

FIRST DIVISION

[G.R. No. 137354, July 06, 2000]

SALVADOR M. DE VERA, PETITIONER, VS. HON. BENJAMIN V. PELAYO, PRESIDING JUDGE, BRANCH 168, REGIONAL TRIAL COURT, PASIG CITY; AND EVALUATION AND INVESTIGATION BUREAU, OFFICE OF THE OMBUDSMAN, RESPONDENTS.

D E C I S I O N

PARDO, J.:

"It is said that a little learning is a dangerous thing; and he who acts as his own lawyer has a fool for a client."

In Re: Joaquin

Borromeo

241 SCRA

408 (1995)

The case is a petition for *certiorari* and *mandamus*^[1] assailing the Evaluation Report of the Evaluation and Investigation Office, Office of the Ombudsman, dated October 2, 1998 referring petitioner's complaint to the Supreme Court and its Memorandum, dated January 4, 1999,^[2] denying petitioner's motion for reconsideration.

We state the relevant facts.

Petitioner is not a member of the bar. Possessing some awareness of legal principles and procedures, he represents himself in this petition.

On August 28, 1996, petitioner instituted with the Regional Trial Court, Pasig City a special civil action for *certiorari*, prohibition and *mandamus* to enjoin the municipal trial court from proceeding with a complaint for ejectment against petitioner.^[3] When the Judge originally assigned to the case inhibited himself, the case was re-raffled to respondent Judge Benjamin V. Pelayo.^[4]

On July 9, 1998, the trial court denied petitioner's application for a temporary restraining order. Petitioner moved for reconsideration. The court denied the same on September 1, 1998.^[5]

On September 23, 1998, petitioner filed with the Office of the Ombudsman an affidavit-complaint^[6] against Judge Pelayo, accusing him of violating Articles 206^[7] and 207^[8] of the Revised Penal Code and Republic Act No. 3019.^[9]

On October 2, 1998, Associate Graft Investigation Officer, Erlinda S. Rojas submitted an Evaluation Report recommending referral of petitioners' complaint to the

Supreme Court. Assistant Ombudsman Abelardo L. Apotadera approved the recommendation.^[10] We quote the decretal portion of the report:^[11]

"FOREGOING CONSIDERED, and in accordance with the ruling in *Maceda vs. Vasquez*, 221 SCRA 464, it is respectfully recommended that the instant complaint be referred to the Supreme Court for appropriate action. The same is hereby considered CLOSED and TERMINATED insofar as this Office is concerned."

On October 13, 1998, the Office of the Ombudsman referred the case to the Court Administrator, Supreme Court.^[12]

On November 6, 1998, petitioner moved for the reconsideration of the Evaluation Report.

On January 4, 1999, the Ombudsman denied the motion for reconsideration.^[13]

Hence, this petition.^[14]

The issue is whether or not the Ombudsman has jurisdiction to entertain criminal charges filed against a judge of the regional trial court in connection with his handling of cases before the court.

Petitioner criticizes the jurisprudence^[15] cited by the Office of the Ombudsman as erroneous and not applicable to his complaint. He insists that since his complaint involved a criminal charge against a judge, it was within the authority of the Ombudsman not the Supreme Court to resolve whether a crime was committed and the judge prosecuted therefor.

The petition can not succeed.

We find no grave abuse of discretion committed by the Ombudsman. The Ombudsman did not exercise his power in an arbitrary or despotic manner by reason of passion, prejudice or personal hostility.^[16] There was no evasion of positive duty. Neither was there a virtual refusal to perform the duty enjoined by law.^[17]

We agree with the Solicitor General that the Ombudsman committed no grave abuse of discretion warranting the writs prayed for.^[18] The issues have been settled in the case of *In Re: Joaquin Borromeo*.^[19] There, we laid down the rule that before a civil or criminal action against a judge for a violation of Art. 204 and 205 (knowingly rendering an unjust judgment or order) can be entertained, there must first be "a final and authoritative judicial declaration" that the decision or order in question is indeed "unjust." The pronouncement may result from either:^[20]

- (a) an action of certiorari or prohibition in a higher court impugning the validity of the judgment; or
- (b) an administrative proceeding in the Supreme Court against the judge precisely for promulgating an unjust judgment or order.