



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 10 May 2021 which reads as follows:*

**“G.R. No. 239930 (*Atty. Frances Cynthia J. Guiani-Sayadi v. Office of the Ombudsman, Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices, and LTC. Ranulfo A. Sevilla, SG 25*). —** The Office of the Ombudsman is endowed with a wide latitude of investigatory and prosecutory prerogatives in the exercise of its power to pass upon criminal complaints. This Court generally does not interfere with the Ombudsman’s findings as to whether probable cause exists,<sup>1</sup> except: (a) to afford protection to the constitutional rights of the accused; (b) when necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions; (c) when there is a prejudicial question which is *sub judice*; (d) when the acts of the officer are without or in excess of authority; (e) where the prosecution is under an invalid law, ordinance or regulation; (f) when double jeopardy is clearly apparent; (g) where the court has no jurisdiction over the offense; (h) where it is a case of persecution rather than prosecution; and (i) where the charges are manifestly false and motivated by the lust for vengeance.<sup>2</sup> None of these instances exist in this case.

Perjury is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter.<sup>3</sup> The elements of perjury are as follows: (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. Notably, the presence of the first, second,

<sup>1</sup> See *Casing v. Hon. Ombudsman*, 687 Phil. 468, 475-476 (2012).

<sup>2</sup> *Vergara v. Hon. Ombudsman*, 600 Phil. 26, 42 (2009).

<sup>3</sup> *Monfort III v. Salvatierra*, 546 Phil. 274, 287 (2007). See also Article 183 of the REVISED PENAL CODE.

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and fourth elements are undisputed. The alleged untruthful statements in the disbarment complaint were made under oath; the disbarment complaint was subscribed and sworn to before an officer authorized to administer oaths; and the disbarment complaint was made for a legal purpose, that is, to make a lawyer accountable for alleged violations of the Lawyer's Oath and the Code of Professional Responsibility.

Yet, petitioner Atty. Frances Cynthia J. Guiani-Sayadi (Atty. Sayadi) failed to establish the third element of perjury which requires that the accused had "willfully" and "deliberately" asserted a falsehood. A mere assertion of a false objective fact is not sufficient. The assertion must be deliberate and willful. There must be malice on the part of the accused since perjury is a felony by *dolo*. The term "willfully" means intentionally; with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intention that it should be received as a statement of what was true in fact. It is equivalent to "knowingly." The term "deliberately" implies meditated – as distinguished from inadvertent – acts. It must appear that the accused knows his statement to be false or was consciously ignorant of its truth.<sup>4</sup>

Here, accused LTC. Ranulfo A. Sevilla (Sevilla) merely stated an objective fact that the search team did not receive a copy of the motion to quash, and that they were blindsided when they received the trial court's Order granting the motion. This was indeed the precise ground raised by the Criminal Investigation and Detection Group (CIDG) in its motion for reconsideration from the trial court's Order granting the motion to quash, to wit:

The PNP CIDG, more particularly, the applicant herein, ARMMCIDU has the right also to due process of law. With all due respect to this Honorable Court, we hereby move for the reconsideration of the cited Order for the simple reason that we were caught by surprised [*sic*] of this very unfortunate development. Our office was not officially notified of [a]ny Motion to Quash filed by the respondents before this Honorable Court for its consideration and approval and if we were notified of any hearing on this motion, we would have seasonably opposed the same. Undeniably, [our] office[,] being the representative of the state in these cases, is entitled to process of the law.<sup>5</sup>

Sevilla's statement is also based on the Chronology of Events submitted to the CIDG Director, as part of its request for legal assistance, in which no mention was made as to the receipt of a motion to quash from Atty. Sayadi.<sup>6</sup> Verily, Sevilla's statement that Atty. Sayadi did not furnish the search team with a copy of the motion to quash is a true objective fact that is based on actual circumstances and verifiable documents. Sevilla's reliance on these factors negates willful and deliberate assertions of

<sup>4</sup> *Villanueva v. The Hon. Secretary of Justice*, 512 Phil. 145, 161 (2005).

<sup>5</sup> *Rollo*, p. 62. Paragraph 24.4 of respondent Sevilla's Counter-Affidavit.

<sup>6</sup> *Id.*

falsehood. Meanwhile, Sevilla's assertion that Atty. Sayadi deceived the trial court was merely his personal judgment or opinion drawn from the facts and circumstances attending the case. Sevilla's opinion may have insinuated distrust on the character of Atty. Sayadi, but such judgment or opinion cannot be taken as an intentional false statement of facts.<sup>7</sup>

On the same note, no legal malice or evil intent can be attributed to Sevilla's assertion regarding Atty. Sayadi's alleged intervention in the operations of the Philippine Army to secure the release of Mustapha Saripada Lauban, Ruben Montes *a.k.a.* Black Moro, and Domingo Jaleco. Sevilla based his assertion on the validated intelligence report of the military. In any case, without regard to the truth or integrity of the intelligence report, the key point is that Sevilla's statement is grounded on some form of evidence which he believed to be true. Also, Sevilla's claim that it was the CIDG that conducted the search is based on official records, such as the Judicial Affidavit of Apprehension, Certification of Legal, Peaceful and Orderly Execution of Search Warrant, and the Affidavits of Seizure. These are official records executed in the performance of the official duty of the officer concerned; hence, they can be relied upon as evidence of the facts stated therein. Sevilla's reliance on these records is evidence of good faith and belies malice.

In sum, there is grave abuse of discretion where power is exercised in arbitrary or despotic manner by reason of passion or hostility. The abuse must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty or to act at all in contemplation of law.<sup>8</sup> No such conduct can be imputed on the Ombudsman who disposed of the complaint consistent with applicable law.

**FOR THESE REASONS,** the Petition for *Certiorari* is **DISMISSED.**

**SO ORDERED.**" (J. Lopez, J., *designated additional Member per Special Order No. 2822 dated April 7, 2021.*)

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<sup>7</sup> *Masangkay v. People*, 635 Phil. 220, 241 (2010).

<sup>8</sup> *Acuña v. Deputy Ombudsman for Luzon*, 490 Phil. 640, 653 (2005).

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

28 JUL 2021

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