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**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**JASON ALVARES PARAN,\***  
Petitioner,

**G.R. Nos. 200021-22**

**Present:**

- versus -

**CARPIO, J., Chairperson,**  
**CAGUIOA,**  
**REYES, J. JR.,**  
**LAZARO-JAVIER, and**  
**ZALAMEDA, JJ.**

**ERLINDA MANGUIAT and THE  
OFFICE OF THE OMBUDSMAN,**  
Respondents.

**Promulgated:**

**28 AUG 2019**

X ----- X

**DECISION**

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

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court which seeks to reverse and set aside the Office of the Ombudsman's Decision<sup>1</sup> dated March 16, 2011, and Order<sup>2</sup> dated October 4, 2011 in OMB-L-A-08-0432-G, an administrative case for Dishonesty, Grave Misconduct, Oppression, and Conduct Prejudicial to the Best Interest of the Service, as well as the Resolution<sup>3</sup> dated March 16, 2011, and the Order<sup>4</sup> dated October 4, 2011 in OMB-L-C-08-0520-G, which found probable cause to indict herein petitioner SPO1 Jayson Alvares Paran (SPO1 Paran) for the crime of Perjury.

\* Also referred to as SPO1 Jayson Alvarez Paran in some portions of the *rollo*.  
<sup>1</sup> Penned by Graft Investigation and Prosecution Officer I Eleanor Saguil Payao, recommended for approval by Acting Director Joaquin Payao, recommended and approved by Deputy Ombudsman for Luzon Mark E. Jalandoni.  
<sup>2</sup> Id. at 241-246.  
<sup>3</sup> Id. 217-229.  
<sup>4</sup> Id. at 247-252.

### The Facts

On March 22, 2008, between 10:00 p.m. and 11:00 p.m., a Barangay (Brgy.) Tanod from Brgy. Solis, Municipality of Balete, Province of Batangas, visited the Balete Police Station and reported that a dead person was found lying on the street of Brgy. Solis. SPO2 Melencio Landicho (SPO2 Landicho), SPO1 Paran, and three more policemen stationed at the Balete Police Station, proceeded to the alleged crime scene to verify the report. In Brgy. Solis, the policemen found the lifeless body of Damiano M. Manguiat (Damiano) sprawled on the roadside near the store of Brgy. Captain Vicente Bathan (Brgy. Captain Bathan), the Brgy. Captain of Brgy. Solis. Later, the policemen found the cadaver of Damiano's older brother, Victorio M. Manguiat (Victorio), in the forest.

On April 4, 2008, Erlinda B. Manguiat (Erlinda), the widow of Damiano, filed an Amended Complaint-Affidavit<sup>5</sup> wherein she accused Brgy. Captain Bathan and six other persons for the killing of Damiano and Victorio. In her complaint, Erlinda alleged that on the night of March 22, 2008, she asked his sons, Lary Manguiat (Lary) and Dennis Manguiat (Dennis) to fetch their father and uncle at the house of a certain "Lando." However, when his sons returned, they told her that they saw Brgy. Capt. Bathan, together with several *barangay tanods* and private persons, mauling and shooting Damiano and Victorio. For fear that they would suffer the same fate, Lary and Dennis bitterly decided to leave their loved ones and fled. Attached to Erlinda's complaint-affidavit are the respective affidavits of Lary<sup>6</sup> and Dennis.<sup>7</sup>

On May 30, 2008, SPO1 Paran executed an affidavit<sup>8</sup> wherein he declared that at dawn of March 23, 2008, after their investigation at the crime scene, he and SPO2 Landicho went to Lary's house to inform the latter of his father's death. He stated that he personally informed Lary that his father was killed; and that Lary replied by saying "*siningil agad si itay?*" The said affidavit was sworn and submitted to the Office of the City Prosecutor of Tanauan City, Batangas.

On June 11, 2008, Erlinda<sup>9</sup> and Lary<sup>10</sup> filed their respective affidavits to belie the statements made by SPO1 Paran in his affidavit. Lary, in particular, claimed that he does not know and that never talked to SPO1 Paran. He stated that SPO2 Landicho was the only one who went to, and talked to him in his house on March 23, 2008, at around 2:00 a.m. He

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<sup>5</sup> Id. at 42-47.

<sup>6</sup> Id. at 60-61.

<sup>7</sup> Id. at 62-63.

<sup>8</sup> Id. at 30-31.

<sup>9</sup> Id. at 112-114.

<sup>10</sup> Id. at 115-116.

claimed, however, that he told SPO2 Landicho that he already knew what happened to his father.

On July 9, 2008, Erlinda filed before the Ombudsman an administrative complaint for Dishonesty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Oppression, and a criminal complaint for Perjury against SPO1 Paran.<sup>11</sup>

### ***Ruling of the Ombudsman***

In OMB-L-A-08-0432-G, the Ombudsman, in its Decision dated March 16, 2011, found SPO1 Paran guilty of Simple Dishonesty. He was suspended from office for a period of one month and one day, without pay. SPO1 Paran moved for reconsideration, but the same was denied by the Ombudsman in its October 4, 2011 Resolution.

In OMB-L-C-08-0520-G, the Ombudsman, in its Resolution dated March 16, 2011, ruled that there is probable cause to believe that SPO1 Paran committed the crime of Perjury. Thus, it recommended the filing of an Information for the crime of Perjury against SPO1 Paran with the appropriate court. The Ombudsman noted that the subject affidavit was sworn before, and submitted to the Office of the City Prosecutor. It also observed that the essence of SPO1 Paran's affidavit is to suggest that Lary's demeanor and/or actuation at the time he was allegedly informed of his father's and uncle's deaths were contrary to the behavior of a person who had just witnessed his family's killings. Consequently, SPO1 Paran's statement was executed upon a material matter as it legitimately affects Lary's credibility. It further opined that there was willfull and deliberate assertion of falsehood by SPO1 Paran. It found that Lary's statement that he never talked to SPO1 Paran was buttressed by SPO2 Landicho who, in his affidavit<sup>12</sup> dated August 13, 2008, declared that he was the only one who talked to Lary. Thus, there is cause to believe that all of the elements of Perjury were present.

SPO1 Paran moved for reconsideration, but the same was denied by the Ombudsman in its Order dated October 4, 2011.

Hence, this petition.

### **The Issues**

#### **I**

**WHETHER THE OMBUDSMAN GRAVELY ABUSED ITS DISCRETION WHEN IT FOUND SPO1 PARAN GUILTY OF DISHONESTY AND ORDERED HIS SUSPENSION FOR 1 MONTH AND 1 DAY WITHOUT PAY.**

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<sup>11</sup> Id. at 34-40.

<sup>12</sup> Id. at 32-33.

**II****WHETHER THE OMBUDSMAN SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT SPO1 PARAN COMMITTED THE CRIME OF PERJURY.**

SPO1 Paran insists that the statements he made in the subject affidavit are true claiming that SPO2 Landicho's affidavit effectively corroborated his statements. He points out that even if it was SPO2 Landicho who informed Lary of his father's death, it would be immaterial to the issue of whether Lary indeed witnessed the killing of his father and uncle.

In its Comment,<sup>13</sup> the Office of the Solicitor General avers that the instant petition must be denied for the following reasons: *first*, the decisions and resolutions of the Ombudsman in administrative cases may be appealed to the Court of Appeals (CA) under Rule 43 of the Rules of Court, and may not be directly elevated to this Court; and *second*, the Ombudsman did not err when it found probable cause against SPO1 Paran for the crime of Perjury as the evidence sufficiently shows that more likely than not the crime of Perjury has been committed and there is enough reason to believe it was committed by SPO1 Paran.

**The Court's Ruling**

At the onset, the Court notes that SPO1 Paran indeed availed of the wrong remedy which necessitates the denial of this petition.

It must be stressed that a petition for review on *certiorari* under Rule 45 is limited only to questions of law. Factual questions are not the proper subject of an appeal by *certiorari*.<sup>14</sup> "A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts."<sup>15</sup> A question of fact requires the court to review the truthfulness or falsity of the allegations of the parties.<sup>16</sup>

In this case, SPO1 Paran's main argument that he did not lie in his affidavit is obviously a question of fact. Indeed, an examination of the said allegation would be necessary to determine whether it is true or not. Clearly, this question is not proper in a petition for review on *certiorari*.

Further, it is settled that appeals from the decisions of the Ombudsman in administrative disciplinary cases should be elevated to the

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<sup>13</sup> Id. at 273-297.

<sup>14</sup> *Miro v. Vda. De Erederos*, 721 Phil. 772, 785 (2013).

<sup>15</sup> *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 767 (2013).

<sup>16</sup> *Pascual v. Burgos*, 776 Phil. 167, 183 (2016).

CA under Rule 43 of the Rules of Court.<sup>17</sup> It is clear that OMB-L-A-08-0432-G involves an administrative disciplinary case. As such, the decision and order therein should have been taken to the CA under Rule 43 and not directly to this Court. For failure to comply with this elementary procedural rule, the present petition, or at least the portion which seeks redress to the administrative case, must be denied.

Likewise, it is also settled that the proper remedy in cases in which it is alleged that the Ombudsman has acted with grave abuse of discretion amounting to lack or excess of jurisdiction in its adjudication of criminal cases is a petition for *certiorari* under Rule 65 filed before this Court.<sup>18</sup> In this case, SPO1 Paran alleges that the Ombudsman committed grave abuse of discretion when it found probable cause to indict him with the crime of Perjury. Very clearly, SPO1 Paran availed of the wrong remedy when he filed the present petition for review on *certiorari* under Rule 45. And even if the present petition could be considered as one filed under Rule 65, the Court would still have to dismiss the same.

Jurisprudence has defined the term “grave abuse of discretion” in the following manner:

x x x the capricious and whimsical exercise of judgment that is so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.<sup>19</sup>

In a petition for *certiorari* under Rule 65, the petitioner has the duty to establish that the respondent court or tribunal is guilty of grave abuse of discretion by showing that it acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.<sup>20</sup>

The Court opines that SPO1 Paran failed to show that the Ombudsman committed grave abuse of discretion.

The Ombudsman’s powers to investigate and prosecute crimes allegedly committed by public officers or employees are plenary and unqualified.<sup>21</sup> Simply stated, the Ombudsman is empowered to determine whether there exists reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof and, thereafter, to

<sup>17</sup> *Macalalag v. Ombudsman*, 468 Phil. 918, 922 (2004).

<sup>18</sup> *Mendoza-Arce v. Office of the Ombudsman (Visayas)*, 430 Phil. 101, 112 (2002).

<sup>19</sup> *Congressman Garcia v. The Executive Secretary*, 602 Phil. 64, 78 (2009).

<sup>20</sup> *Malayang Manggagawa ng Stayfast Philippines, Inc. v. National Labor Relations Commission*, 716 Phil. 500, 515 (2013).

<sup>21</sup> *Office of the Ombudsman v. Atty. Valera*, 508 Phil. 672, 697 (2005); *Galario v. Office of the Ombudsman (Mindanao)*, 554 Phil. 86, 110 (2007).

file the corresponding information with the appropriate courts.<sup>22</sup> The Ombudsman's finding of probable cause is entitled to great respect absent a showing of grave abuse of discretion. For this reason, the Court would not normally interfere in the Ombudsman's exercise of discretion in determining probable cause.<sup>23</sup>

The term probable cause had been understood to mean a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged.<sup>24</sup> To determine if there exists a well-founded belief that a crime has been committed, and that the suspect is probably guilty thereof, the elements of the crime charged should, in all reasonable likelihood, be present.<sup>25</sup>

In this regard, the following are the elements of the crime of Perjury, to wit: (1) that the accused made a statement under oath or executed an affidavit upon a material matter; (2) that the statement or affidavit was made before a competent officer, authorized to receive and administer oath; (3) that in the statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and (4) that the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.<sup>26</sup>

In finding for probable cause, the Ombudsman in effect ruled that these elements of Perjury are likely present in this case. There is no compelling reason for the Court to interfere with these findings.

*First*, it is not disputed that SPO1 Paran executed an affidavit wherein he declared that he personally informed Lary that his father was killed. It is also not disputed that SPO1 Paran executed the said affidavit after he learned that Lary executed an affidavit claiming that he witnessed how his father and uncle were killed. As observed by the Ombudsman, SPO1 Paran's affidavit in effect refuted the statements made by Lary by suggesting that the latter did not actually witness the incident and that in fact he was in shock at that time. The purpose of SPO1 Paran's affidavit, therefore, is to attack the credibility of Lary, who claims to be an eyewitness. Thus, there is reason to believe that SPO1 Paran's affidavit was executed upon a material matter.

*Second*, it is clear from SPO1 Paran's affidavit that the same was sworn before the Assistant Provincial Prosecutor of the Province of Batangas, a person authorized to receive an oath. Further, it is also clear that it was filed before the Office of the Provincial Prosecutor of Batangas in Tanauan City, Batangas.

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<sup>22</sup> *Judge Angeles v. Ombudsman Gutierrez*, 85 Phil. 183, 194 (2012).

<sup>23</sup> *Cam v. Casimiro*, 762 Phil. 72, 88 (2015).

<sup>24</sup> *Martinez v. People*, 703 Phil. 609, 617-618 (2013).

<sup>25</sup> *Aguilar v. Department of Justice*, 717 Phil. 789, 800 (2013).

<sup>26</sup> *Illusorio v. Bildner*, 595 Phil. 869, 880 (2008).

*Third*, there is reason to believe that SPO1 Paran made a willful and deliberate assertion of a falsehood in his affidavit. As pointed out by the Ombudsman, Lary's statement that he only talked with SPO2 Landicho, and no one else, was corroborated by SPO2 Landicho himself in his own affidavit. Further, contrary to SPO1 Paran's allegations, Lary's admission that SPO2 Landicho indeed went to his house on March 23, 2008 at around 2:00 a.m. did not automatically confirm his own insinuation that Lary's actuation at that time was of a person who was shocked to learn of his father's death rather than a person who had witnessed the incident.

In his affidavit, SPO2 Landicho stated that Lary did not immediately say anything after he told him of his father's demise. Instead, Lary only replied later that he will just go after them to Brgy. Solis. While it is true that Lary's reaction may be interpreted as shock, the same reaction may also be viewed in other ways, such as fear. Lary's reaction may even be interpreted as a realization, after confirmation by the police officers, that what he had witnessed was indeed the brutal killing of his father. What is clear is that Lary's response to SPO2 Landicho, as well as his initial non-response, are insufficient to conclude that Lary only learned of the incident from SPO2 Landicho. Consequently, the likelihood that SPO1 Paran deliberately lied in his affidavit to discredit the statements made by Lary still subsists.

This likelihood is sufficient for purposes of filing of the Information as probable cause need not be based on clear and convincing evidence or proof beyond reasonable doubt. It is enough that the pieces of evidence engenders a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof and should be held for trial.<sup>27</sup>

*Lastly*, it is clear that SPO1 Paran's affidavit was made for a legal purpose. After all, he would not have filed the subject affidavit before the Office of the Provincial Prosecutor of Batangas if this was not the case.

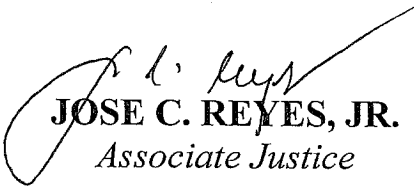
In fine, the Court opines that there is sufficient basis for the Ombudsman's finding of probable cause for Perjury against SPO1 Paran. Further, SPO1 Paran failed to show that the assailed Ombudsman resolution and order were tainted by grave abuse of discretion. Instead, the instant petition is bereft of any statement or sufficient allegation purportedly showing that the Ombudsman exercised its power in an arbitrary or despotic manner by reason of passion or hostility. Consequently, the instant petition must be denied.

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<sup>27</sup> *AAA v. Judge Carbonell*, 551 Phil. 936, 950 (2007).


**WHEREFORE**, the present petition for review on *certiorari* is **DENIED** for lack of merit.

**SO ORDERED.**

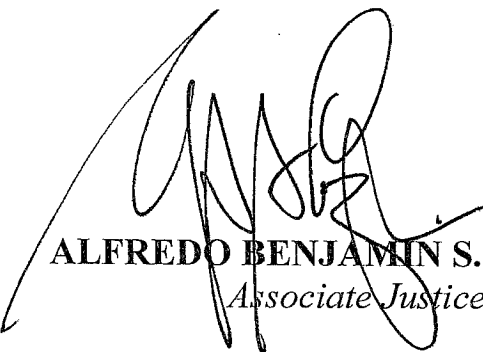


**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**



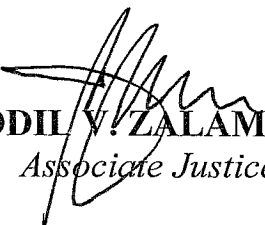
**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*




**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**RODIL V. ZALAMEDA**  
*Associate Justice*

**ATTESTATION**

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

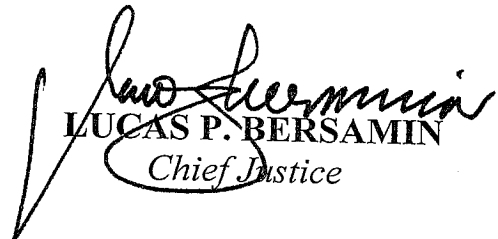


**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson, Second Division*



**CERTIFICATION**

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

  
LUCAS P. BERSAMIN  
*Chief Justice*