

SECOND DIVISION

[G.R. NO. 140423, July 14, 2006]

JOSE LUIS ANGEL B. OROSA, PETITIONER, VS. ALBERTO C. ROA, RESPONDENT.

DECISION

GARCIA, J.:

Assailed and sought to be set aside in this petition for review is the Resolution^[1] dated July 8, 1999 of the Court of Appeals (CA) in *CA-G.R. SP No. 53190*, dismissing the petition for review under Rule 43 of the 1997 Rules of Civil Procedure thereat filed by the herein petitioner from an adverse resolution of the Secretary of Justice.

The petition is casts against the following factual backdrop:

On November 27, 1996, petitioner, a dentist by profession, filed with the Pasig City Prosecution Office a complaint-affidavit charging respondent Alberto C. Roa, likewise a dentist, with the crime of libel. The complaint, docketed in said office as I.S. No. 96-5442, stemmed from an article entitled "*Truth vs. Rumors: Questions against Dr. Orosa*" written by respondent and published in the March-April 1996 issue of the *Dental Trading Post*, a bi-monthly publication of the Dental Exchange Co., Inc. In gist, the article delved into the possibility of a father, who happened to be an examiner in a licensure examination for dentistry where his sons were examinees, manipulating the examinations or the results thereof to enable his children to top the same.

In his complaint-affidavit, petitioner alleged that the article in question is defamatory as it besmirched his honor and reputation as a dentist and as the topnotcher in the dental board examinations held in May 1994.

Respondent denied the accusation, claiming that the article constitutes a "fair and accurate report on a matter of both public and social concern." He averred that the article in question was not written with malice but with a sincere desire to contribute to the improvement of the integrity of professional examinations.

After preliminary investigation, Pasig City Prosecutor Noel Paz issued a Resolution, dismissing petitioner's complaint in this wise:

The publication being a bona fide communication on matters of public concern, and made without malice, we find the respondent entitled to the protection of the rule on privileged matters under Article 354 of the Revised Penal Code.

Petitioner appealed to the Department of Justice (DOJ). Acting on the appeal, Chief State Prosecutor Jovencito Zuño issued a Resolution (*Zuño Resolution*), setting aside the findings of the City Prosecutor and directing the latter to file an Information for

libel against respondent. Accordingly, in the Regional Trial Court (RTC) of Pasig City, an Information for libel was filed against respondent, thereat docketed as Criminal Case No. 114517.

Adversely affected, respondent appealed to the Secretary of Justice. On October 28, 1998, then Justice Secretary Serafin Cuevas reversed the *Zuño Resolution* and directed the City Prosecutor of Pasig to withdraw the Information earlier filed with the RTC. In compliance therewith, a "Motion to Withdraw Information" was accordingly filed in court by the Pasig City Prosecution Office.

Petitioner seasonably moved for a reconsideration but his motion was denied by the Secretary of Justice in his Resolution of May 12, 1999.

Therefrom, petitioner went to the CA on a petition for review under Rule 43^[2] of the 1997 Rules of Civil Procedure, docketed as CA-G.R. No. SP No. 53190.

As stated at the outset hereof, the CA, in the herein assailed Resolution dated July 8, 1999, dismissed petitioner's petition for review. Partly says the CA in its dismissal Resolution:

The Pasig City Prosecution Office and the Department of Justice are not among the quasi-judicial agencies included in Section 1 of Rule 43 whose final orders or resolutions are subject to review by the Court of Appeals.

The Supreme Court in its Resolution En Banc dated April 8, 1997, approving the 1997 Rules of Civil Procedure in Bar Matter No. 803, did not include final orders or resolutions issued by these agencies as appealable under Rule 43. The Court of Appeals is therefore not at liberty to supply the omissions in the Rule, that would constitute an encroachment on the rule making power of the Supreme Court.^[3]

With his motion for reconsideration having been denied by the CA in its subsequent Resolution of October 14, 1999, petitioner is now with this Court on his submission that the appellate court erred:

I

XXX IN HOLDING THAT THE RESOLUTIONS OF THE DEPARTMENT OF JUSTICE ARE NOT REVIEWABLE BY IT UNDER RULE 43 OF THE 1997 RULES OF CIVIL PROCEDURE.

II

XXX IN FINDING THE PETITION IN CA G.R. SP NO. 53190 [WAS] PREMATURELY FILED.

III

XXX IN HOLDING THAT THE RESOLUTIONS OF THE DEPARTMENT OF JUSTICE ASSAILED IN CA G.R. SP NO. 53190 ARE NOT REVIEWABLE UNDER RULE 65 (sic) OF THE 1997 RULES OF CIVIL PROCEDURE SINCE

THESE RESOLUTIONS WERE ISSUED BY THE SECRETARY OF JUSTICE IN THE EXERCISE OF HIS POWER OF CONTROL AND SUPERVISION OVER PROSECUTORS.

IV

XXX IN NOT RESOLVING THE PETITION IN CA G.R. SP NO. 53190 ON THE MERITS.

V

XXX IN NOT REVERSING THE ASSAILED RESOLUTION OF THE DEPARTMENT OF JUSTICE IN CA G.R. SP NO. 53190 ON THE FOLLOWING GROUNDS:

- a. RESPONDENT'S APPEAL FROM THE RESOLUTION OF THE DEPARTMENT OF JUSTICE, THROUGH THE CHIEF STATE PROSECUTOR, DATED JANUARY 22, 1998, WAS FATALLY DEFECTIVE.
- b. RESPONDENT'S ARTICLE WAS DEFAMATORY.
- c. MALICE ATTENDED THE PUBLICATION OF RESPONDENT'S ARTICLE.
- d. RESPONDENT'S ARTICLE WAS NOT PROTECTED BY THE MANTLE OF PRIVILEGED MATTER.

As the Court sees it, the petition commends for its consideration the issue of whether or not a petition for review under Rule 43 of the 1997 Rules of Civil Procedure is a proper mode of appeal from a resolution of the Secretary of Justice directing the prosecutor to withdraw an information in a criminal case.

It is petitioner's thesis that Rule 43 was intended to apply to all quasi-judicial agencies exercising quasi-judicial functions. Upon this premise, petitioner submits that resolutions of the DOJ in the exercise of its quasi-judicial functions are properly appealable to the CA via a petition for review under Rule 43, adding that the quasi-judicial bodies enumerated under said Rule are not exclusive.

Petitioner's above posture, while valid to a point, will not carry the day for him.

Rule 43 governs all appeals from the Court of Tax Appeals and quasi-judicial bodies to the CA. Section 1 thereof provides:

Section 1. Scope.¹ –This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals, and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National