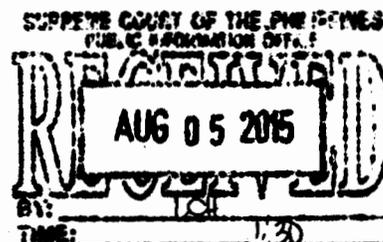




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 22, 2015 which reads as follows:

“G.R. No. 166921 – ERLINDA S. DAYOS, *Petitioner,* v. OFFICE OF THE OMBUDSMAN, SYLVIA BARROZO, FINA E. LAMBINO, LUDIVINA B. DELA CRUZ AND NIEVES S. ROBLES, *Respondents.*”

The issue for resolution is whether the Court of Appeals (CA) could validly take cognizance of the petition for review filed to assail the dismissal by the Office of the Ombudsman of the petitioner’s criminal complaint for perjury and libel against the private respondents.

It appears that after her retirement as the district supervisor in the Department of Education, Culture and Sports (DECS), the petitioner was elected as a member of the Board of Directors and Treasurer of the National Organization for Professional Teachers, Inc. (NOPTI); that she was simultaneously appointed as the Executive Director of NOPTI in charge of its daily operations;¹ that on December 2, 2003, the private respondents, all members of NOPTI, lodged separate complaints for *estafa* and illegal recruitment against the petitioner in the National Bureau of Investigation (NBI), accusing her of having recruited them to work in the United States of America as teachers-trainees, and of receiving from them processing and placement fees, as follows: (a) Ludivina B. dela Cruz – ₱143,580.00; (b) Nieves S. Robles – ₱146,675.00; (c) Sylvia S. Barrozo – ₱156,580.00; and (d) Fina E. Lambino – ₱156,580.00; that despite the considerable lapse of time, she had not deployed any of them as promised, and that their inquiries at the Philippine Overseas Employment Administration (POEA) had revealed that she had not been issued any

- over - three (3) pages

¹ Rollo, p. 24.

license or authority to conduct recruitment activities; that the NBI conducted an entrapment operation, resulting in her arrest after allegedly receiving the marked money; and that the NBI then endorsed her case to the Office of the City Prosecutor of Makati for inquest.²

On January 29, 2004, the Office of the City Prosecutor of Makati dismissed the criminal complaint for *estafa* and illegal recruitment in large scale on the ground of insufficiency of evidence. Said Office later on denied the private respondents' motion for reconsideration.

In the aftermath of the dismissal of the charges brought against her, the petitioner charged the private respondents with perjury in the Office of the Ombudsman for their deliberate assertion of a falsehood in their respective affidavits charging her with *estafa* and illegal recruitment.³

On June 21, 2004, Graft Investigation and Prosecution Officer Marilou Ancheta-Mejica issued the challenged resolution dismissing the petitioner's complaint for perjury. The resolution was approved by Overall Deputy Ombudsman Margarito P. Gervacio, Jr.⁴

The petitioner's motion for reconsideration was denied on August 13, 2004.⁵

The petitioner then filed her petition for review in the CA, maintaining that the Office of the Ombudsman had committed grave legal error as well as grave abuse of discretion tantamount to lack of jurisdiction that caused and would cause grave injustice;⁶ and posing as issues for consideration: (1) whether the affidavits of the private respondents were to be considered privileged communication; and (2) whether the affidavits could be used as bases to institute a criminal charge for perjury.⁷

On January 31, 2005, the CA denied the petition for review on the ground that it had no jurisdiction over the petitioner's appeal.⁸

Hence, this appeal,⁹ with the petitioner contending that the CA erred in not giving due course to her appeal.

- over -

² Id.
³ Id. at 25.
⁴ Id.
⁵ Id.
⁶ Id.
⁷ Id. at 9-10.
⁸ Id. at 23-30.
⁹ Id. at 3-18.

Ruling

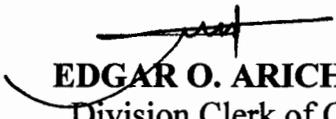
The appeal lacks merit.

In *Tirol, Jr. v. Del Rosario*,¹⁰ the Court has held that the remedy of any party aggrieved by the findings of the Office of the Ombudsman on the existence of probable cause in criminal cases that are tainted with grave abuse of discretion amounting to lack or excess of jurisdiction is the special civil action for *certiorari*. However, the petition for *certiorari* should be filed in this Court, not in the CA.¹¹ Accordingly, the CA was entirely correct in dismissing the petitioner's appeal.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on January 31, 2005; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.” **SERENO, C.J.**, on official leave; **PERALTA, J.**, acting member per S.O. No. 2103 dated July 13, 2015; **LEONARDO-DE CASTRO, J.**, on official leave; **LEONEN, J.**, acting member per S.O. No. 2108 dated July 13, 2015.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

90

Attys. Bienvenido V. Dayos,
Rodolfo E. Quintos and
Eliseo Sequi
Counsel for Petitioner
2516 Singalong St.
Malate 1004 Manila

Court of Appeals (x)
Manila
(CA-G.R. SP No. 86632)

Atty. Perfecto A.S. Laguio, Jr.
Counsel for Respondents
11F, Ever Gotesco Corporate Center
1958 Recto Ave.
1000 Manila

OFFICE OF THE OMBUDSMAN
National Government Center
Diliman 1128 Quezon City
(OMB-C-C-04-0204-E)

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¹⁰ G.R. No. 135913, November 4, 1999, 317 SCRA 779.

¹¹ E.g., *Perez v. Office of the Ombudsman (Visayas)*, G.R. No. 131445, May 27, 2004, 429 SCRA 357; *Mendoza-Arce v. Ombudsman (Visayas)*, G.R. No. 149148, April 5, 2002, 380 SCRA 325; *Enemecio v. Office of the Ombudsman (Visayas)*, G.R. No. 146731, January 13, 2004, 419 SCRA 82.