

****Title:****

Buenaseda vs. Flavier, G.R. No. 106719, September 21, 1993

****Facts:****

This case involves a Petition for Certiorari, Prohibition, and Mandamus, with Prayer for Preliminary Injunction or Temporary Restraining Order under Rule 65 of the Revised Rules of Court. The petitioners, Dra. Brigida S. Buenaseda (Chief of Hospital III), Lt. Col. Isabelo Banez, Jr. (Administrative Officer III), Engr. Conrado Rey Matias (Technical Assistant to the Chief of Hospital), Ms. Cora S. Solis (Accountant III), and Ms. Enya N. Lopez (Supply Officer III), all of the National Center for Mental Health (NCMH), sought to nullify an Order dated January 7, 1992, issued by the Ombudsman. This order directed their preventive suspension due to charges of violating the Anti-Graft and Corrupt Practices Act filed by the NCMH Nurses Association, represented by Raoulito Gayutin.

Procedurally, the case has seen a series of filings:

1. On September 10, 1992, the Supreme Court required the respondents to comment on the petition.
2. On September 14 and 22, 1992, the petitioners filed "Supplemental Petitions" and an "Urgent Supplemental Manifestation" noting further developments and emphasizing the urgency for the issuance of a preliminary injunction or TRO.
3. On September 22, 1992, the Court ordered the respondents to maintain the status quo pending further comments.
4. On September 29, 1992, the petitioners moved to enforce the September 22 Resolution.
5. On October 1, 1992, the Court required the Health Secretary to comment on the petitioners' motion.
6. On September 29, 1992, respondent NCMH Nurses Association filed an "Omnibus Submission" including a motion to hold the petitioners' lawyers in contempt and for disbarment.
7. On November 11, 1992, the petitioners further filed a manifesto reiterating the plea to compel the Health Secretary to comply with the status quo resolution.
8. On November 13, 1992, the Solicitor General commented, accusing the respondents of non-compliance with the status quo resolution.
9. On November 26, 1992, the Court ordered the restoration of the petitioners to their positions and for the respondents to maintain the status quo until further orders.
10. On December 9, 1992, the Solicitor General submitted that the Ombudsman only has the

authority to recommend suspension unless specific conditions are met.

The crucial issue was whether the Ombudsman had the authority to issue preventive suspensions to non-Ombudsman office workers pending investigation.

****Issues:****

1. Whether the Ombudsman has the authority to preventively suspend government officials and employees from departments other than the Ombudsman's office during an administrative investigation.
2. Whether the proper legal procedures were followed by the Ombudsman in issuing the preventive suspension without prior opportunity for the petitioners to confront the charges against them.

****Court's Decision:****

The Supreme Court ruled:

1. ****Authority of the Ombudsman for Preventive Suspension****:

- The Court found that the Ombudsman has the authority under Section 24 of R.A. 6770 to preventively suspend any government official or employee pending investigation, irrespective of whether they belong to the Ombudsman's office or another department. This is decided under the conceptualization of preventive suspension as a procedural rather than a penal statute. The preventive suspension is an aid in the investigation to prevent tampering or destruction of evidence, intimidation of witnesses, etc.
- The argument by petitioners and the Solicitor General, that the Ombudsman only could recommend and not directly order preventive suspensions, was rejected. The Constitution differentiated between 'recommend' for punitive suspensions and implied direct authority for preventive suspensions, aligned with R.A. 6770.

2. ****Procedural Requirements****:

- The Court determined the Ombudsman can exercise his preventive suspension powers based on his judgment of strong evidence of guilt and other specified conditions without a full-blown hearing. The petitioners did have opportunities through submitting answers and participating in the preliminary conference to defend themselves. There, the conditions of strong evidence of guilt and threats to the investigation's integrity were deemed met.
- The Court found that the Ombudsman and his officers did not act with manifest partiality and bias, nor with grave abuse of discretion, given the procedural history and substantial

interactions taken into account before issuing preventive suspension.

****Doctrine:****

The Supreme Court confirmed that the Ombudsman has the power to preventively suspend government officials and employees from different departments than his own pending an ongoing investigation, based on Section 24 of R.A. 6770. Preventive suspension under administrative law is not considered punitive; it aids in ensuring the integrity of the investigation.

****Class Notes:****

1. ****Preventive Suspension****: Defined as non-penal, used to facilitate investigation.
2. ****Procedural Compliance****: Emphasized judgment-based initiation; sufficient procedural participation suffices.
3. ****Authority of Ombudsman****: Derived from R.A. 6770, cushion against potential administrative and investigatory impairments.
4. ****Constitutional Differentiation****: Punitive (recommendation) vs. Preventive (direct authority).

****Historical Background:****

Set against the backdrop of administrative reform and accountability in the post-People Power Revolution Philippines, this case underscores the institutional empowerment of the Ombudsman envisioned to combat corruption and bureaucratic malfeasance. The 1987 Constitution and R.A. 6770 signified a critical regulatory advance to enhance the graft watcher's capacity to maintain public sector integrity and responsiveness, embodying a rigorous oversight mechanism.