



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 23, 2020** which reads as follows:*

“G.R. No. 206352-53– COMMISSION ON HUMAN RIGHTS, petitioner, versus OFFICE OF THE OMBUDSMAN, P/INSP. DOROTEO R. TOLENTINO, SPO1 JAYSON A. GALIMBA, PO3 ARVIN S. RAMOS, PO3 EDWIN C. CUADRA, PO3 JESUS S. PASCUAL, PO2 FIDEL QUIREJERO, PO2 JOHN I. IDIO, PO1 ELYBEER M. CAYABAN, AND PO1 WILFREDO B. REYES, respondents.

Certiorari is an extraordinary prerogative writ and never demandable as a matter of right.¹ Moreover, the writ rectifies only errors of jurisdiction and not errors of judgment.² The inquiry is limited on whether or not the public officer or tribunal acted without or in excess of jurisdiction, or with grave abuse of discretion.³ Here, we find no compelling reasons to interfere with the Ombudsman’s plenary investigative and prosecutorial powers⁴ when it dismissed the criminal and administrative cases against the private respondents.

Foremost, the CHR has the burden of proving its claims of human rights violations. Mere allegation is not evidence⁵ and the complaint must be dismissed for lack of merit if based on mere

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¹ Artex Development Company v. Office of the Ombudsman, G.R. No. 203538, June 27, 2016.

² Angeles v. Gutierrez, G.R. Nos. 189161 & 189173, March 21, 2012.

³ Morales, Jr. v. Carpio-Morales, G.R. No. 208086, July 27, 2016.

⁴ Public Attorney’s Office vs. Office of the Ombudsman, G.R. No. 197613, November 22, 2017; Casing v. Ombudsman, G.R. No. 192334, June 13, 2012; and Esquivel v. Ombudsman, G.R. No. 137237, September 17, 2002.

⁵ Morales, Jr. v. Carpio-Morales, G.R. No. 208086, July 27, 2016.

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conjectures and suppositions.⁶ In this case, the CHR's Resolution⁷ dated January 6, 2010 shows that the accusations against the private respondents on the death of Ronaldo are speculative. The CHR simply deduced from the affidavits of private respondents that they committed human rights violations. However, no eyewitness testified on how Ronaldo died.⁸ Worse, the CHR merely surmised on what transpired during the operation when it concluded that –*“Thus, according to the autopsy report and testimony of Dr. Fortun, [Ronaldo] was **probably** raising his arms as a sign of surrender and to show that he was unarmed when HPG Team IV gunned him down.”*⁹

At any rate, this Court gives weight to the Ombudsman's finding that mistake of fact must be appreciated in favor of the private respondents who acted under a reasonable belief that Ronaldo is a member of the armed robbers who did not exhibit signs that he was just a hostage of Charlito. Also, the mistake was not attended by any carelessness on the part of the private respondents. Thus, had the facts been as they believed to be, the private respondents' acts insofar as Ronaldo is concerned would have been lawful.¹⁰

Lastly, the Ombudsman properly dismissed the criminal complaint against PO1 Cayaban in relation to the deaths of one Alfonso De Vera and his daughter, Lia Allana, during the December 5, 2008 incident on the ground of forum shopping. Suffice it to say that the corresponding criminal case for murder against PO1 Cayaban had been filed with the trial court.

FOR THESE REASONS, the petition is **DISMISSED**. The Office of the Ombudsman's Joint Order dated November 23, 2011 in OMB-P-C-10-0108-B and OMB-P-A-10-0105-B is **AFFIRMED**.

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⁶ Agdeppa v. Office of the Ombudsman, G.R. No. 146376, April 23, 2014; and De Jesus v. Guerrero III, G.R. No. 171491, September 4, 2009.

⁷ Rollo, pp. 46-113.

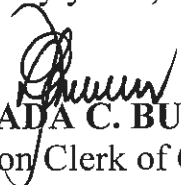
⁸ Id., p 97.

⁹ Id., p. 98.

¹⁰ Id., pp. 139-140. See U.S. v. Ah Chong, G.R. No. L-5272, March 19, 1910.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Atty. Jesus G. Torres
Investigation Division, Legal Department
COMMISSION ON HUMAN RIGHTS
SAAC Building
Commonwealth Avenue, U.P. Complex
Diliman, 1101 Quezon City

OFFICE OF THE OMBUDSMAN
Ombudsman Building, Agham Road
Diliman, 1101 Quezon City
(OMB-P-C-10-0108-B)
(OMB-P-A-10-0105-B)

OFFICE OF LEGAL AFFAIRS
Office of the Ombudsman
4th Floor, Ombudsman Building
Agham Road, Diliman
1101 Quezon City

M.M. LAZARO & ASSOCIATES
Counsel for Private Respondents
19/F, Chatham House Building
Valero cor. V.A. Rufino Streets
Salcedo Village, 1227 Makati City

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