



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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DIGITAL PARADISE, INC., as
represented by FEDERICO
EUGENIO,

Petitioner,

G.R. No. 209608

Present:

CARPIO, *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,
REYES, J. JR., and
HERNANDO, *JJ.*

- versus -

HON. ORLANDO C. CASIMIRO,
in his capacity as the Overall
Deputy Ombudsman; HON.
DENNIS L. GARCIA, in his
capacity as Director; HON.
ROLANDO W. CERVANTES, in
his capacity as Graft Investigation
and Prosecution Officer; P/CINSP.
JOEL MANUEL A. ANA, PSI
RONNIE FAILOGA, PO3
DEMETRIO PRIETO, ** and PO1
SAMUEL ESCARIO DONES,

Respondents.

Promulgated:

.13 FEB 2019

H.M. Cabalag Perfecto

X ----- X

DECISION

REYES, J. JR., *J.*:

This is a petition for *certiorari* under Rule 65 of the Rules of Court which seeks to set aside the Joint Resolution¹ dated July 19, 2012 and Joint

* Additional Member per S.O. No. 2630 dated December 18, 2018.

** Also referred to as "Demetrio Mangaoang" and "Demetrio Prieto, Jr." in some parts of the *rollo*.

¹ *Rollo*, pp. 61-68.

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Order² dated January 28, 2013 in OMB-P-C-11-0784-I and OMB-P-A-11-0766-I, issued by the Overall Deputy Ombudsman Orlando C. Casimiro (Casimiro) of the Office of the Ombudsman (Ombudsman), which dismissed the criminal complaints for Robbery with Force Upon Things, Incriminating Against Innocent Persons, Other Forms of Trespass, and Grave Coercion, filed by herein petitioner Digital Paradise, Inc. (DPI) against herein respondents Police Chief Inspector Joel Manuel A. Ana (PCI Ana), Police Senior Inspector Ronnie L. Failoga (PSI Failoga), Police Officer 3 Demetrio M. Prieto (PO3 Prieto), and Police Officer 1 Samuel Escario Dones (PO1 Dones).

The Facts

On September 16, 2011, petitioner DPI, through its Assistant Logistics Officer Federico Eugenio (Eugenio), filed before the Ombudsman a Complaint-Affidavit³ for: (1) two counts of Robbery with Force Upon Things; (2) two counts of Other Forms of Trespass; (3) Incriminating Innocent Persons; (4) Grave Coercion; (5) violation of the Code of Conduct and Ethical Standard for Public Officials and Employees; and (6) violation of Section 3(e) of Republic Act (R.A.) No. 3019 against herein respondents PCI Ana, PSI Failoga, PO3 Prieto, and PO1 Dones. Attached to the complaint-affidavit is the Affidavit⁴ of Michael Manese (Manese).

In its complaint, DPI alleged that it is a domestic corporation engaged in the business of computer rentals; and that in 2011, it was leasing one of the warehouse units of CH King and Sons Warehouse Complex (CHKS Complex) located at No. 1 Carlos Caparas St., Barangay Ugong, Pasig City.⁵

On September 13, 2011, at around 10:00 p.m., eight men in civilian clothes, and who identified themselves as policemen, suddenly barged inside the premises of CHKS Complex without the benefit of a search warrant. Also present at that time were Manese, the on-duty security guard, and a certain Joseph Seciban (Seciban), a driver who was renting a parking space at the CHKS Complex. The policemen then ordered Manese and Seciban to lie face down on the ground.⁶ Two of the policemen watched over Manese and Seciban while the rest proceeded to the guard house to disconnect and destroy the telephone line there. The policemen also took the cellular phones of Manese and Seciban without any reason.⁷

² Id. at 69-77.

³ Id. at 78-96.

⁴ Id. at 97-98.

⁵ Id. at 78-79.

⁶ Id. at 79-80; 97.

⁷ Id. at 80.

The policemen then brought inside the CHKS Complex a Kia L300 van and a Toyota Hi-Ace van, and parked them in front of DPI's leased unit and unloaded several boxes. Immediately thereafter, they broke the padlock and the door of the subject unit, then brought the boxes and left them inside DPI's unit. They also unlawfully took several items from DPI's unit. An inventory of DPI's properties would reveal that the following items were missing and/or stolen: (1) 5 pieces of Nokia 1200 CE0434, BLACK worth ₱1,500.00; (2) 2 pieces of Nokia 1200 CE0434, BLUE worth ₱1,500.00; (3) 1 piece of Nokia Landline CE0434 with number 5574375; and (4) Smart Broadband, White Color, No. 09396927599 worth ₱1,000.00.⁸ They then left the CHKS Complex.⁹ After about 30 minutes, the policemen returned and ordered Manese to open DPI's unit. They took photographs of the leased unit and the boxes they brought therein. After one hour, Barangay Councilor Ernesto Cruz II (Councilor Cruz), Chairman of Peace and Order of Barangay Ugong, and his team arrived. However, the policemen were no longer inside the CHKS Complex.¹⁰

DPI alleged that the acts committed by the policemen, which include the herein respondents, constituted two counts of Robbery with Force Upon Things, Incriminating Innocent Person, two counts of Other Forms of Trespass, and Grave Coercion, all under the Revised Penal Code (RPC). DPI further alleged that the respondent police officers committed violations of the Code of Conduct and Ethical Standard for Public Officials and Employees as well as Section 3(e) of R.A. No. 3019.

In their Joint Counter-Affidavit,¹¹ PCI Ana, PSI Failoga, and PO3 Prieto, denied the accusations made by DPI contending that what transpired was a legitimate police operation. They narrated that on September 13, 2011, at around 2:00 p.m., an informant went to their office and reported that electronic devices owned by Amkor Tech Phils., Inc. (Amkor) were hijacked and that these devices will be hauled out by a group of men from Giant Building Compound located at J. Caparas St., Barangay Ugong, Pasig City. Allegedly, the electronic devices will be loaded on a white Kia L300 commercial van with Plate No. RGP 382. A team led by PCI Ana was immediately formed. They coordinated with Danilo Morales, senior security officer of Amkor, who confirmed the hijacking of Amkor's electronics integrated circuits worth US\$441,518.00.

On or about 6:45 p.m. of the same day, the team, together with Amkor representatives and in coordination with the Pasig City Police, conducted a surveillance operation at the compound of Giant Building. At around 8:10 p.m. of the same day, a white Kia L300 van with Plate No. RGP 382 came

⁸ Id. at 84.

⁹ *Supra* note 7.

¹⁰ *Rollo*, pp. 81; 98.

¹¹ Id. at 108-126.

out of the main gate with three male persons on board. SPO2 Bernard Valen (SPO2 Valen), SPO1 Fernando Rey Gapuz (SPO1 Gapuz) and PO3 Wilfredo Reyes (PO3 Reyes) flagged down the van for violation of R.A. No. 8750 or the Seatbelt Law. While SPO2 Valen was explaining the violation to Jimmy T. Francisco (Francisco), the driver of the van, one of the passengers, later identified as Roderick Colala (Colala), alighted and ran towards the compound. SPO1 Gapuz, PO3 Reyes and an Amkor representative approached the van and asked about its contents. Francisco readily opened the vehicle's door, revealing inside it were the electronic equipment hijacked from Amkor. Given the circumstances, SPO1 Gapuz restrained Francisco and informed him of his right. At this juncture, the remaining passenger of the van, identified as Joselito Dela Cruz (Dela Cruz), alighted and also ran towards the compound. PSI Failoga and his team members gave chase and caught Dela Cruz inside the warehouse of DPI. Colala was likewise seen hiding inside DPI's warehouse.

Further, PSI Failoga and his team members saw several boxes inside the warehouse with Amkor commercial invoices and shipment waybill. Upon inspection, the Amkor representatives identified the contents of the boxes as part of the goods taken from Amkor. Thus, the police officers arrested Dela Cruz and Colala. Thereafter, a certain Jayson Bistal (Bistal) arrived and interfered with the operation. He also claimed that he supervised the delivery of the goods upon the instruction of his bosses identified as "Rebecca" and "Cris." Thus, Bistal was likewise arrested. Later, PO3 Prieto arrived with PO1 Dones and the barangay officials.

The Information for violation of the Anti-Fencing Law were filed against Bistal, Colala, Francisco, Dela Cruz, alias "Rebecca," and alias "Chris."

The respondents maintained that the criminal and administrative complaints against them have no factual and legal basis. They denied violating Articles 281 and 286 of the RPC arguing that their entry inside the Giant Building compound and DPI's warehouse was justified under Section 5, Rule 113 and Section 7, Rule 126 of the Revised Rules on Criminal Procedure.

They likewise denied planting incriminating evidence against any person and/or robbing DPI of its properties. Respondents averred that such concocted allegations were intended merely to harass them. They pointed out that no independent evidence other than the self-serving allegations of the petitioner would support the claim that the electronic equipments, which were worth several millions of pesos, confiscated from its warehouse were merely planted, and that any of its properties were missing.

The respondents also belied the alleged violation of Section 3(e) of R.A. No. 3019. They asserted that there was no showing that any of them have benefited from, or that they acted with partiality when they conducted the subject legitimate police operation.

Finally, they denied committing any violation of the Code of Conduct and Ethical Standards for Public Officials and Employees. The respondents insisted that they performed their functions and duties in accordance with the law and relevant procedures.

For his part, PO1 Dones averred that he was not part of the raiding team and that he arrived at the CHKS Complex only later together with Barangay Councilor Cruz.¹²

Ruling of the Ombudsman

In its assailed Joint Resolution dated July 19, 2012, the Ombudsman dismissed the criminal cases against the respondents for lack of probable cause. It likewise dismissed the administrative complaints against respondents for DPI's failure to prove its case by substantial evidence.

The Ombudsman ruled that DPI's claim of robbery of its properties could not be given merit considering that it was not supported by any evidence. It noted that Manese and Seciban did not corroborate DPI's allegation that respondents unlawfully took its private properties; and that DPI's inventory failed to convince it that the alleged missing items were indeed stolen by the respondents. It also emphasized that Eugenio's allegation on these points are insufficient considering that he was not present during the alleged robbery. No credence was also given by the Ombudsman with respect to the accusation that the respondents took the cellular phones of Manese and Seciban. It pointed out that Manese, in his affidavit, stated that the police officers "confiscated" the subject cellular phones,¹³ thereby negating the presence of intent to gain which is an essential element in the crime of robbery.

The Ombudsman also rejected all other criminal accusations by DPI. It noted that the allegations involving commission of incriminating innocent persons and grave coercion, as well as violation of Section 3(e) of R.A. No. 3019, were neither substantiated by any evidence nor corroborated by any witness. Moreover, DPI failed to show any reason which could have impelled respondents to implicate DPI in the hijacking of Amkor's properties. The Ombudsman also observed that there was no showing that

¹² *Rollo*, p. 64.

¹³ *Id.* at 98.

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the respondents would stand to gain by or benefit anything by incriminating DPI. It pointed out that neither DPI nor any of its officers were even made party-respondents to the Anti-Fencing case filed by Amkor.

As regards the administrative charge, the Ombudsman held that DPI failed to meet the quantum of proof required to hold respondents administratively liable. Thus, the presumption of regularity in the performance of duty was upheld in favor of the respondents.

DPI moved for reconsideration, but the same was denied by the Ombudsman in its Joint Order dated January 28, 2013.

Hence, this petition for *certiorari*.¹⁴

The Issue

WHETHER THE OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE CRIMINAL COMPLAINTS AGAINST RESPONDENTS FOR LACK OF PROBABLE CAUSE.

DPI argues that the allegations against respondents are duly supported by evidence. It insists that Manese corroborated its allegations in all material points; that its inventory could be used to prove that the respondents committed the crime of robbery; and that Manese's statement under oath that his and Seciban's cellular phones were taken is more than enough evidence that the respondents committed the crime of robbery as charged. DPI further avers that all the elements of the crimes of incriminating innocent persons, other forms of trespass, grave coercion, and violation of Section 3(e) of R.A. No. 3019, were sufficiently alleged in its complaint-affidavit.

In their Comment¹⁵ dated March 31, 2014, PCI Ana, PSI Failoga, and PO3 Prieto, maintain that the operation on September 13, 2011, was in pursuance of their police duties. Thus, the Ombudsman did not abuse its discretion when it sustained the presumption of regularity in the performance of their official duty over DPI's uncorroborated accusations. In his Comment¹⁶ dated March 7, 2014, PO1 Dones reiterates his defense that he was not part of the raiding team on September 13, 2011, and that he

¹⁴ Petitioner DPI also filed a Petition for Review under Rule 43 of the Rules of Court before the Court of Appeals regarding the dismissal of the administrative aspect of the case. The case was docketed as CA-G.R. No. 131958; id. at 35-53.

¹⁵ Id. at 671-680.

¹⁶ Id. at 630-633.

arrived at the premises of CHKS Complex with the barangay officials after the operation.

For its part, the Ombudsman, in its Comment¹⁷ dated April 11, 2014, restates the reasons why it dismissed DPI's criminal complaints in its July 19, 2012 Joint Resolution and January 28, 2013 Joint Order. It further argues that it is beyond the power of the courts to review the discretion of the Ombudsman in prosecuting or dismissing a complaint filed before it, save in cases where there is a clear showing of grave abuse of discretion amounting to lack of jurisdiction. It submits that DPI failed to show that it gravely abused its discretion when it dismissed the criminal complaints against the respondents.

The Court's Ruling

The petition lacks merit.

A petition for *certiorari* under Rule 65 of the Rules of Court alleging grave abuse of discretion is an independent action. It is neither a continuation nor a part of the trial resulting in the judgment complained of.¹⁸ Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void. Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁹ As an independent action, the issue in a petition for *certiorari* would always be the existence of grave abuse of discretion in the assailed act; as an extraordinary remedy, the petitioner is obliged to prove that the subject tribunal not merely erred, but, most importantly, gravely abused its discretion in doing so.

Ordinarily, a petition for *certiorari* does not include an inquiry into the correctness of its evaluation of the evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for *certiorari*, which is merely confined to issues of jurisdiction or grave abuse of discretion.²⁰ To justify judicial intervention, the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty, or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is

¹⁷ Id. at 702-726.

¹⁸ *Philippine Veterans Bank v. Solid Homes, Inc.*, 607 Phil. 14, 23 (2009).

¹⁹ *People v. Court of Appeals (Fifteenth Div.)*, 545 Phil. 278, 293-294 (2007).

²⁰ *Philippine National Bank v. Gregorio*, G.R. No. 194944, September 18, 2017, 840 SCRA 37, 51, citing *Leonis Navigation Co., Inc. v. Villamater*, 628 Phil. 81, 92 (2010).

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exercised in an arbitrary and despotic manner by reason of passion or hostility.²¹

In this regard, the Court is convinced that no grave abuse of discretion could be attributed to the Ombudsman relative to the July 19, 2012 Joint Resolution and January 28, 2013 Joint Order dismissing the criminal complaints against the respondents.

The Ombudsman was constitutionally created to be the “protector of the people.” The office was given the mandate to act promptly on complaints filed in any form or manner against officers or employees of the government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.²² To aid it in fulfilling its mandate, the Constitution, as well as R.A. No. 6770 or “The Ombudsman Act of 1989” vested the Ombudsman with the powers to investigate and prosecute any public officer or employee whose act or omission appear to be illegal, unjust, improper or inefficient. Thus:

Article XI, 1987 Constitution.

SEC. 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

x x x x

R.A. No. 6770.

SEC. 15. *Powers, Functions and Duties.* — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

x x x x

²¹ *Unilever Philippines, Inc. v. Tan*, 725 Phil. 486, 493-494 (2014).

²² CONSTITUTION, (1987), Art. XI, Secs. 5 and 12; Republic Act No. 6770, Section 13.

The Ombudsman's investigatory and prosecutory power has been characterized as plenary and unqualified.²³

In recognition of these plenary and unqualified powers, the Court has consistently adhered to the general rule of upholding the principle of non-interference by the courts in the exercise by the Ombudsman of its investigative and prosecutorial powers.²⁴ This means that the Court would not ordinarily interfere with the Ombudsman's exercise of its investigatory and prosecutorial powers without good and compelling reasons.²⁵

The Court finds no compelling reason to depart from its long-standing policy of non-interference in the exercise by the Ombudsman of its plenary investigatory and prosecutorial powers. The Court opines that there is merit in the Ombudsman's assessment that the pieces of evidence presented by DPI were insufficient to demonstrate the existence of probable cause.

Probable cause for purposes of filing a criminal information is defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof. A finding of probable cause needs only to rest on evidence showing that more likely than not, a crime has been committed, and that it was committed by the accused. Probable cause, although it requires less than evidence justifying a conviction, demands more than bare suspicion.²⁶

As observed by the Ombudsman, DPI's bare allegations were neither supported by sufficient evidence nor corroborated by any witness on its material points. DPI heavily relied on Manese's affidavit to demonstrate its accusations against respondents. As aptly explained by the Ombudsman, however, the statements made by Manese in his affidavit were severely lacking and unconvincing. Manese stated that he had no idea what the respondents did inside the warehouse. Thus, the Ombudsman is justified when it ruled that Manese failed to corroborate DPI's allegations that the respondents unlawfully took its private properties, that they planted incriminating evidence therein, and that they violated Section 3(e) of R.A. No. 3019.

Likewise, DPI's claim that respondents also robbed Manese and Seciban of their cellular phones does not find support in Manese's affidavit. As observed by the Ombudsman, Manese admitted that his cellular phone was confiscated by the respondents. That Manese's cellular phone was confiscated, instead of stolen, is consistent with the respondents' claim that

²³ *Office of the Ombudsman v. Valera*, 508 Phil. 672, 697 (2005).

²⁴ *Dimayuga v. Office of the Ombudsman*, 528 Phil. 42, 46 (2006).

²⁵ *Morales v. Carpio Morales*, 791 Phil. 539, 553 (2016).

²⁶ *Callo-Claridad v. Esteban*, 707 Phil. 172, 185 (2013).

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what transpired was a legitimate police operation. Further, the dismissal of the cases for Other Forms of Trespass and Grave Coercion were also reasonable. Indeed, the respondents' entry inside the subject warehouse and the command to Manese and Seciban for them to lie down on the ground are still very much consistent with the presumption of regularity in the performance of the respondents' official duties as police officers.

Even assuming, for argument's sake, that the Ombudsman erred when it dismissed the criminal complaints against the respondents, such error would still be within the permissible limits of its plenary powers, absent a clear showing of grave abuse of discretion.

Settled is the rule that if the Ombudsman, using professional judgment, finds the case dismissible, the Court shall respect such findings, unless the exercise of such discretionary powers is tainted by grave abuse of discretion.²⁷ Similarly, the Court shall also respect a finding of the existence of probable cause. The Ombudsman is empowered to determine whether there exists a reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof, and, thereafter, to file the corresponding information with the appropriate courts.²⁸ As succinctly explained in *Vergara v. Hon. Ombudsman*:²⁹

The Ombudsman has the discretion to determine whether a criminal case, given its attendant facts and circumstances, should be filed or not. The Ombudsman may dismiss the complaint should the Ombudsman find the complaint insufficient in form or substance, or the Ombudsman may proceed with the investigation if, in the Ombudsman's view, the complaint is in due form and substance. Hence, the filing or non-filing of the information is primarily lodged within the "full discretion" of the Ombudsman. (Citations omitted)

It is clear that DPI anchored its case mainly on the Ombudsman's supposed failure to consider that the elements of the crimes allegedly committed by the respondents were sufficiently alleged in the complaint-affidavit and were amply substantiated by evidence and corroborated by a witness. In effect, DPI is questioning how the Ombudsman assessed the pieces of evidence it presented — an inquiry which could not be the proper subject of a petition for *certiorari*.

Simply stated, no grave abuse of discretion may be attributed to the Ombudsman merely because of its alleged misappreciation of facts and

²⁷ *Presidential Commission on Good Government v. Desierto*, 563 Phil. 517, 526 (2007).

²⁸ *Angeles v. Gutierrez*, 685 Phil. 183, 194 (2012).


²⁹ 600 Phil. 26, 41 (2009).

evidence. The petitioner in a *certiorari* proceeding, such as DPI in this case, must clearly demonstrate that the court or tribunal blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.³⁰


Unfortunately, DPI utterly failed to show that the Ombudsman gravely abused its discretion when it dismissed the criminal cases against the respondents. Instead, the instant petition is bereft of any statement or allegation purportedly showing that the Ombudsman exercised its power in an arbitrary or despotic manner by reason of passion or hostility. Since DPI failed to exhibit even a tinge of grave abuse of discretion on the part of the Ombudsman, the assailed Joint Resolution and Joint Order must be upheld, and the instant petition must be dismissed.

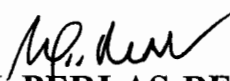
WHEREFORE, the present petition for *certiorari* is **DISMISSED** for lack of merit.

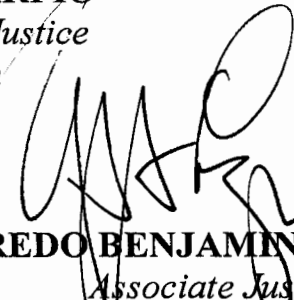
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

³⁰ *People v. Court of Appeals (Fifteenth Div.)*, supra note 19, at 294.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS F. BERSAMIN
Chief Justice