



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 January 2021** which reads as follows:*

“G.R. No. 254856 (*Eulogio Rante Rodriguez v. Office of the Ombudsman and Rey Mendez*). – The Court **NOTES** the extremely urgent motion for special raffle dated December 15, 2020 of counsel for petitioner, stating that since the acts sought to be restrained are imminent and may take place soon, or at any time, it is prayed that a special raffle of the instant petition be immediately set and conducted at the earliest possible date as may be required and allowed by law.

This special civil action for *certiorari* with an extremely urgent prayer for the issuance of a temporary restraining order (*TRO*) and/or injunction assails the March 14, 2019 Resolution¹ and September 18, 2019 Joint Order² of the Office of the Ombudsman (*Ombudsman*) in OMB-L-C-18-0281, finding probable cause to indict Eulogio Rante Rodriguez (*petitioner*) and Joseph C. Cua for violation of Section 3(e) of Republic Act No. 3019, otherwise known as the “*Anti-Graft and Corrupt Practices Act*.”³

The petition lacks merit.

Probable cause has been defined as the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the

¹ *Rollo*, pp. 81-89; concurred in by Special Panel of Investigators: Graft Investigation and Prosecution Officers Elizabeth Karla P. Aguilan, Bonifacio G. Mandrilla, Renato A. Peralta, Jr., Maria Vida G. Hechanova, Directors Beda A. Epres and Moreno F. Generoso; recommending approval by Special Prosecutor Edilberto G. Sandoval and approved by Ombudsman Samuel R. Martires.

² *Id.* at 90-94.

³ Section 3. – x x x.

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions. (*Anti-Graft and Corrupt Practices Act*, Republic Act No. 3019, August 17, 1960).

facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted. Its determination is an executive function, one that properly pertains at the first instance to the public prosecutor and, ultimately, to the Secretary of Justice.⁴ In the case of public officials, the determination of existence of probable cause is the function of the Ombudsman.

By virtue of the principle of separation of powers, it is the judicial policy of this Court to refrain from interfering in the conduct of preliminary investigations and to leave the prosecutor ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders.⁵ Consequently, courts do not reverse the Secretary of Justice's, or in this case, the Ombudsman's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion. Unfortunately, petitioner failed to establish that the Ombudsman's resolutions to file the Information against him were tainted with grave abuse of discretion.⁶

In the case at bench, there is nothing in the petition that alleged any act that would constitute grave abuse of discretion or would prove that the Ombudsman exercised its judgment capriciously, whimsically, arbitrarily or despotically by reason of passion and hostility.⁷ "Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."⁸

A reading of the petition reveals that petitioner's arguments are anchored on factual matters, whose resolution can be arrived at in a full-blown trial. This Court, therefore, has no reason to discuss further the factual and legal issues raised by petitioner, lest it arrogates upon itself jurisdiction over the merits of the case, which is better left to the trial court.

Anent the prayer for issuance of a TRO and/or injunction, this Court denies the same.

Under Sec. 5, Rule 58 of the 1997 Rules of Civil Procedure, a TRO may be issued only if it appears from the facts shown by affidavits or by the

⁴ *Judge Angeles v. Hon. Gaité*, 620 Phil. 422, 440 (2009).

⁵ *Id.*

⁶ *Id.*

⁷ *Gonzales v. CA*, G.R. No. 234485, December 11, 2017 (Notice).

⁸ *Id.*

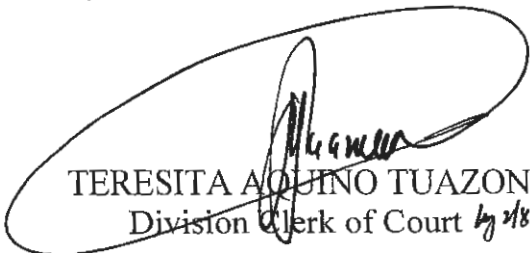
verified application that great or irreparable injury would result to the applicant before the writ of preliminary injunction could be heard.⁹ As discussed in *Solid Builders, Inc. v. China Banking Corp.*,¹⁰ “[a]n injury is considered irreparable if it is of such constant and frequent recurrence that no fair or reasonable redress can be had therefore in a court of law, or where there is no standard by which their amount can be measured with reasonable accuracy, that is, it is not susceptible of mathematical computation. The provisional remedy of preliminary injunction may be resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard of compensation.”¹¹ A clear and positive right especially calling for judicial protection must be established.¹²

A reading of the petition reveals that it merely contains general averments of alleged grave and irreparable injury which petitioner would suffer should an Information be filed against him. Verily, general allegations do not suffice. Contrary to petitioner’s assertions, neither the public nor petitioner would suffer any grave and irreparable injury since petitioner is not without any redress. Upon the filing of the Information, petitioner has a plethora of remedies available to him.

WHEREFORE, the petition is **DISMISSED**. The March 14, 2019 Resolution and September 18, 2019 Joint Order of the Office of the Ombudsman are **AFFIRMED**. Let the corresponding Information be filed before the proper court.

SO ORDERED. (Rosario, *J.*, designated additional member per Special Order No. 2797 dated November 5, 2020)”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by 2/8*

⁹ *Solid Builders, Inc. v. China Banking Corp.*, 708 Phil. 96, 113 (2013).

¹⁰ *Solid Builders, Inc. v. China Banking Corp.*, 708 Phil. 96 (2013).

¹¹ *Id.* at 118.

¹² *Almeida v. Court of Appeals*, 489 Phil. 648, 663 (2005).

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GR254856. 1/25/2021(145)URES *MLC*