schedule would not allow him to be at the scene of the alleged crime. On July 2, 2001, petitioner filed her reply-affidavit and the case was thereafter deemed submitted for resolution.

In a Resolution dated July 5, 2001, the City Prosecutor of Pasay City dismissed the complaint for lack of probable cause prompting petitioner to file an appeal with the Department of Justice on July 20, 2001.

On February 13, 2002, the Secretary of Justice issued a Resolution reversing the findings of the City Prosecutor and holding that there is reasonable ground to believe that a crime has been committed and that respondent is probably guilty thereof. A subsequent Resolution of September 30, 2002 denied respondent's motion for reconsideration.

On November 28, 2002, respondent filed with the CA a petition for *certiorari* under Rule 65 of the Rules of Court with prayer for preliminary injunction, claiming grave abuse of discretion on the part of the Secretary of Justice in the issuance of the aforementioned resolutions. The petition was docketed in the appellate court as CA-G.R. SP No. 74094.

In its decision of September 4, 2003, the Special Division of Five of the CA reversed and set aside the questioned resolutions of the Secretary of Justice, and ordered the dismissal of the criminal information for Attempted Rape filed against the respondent then pending before Branch 111 of the Regional Trial Court of Pasay City, thus:

WHEREFORE, the petition is **granted**. The questioned resolutions of the Secretary of Justice dated 13 February 2002 and 30 September 2002 are hereby **REVERSED** and **SET ASIDE** and the criminal information for Attempted Rape filed against the petitioner (now respondent) before Branch III of the Regional Trial Court of Pasay City is ordered **dismissed**.

SO ORDERED.

Then Associate Justice Romeo A. Brawner (now a Comelec Commissioner) dissented from the majority, voting to uphold the ruling of the Secretary of Justice and to dismiss respondent's petition.

Her motion for reconsideration having been denied by the CA in its Resolution of December 9, 2003, petitioner is now with this Court *via* the present recourse, raising the main issue of whether the CA had erred in holding that the Secretary of Justice committed grave abuse of discretion when he overturned the findings of the

City Prosecutor.

The petition is impressed with merit.

First off, it should be stressed that the CA is empowered under its *certiorari* jurisdiction to annul and declare void the questioned resolutions of the Secretary of Justice, but only on two (2) grounds, namely, lack of jurisdiction, and grave abuse of discretion amounting to lack or excess of jurisdiction.

The task before us now is to determine whether the CA correctly exercised its power, or, better still, whether the CA gravely erred when it REVERSED and SET ASIDE the questioned resolutions of the Secretary of Justice by substituting its own judgment to that of the former. Admittedly, the CA has the original jurisdiction to issue writs of certiorari not only under the Rules but also under the judicial power granted to courts by no less than the Constitution.^[3] But, the question is, can the CA reverse and set aside a decision of the Secretary of Justice and substitute its own judgment, as it did in this case?

Definitely not.

The power to reverse and set aside partakes of an appellate jurisdiction which the CA does not have over judgments of the Secretary of Justice exercising quasi-judicial functions.

There is a whole of a difference between the CA's power of review in the exercise of its appellate jurisdiction and its original jurisdiction over petitions for certiorari as that filed by the respondent in *CA-G.R. SP No. 74094*.^[4] Certiorari power is limited to questions of jurisdiction and grave abuse of discretion only. Wisdom or error of judgment on the part of the Secretary of Justice in arriving at his conclusions of fact and law which is proper in an appeal cannot legitimately be the subject of review in a petition for certiorari before the CA because the decision of the Secretary of Justice is not appealable to the CA.

It is only too unfortunate that the CA confused these two powers in resolving the petition for certiorari lodged before it by the respondent. It is now our duty to put things in their proper light.

The assailed CA decision starts out on precarious footing when it made the following pronouncements:

At the outset, it must be stated that while in this petition We are not called upon to pronounce the innocence or guilt of the [respondent], in the very nature of things, however, We are doubtless really asked to determine whether it was ultimately fair, just, even necessary, on the basis of the factual details and circumstances alleged in the complaint itself, for the government to have allowed said complainant [herein petitioner] to sully [respondent's] name and reputation and stigmatize his family, and put him to great inconvenience and expense, to say nothing of the repercussions upon his political future, x x x^[5] (Words in bracket added).

In his dissenting opinion,^[6] Justice Brawner correctly pointed out: