



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OFFICE OF THE OMBUDSMAN,

G.R. No. 173277

Petitioner,

Present:

- versus -

CARPIO, J., *Chairperson*,
VELASCO, JR.,*
VILLARAMA, JR.,**
MENDOZA, and
LEONEN, JJ.

PRUDENCIO C. QUIMBO,
COURT OF APPEALS, 20TH
DIVISION, CEBU CITY,

Promulgated:

Respondents.

25 FEB 2015 *HM Katala*

X ----- X

DECISION

MENDOZA, J.:

This petition for *certiorari* under Rule 65 of the Rules of Court assails the May 2, 2006 Resolution¹ of the Court of Appeals (CA), in CA-G.R. SP No. 54737, which denied the motion for intervention and reconsideration of its January 21, 2005 Decision,² filed by petitioner Office of the Ombudsman (*Ombudsman*).

* Designated Acting member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1910, dated January 12, 2015.

* Designated additional member in lieu of Associate Justice Mariano C. Del Castillo, who recused himself from the case due to prior action in the Court of Appeals, per Raffle dated October 20, 2014.

¹ *Rollo*, pp. 37-39. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Ramon M. Bato, Jr. and Apolinario D. Bruselas, Jr., concurring.

² *Id.* at 40-46. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Sesonando E. Villon and Ramon M. Bato, Jr., concurring.

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The Antecedents

The present controversy stemmed from the administrative complaint lodged by Gilda D. Daradal (*Daradal*), a clerk in the Provincial Engineering Office of Catbalogan, Samar, against private respondent Engr. Prudencio C. Quimbo (*Quimbo*), Provincial Engineer of Samar, with the Office of the Ombudsman-Visayas (*Ombudsman-Visayas*) for Sexual Harassment and Oppression, docketed as OMB-VIS-ADM-96-04846.

In her complaint, Daradal alleged that on July 19, 1996, at about 10:00 o'clock in the morning at the Motor Pool Division of the Provincial Engineering Department, Catbalogan, Samar, Quimbo asked her to massage his forehead and nape. In the course thereof, he said, "*You had been lying to me you have already seen my manhood. When shall I have to see yours?*" She was appalled as the utterance was made in the presence of her co-employees. She added that by virtue of a Memorandum,³ dated August 6, 1996, Quimbo ordered her detail to the Civil Service Commission in Catbalogan, Samar, to perform the tasks of a male utility personnel. Her name was removed from the payroll of the personnel of the Provincial Engineering Office from August 16-31, 1996 because of her refusal to submit to his sexual advances.

In his defense, Quimbo retorted that the charge instituted against him was fictitious. He claimed that Daradal enjoyed a "very important person" (*VIP*) treatment for a long period of time and, when required to work, rebelled against him. He asserted that the charge of sexual harassment and oppression was intended to embarrass and ridicule him and that the discretion to order her detail was validly exercised.

On March 26, 1996, Daradal filed a motion for withdrawal of the complaint. The motion, however, was denied by the Ombudsman-Visayas in its Order, dated August 11, 1998.

The Ombudsman-Visayas' Ruling

On December 9, 1998, after due proceedings, the Ombudsman-Visayas issued a resolution⁴ dismissing the case of sexual harassment against Quimbo but finding him guilty of oppression. The Ombudsman-

³ Id. at 138.

⁴ Id. at 47-49.

Visayas imposed the penalty of suspension for six (6) months without pay. The dispositive portion of the said resolution reads:

WHEREFORE, in the light of all the foregoing, this Office finds Prudencio C. Quimbo, guilty of Oppression, thus mete upon him, the penalty of SUSPENSION for SIX (6) MONTHS without pay, in accordance with Memorandum Circular No. 30, Series of 1989 of the Civil Service Commission.

SO RESOLVED.⁵

Engr. Quimbo moved for reconsideration but his motion was denied by the Ombudsman-Visayas in its Order,⁶ dated April 15, 1999.

The CA Ruling

Aggrieved, Quimbo elevated the case before the CA by way of a petition for review under Rule 43 of the Rules of Court. The case, entitled "*Prudencio C. Quimbo vs. Gilda D. Daradal*," was docketed as CA-G.R. SP No. 54737.

On January 21, 2005, the CA *reversed* the December 9, 1998 Resolution and the April 15, 1999 Order of the Ombudsman-Visayas. In reversing the said ruling, the CA ratiocinated:

The Office of the Ombudsman has no power to directly impose sanctions against government officials and employees who are subject of its investigation as its power is only limited to recommend the appropriate sanctions but not directly to impose the same.

In *Tapiador vs. Office of the Ombudsman*, the Supreme Court pronounced:

"x x x

Besides, assuming arguendo, that petitioner were (*sic*) administratively liable, the Ombudsman has no authority to directly dismiss the petitioner from the government service, more particularly from his position in the BID. Under Section 13, subparagraph (3) of Article XI of the 1987 Constitution, the Ombudsman can only "recommend" the removal of the public official

⁵ Id. at 49.

⁶ Id. at 66-68.

or employee found to be at fault, to the public official concerned.

x x x”

There is no gainsaying the fact that the Office of the Ombudsman is vested with the jurisdiction to take cognizance of cases for the purpose of ascertaining whether or not public servants have committed administrative offenses. However, their power is only to *recommend* to the disciplining authority the appropriate penalty to be meted out and it is best left to the proper disciplining authority to impose such penalty, which in this case is the Office of the Governor of the Province of Samar.⁷

Accordingly, the *fallo* of the January 21, 2005 Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **GRANTING** the petition filed in this case and **SETTING ASIDE** the Resolution dated December 9, 1998 and the Order dated April 15, 1999 issued by the Office of the Ombudsman in OMB-VIS-ADM-96-0486 in so far as it directly imposes upon the petitioner the penalty of suspension from the service.

IT IS SO ORDERED.⁸

On February 14, 2005, the Ombudsman filed an omnibus motion for intervention and reconsideration of the CA decision, dated January 21, 2005.

In its Resolution,⁹ dated May 2, 2006, the CA denied the said motion. In so doing, the CA explained:

For one, we have noted that the person adversely affected by our ruling in SP No. 54737 is respondent Gilda D. Daradal who opted not to file a motion for reconsideration thereof. Basic is the rule that “every action must be prosecuted or defended in the name of the real party in interest.”

x x x x.

For another, as a quasi-judicial body, the office of the Ombudsman can be likened to a judge who should ‘detach himself from cases where his decision is appealed to a higher court for review.

⁷ Citations omitted.

⁸ *Rollo*, p. 45.

⁹ *Id.* at 37-39.

In filing a motion for intervention and reconsideration, the Ombudsman dangerously departed from its role as adjudicator and became an advocate. Its mandated function is to hear, investigate and decide administrative and appropriate criminal cases against public official[s] or employee[s] instituted by or brought before it directly, and not to litigate. Therefore, we rule that the Office of the Ombudsman has no legal standing to intervene in the case at bench.

x x x x

Not in conformity with the pronouncement of the CA, the Ombudsman instituted a petition for *certiorari* under Rule 65 of the Rules of Court alleging grave abuse of discretion amounting to lack of or in excess of jurisdiction on the part of the CA. It posited that there was no appeal or any plain, speedy and adequate remedy in the ordinary course of law to challenge the validity of the assailed CA Resolution, dated May 2, 2005. Thus, it was constrained to resort to the filing of the said petition.

The Ombudsman's Position

In its Memorandum,¹⁰ the Ombudsman stressed that, as the champion of the people, it had the right and legal interest to seek redress on the apparent erroneous reversal by the CA of its decision in an administrative disciplinary case. It insisted that, as the disciplining authority, it has the power and prerogative to directly impose any administrative penalty. It asserted that the *obiter dictum* in the case of *Tapiador v. Office of the Ombudsman (Tapiador)*¹¹ heavily relied upon by the CA, to declare its disciplinary powers as merely recommendatory had been rejected by the Court in numerous cases.

Respondent Quimbo's Position

In his Memorandum,¹² Quimbo contended that the Ombudsman had no legal standing to intervene or to seek reconsideration of the assailed CA decision because the real party in interest was Daradal. He further stated that the assailed CA decision was based on prevailing jurisprudence at the time the said decision was rendered.

¹⁰ Id. at 297-325.

¹¹ 429 Phil. 47 (2002).

¹² *Rollo*, pp. 276-296.

ISSUES

Based on the parties' respective contentions, the issues for this Court's resolution are as follows:

- I. Whether the CA gravely abused its discretion in declaring that the Ombudsman lacks the power to directly impose administrative penalties against erring public officials or employees.
- II. Whether the CA gravely abused its discretion in denying the Ombudsman's plea to validly intervene in its proceedings for lack of legal interest.

The Court's Ruling

The Court grants the Ombudsman's petition.

Preliminary matters

The Ombudsman has the power to directly impose administrative penalties against public officials or employees.

In the case of *Ombudsman v. Apolonio*,¹³ the Court categorically delineated the Ombudsman's power to directly impose, not merely recommend, administrative sanctions against erring public officials or employees, viz:

The Ombudsman has the power to impose the penalty of removal, suspension, demotion, fine, censure, or prosecution of a public officer or employee, in the exercise of its administrative disciplinary authority. The challenge to the Ombudsman's power to impose these penalties, on the allegation that the Constitution only grants it recommendatory powers, had already been rejected by this Court.

The Court first rejected this interpretation in *Ledesma v. Court of Appeals*, where the Court, speaking through Mme. Justice Ynares-Santiago, held:

¹³ G.R. No. 165132, March 7, 2012, 667 SCRA 583, 592-594.

The creation of the Office of the Ombudsman is a unique feature of the 1987 Constitution. The Ombudsman and his deputies, as protectors of the people, are mandated to act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. Foremost among its powers is the authority to investigate and prosecute cases involving public officers and employees, thus:

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

- (1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

Republic Act No. 6770, otherwise known as The Ombudsman Act of 1989, was passed into law on November 17, 1989 and provided for the structural and functional organization of the Office of the Ombudsman. RA 6770 mandated the Ombudsman and his deputies not only to act promptly on complaints but also to enforce the administrative, civil and criminal liability of government officers and employees in every case where the evidence warrants to promote efficient service by the Government to the people.

The authority of the Ombudsman to conduct administrative investigations as in the present case is settled. Section 19 of RA 6770 provides:

SEC. 19. Administrative Complaints. – The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.

The point of contention is the binding power of any decision or order that emanates from the Office of the Ombudsman after it has conducted its investigation. Under Section 13(3) of Article XI of the 1987 Constitution, it is provided:

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

x x x x

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and *recommend* his removal, suspension, demotion, fine, censure, or prosecution, and *ensure compliance therewith*. (Emphasis, underscoring and italization in the original.)

In *Ledesma v. Court of Appeals (Ledesma)*,¹⁴ the Court definitively stated that the statement in *Tapiador* regarding the Ombudsman's power was merely an *obiter dictum* and, as such, could not be cited as a doctrinal pronouncement. Thus:

x x x [A] cursory reading of *Tapiador* reveals that the main point of the case was the failure of the complainant therein to present substantial evidence to prove the charges of the administrative case. The statement that made reference to the power of the Ombudsman is, at best, merely an *obiter dictum* and, as it is unsupported by sufficient explanation, is susceptible to varying interpretations, as what precisely is before us in this case. Hence, it cannot be cited as a doctrinal declaration of this Court nor is it safe from judicial examination.

The import of the *Ledesma* ruling is crystal clear. Although the tenor of the text in Section 13(3), Article XI¹⁵ of the Constitution merely indicates a "recommendatory" function, this does not divest Congress of its plenary legislative power to vest the Ombudsman powers beyond those stated in the Constitutional provision. Pursuant to Republic Act (R.A.) No. 6770, otherwise known as The Ombudsman Act of 1989, the Ombudsman is legally authorized to directly impose administrative penalties against errant public servants. Further, the manifest intent of the lawmakers was to bestow on the Ombudsman full administrative disciplinary authority in accord with the constitutional deliberations. Unlike the Ombudsman-like agencies of the

¹⁴ 503 Phil. 396 (2005).

¹⁵ Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

x x x x

3. Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.

past, the powers of which extend to no more than making findings of fact and recommendations, and the Ombudsman or *Tanodbayan* under the 1973 Constitution who might file and prosecute criminal, civil or administrative cases against public officials and employees only in cases of failure of justice, the current Ombudsman, under the 1987 Constitution and R.A. No. 6770, is intended to play a more active role in the enforcement of laws on anti-graft and corrupt practices and other offenses committed by public officers and employees. The Ombudsman is to be an “activist watchman,” not merely a passive one. He is vested with broad powers to enable him to implement his own actions.¹⁶

The Ombudsman has the legal interest to intervene in the proceedings before the CA.

The issue of whether or not the Ombudsman possesses the requisite legal interest to intervene in the proceedings where its decision is at risk of being inappropriately impaired has been laid to rest in *Ombudsman v. De Chavez*.¹⁷ In the said case, the Court conclusively ruled that even if the Ombudsman was not impleaded as a party in the proceedings, part of its broad powers include defending its decisions before the CA. And pursuant to Section 1 of Rule 19 of the Rules of Court,¹⁸ the Ombudsman may validly intervene in the said proceedings as its legal interest on the matter is beyond cavil. The Court elucidated, thus:

x x x the Ombudsman is in a league of its own. It is different from other investigatory and prosecutory agencies of the government because the people under its jurisdiction are public officials who, through pressure and influence, can quash, delay or dismiss investigations directed against them. Its function is critical because public interest (in the accountability of public officers and employees) is at stake.

x x x

The Office of the Ombudsman sufficiently alleged its legal interest in the subject matter of litigation. Paragraph 2 of its motion for intervention and to admit the attached motion to recall writ of preliminary injunction averred:

¹⁶ *Ombudsman v. Masing*, 566 Phil. 253, 268-269 (2008).

¹⁷ G.R. No. 172206, July 3, 2013, 700 SCRA 399, 404-406, citing *Ombudsman v. Samaniego*, 586 Phil. 497 (2008).

¹⁸ Section 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

“2. As a competent disciplining body, the Ombudsman has the right to seek redress on the apparently erroneous issuance by this Honorable Court of the Writ of Preliminary Injunction enjoining the implementation of the Ombudsman's Joint Decision x x x x.”

In asserting that it was a "competent disciplining body," the Office of the Ombudsman correctly summed up its legal interest in the matter in controversy. In support of its claim, it invoked its role as a constitutionally mandated "protector of the people," a disciplinary authority vested with quasi-judicial function to resolve administrative disciplinary cases against public officials. To hold otherwise would have been tantamount to abdicating its salutary functions as the guardian of public trust and accountability.

Moreover, the Office of the Ombudsman had a clear legal interest in the inquiry into whether respondent committed acts constituting grave misconduct, an offense punishable under the Uniform Rules in Administrative Cases in the Civil Service. It was in keeping with its duty to act as a champion of the people and preserve the integrity of public service that petitioner had to be given the opportunity to act fully within the parameters of its authority.

It is true that under our rule on intervention, the allowance or disallowance of a motion to intervene is left to the sound discretion of the court after a consideration of the appropriate circumstances. However, such discretion is not without limitations. One of the limits in the exercise of such discretion is that it must not be exercised in disregard of law and the Constitution. The CA should have considered the nature of the Ombudsman's powers as provided in the Constitution and RA 6770.

x x x x

Both the CA and respondent likened the Office of the Ombudsman to a judge whose decision was in question. This was a tad too simplistic (or perhaps even rather disdainful) of the power, duties and functions of the Office of the Ombudsman. *The Office of the Ombudsman cannot be detached, disinterested and neutral specially when defending its decisions. Moreover, in administrative cases against government personnel, the offense is committed against the government and public interest.* What further proof of a direct constitutional and legal interest in the accountability of public officers is necessary? (Italics supplied. Citations omitted.)

As can be gleaned from the foregoing disquisition, the CA, in the present case, gravely erred in disallowing the Ombudsman's motion to intervene. It failed to consider the essence of the Ombudsman's constitutionally and statutorily conferred powers establishing its clear legal interest in ensuring that its directive be implemented.

Substantive Aspect

Significantly, Section A, Subsection 13 of Civil Service Commission Memorandum Circular No. 30, series of 1989 (*CSC MC No. 30*), the applicable rule then, expressly provides:

A. Grave Offenses

x x x x

13. Oppression


1st Offense – Suspension for six (6) months and one (1) day to one (1) year;

2nd Offense – Dismissal.

In the present case, the Ombudsman found Quimbo administratively liable for the grave offense of Oppression and correspondingly meted out a penalty of suspension for six (6) months without pay. While his administrative liability for Oppression is undisputed, it behooves the Court to adjust the penalty imposed upon him to conform to CSC MC No. 30. Accordingly, the Court finds it necessary to modify the penalty to suspension for six (6) months and one (1) day without pay to accurately reflect the classification of the offense for which he was found liable.

WHEREFORE, the petition is **GRANTED**. The January 21, 2005 Decision and the May 2, 2006 Resolution of the Court of Appeals, Cebu City in CA-G.R. SP No. 54737 are hereby **NULLIFIED** and **SET ASIDE**. The December 9, 1998 Resolution and the April 15, 1999 Order of the Office of the Ombudsman, in OMB-VIS-ADM-96-0486, are hereby **REINSTATED with MODIFICATION** that the penalty of **SUSPENSION** to be imposed upon Prudencio C. Quimbo be for **SIX (6) MONTHS** and **ONE (1) DAY** without pay.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson



PRESBITERO J. VELASCO, JR.

Associate Justice



MARTIN S. VILLARAMA, JR.

Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

A T T E S T A T I O N

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



ANTONIO T. CARPIO

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 Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice