

**\*\*Title:\*\*** Tismo v. Office of the Ombudsman, Noor, and Felicia

**\*\*Facts:\*\***

On March 27, 2003, Alfred Larsen III sold Lot 4 located in Ala-e, Manolo Fortich, Bukidnon, to Basher Sarip Noor for P1,300,000.00 without the consent of his co-owners/siblings, Lily Evelyn Larsen-Tismo (Evelyn) and Douglas Roland Larsen (Douglas). Manuel Castrodes Felicia, Registrar of Deeds, canceled TCT No. T-9438 in the name of “ALFRED LARSEN III, ET AL.” and issued TCT No. T-88286 in the name of Noor. Accusing Alfred of fraudulent sale, Ronald Rey Tan Tismo (attorney-in-fact for Evelyn and Douglas) filed a case for recovery of ownership, quieting of title, annulment of deed/certificates/documents, and damages (Civil Case No. 13-02-117) in the RTC of Manolo Fortich on February 18, 2013.

Additionally, Ronald Rey Tan Tismo filed an Affidavit-Complaint with the Office of the Ombudsman against Noor and Felicia for violations of RA 3019 (Anti-Graft and Corrupt Practices Act) and RA 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) on May 13, 2015. Petitioner accused Noor of conspiring with Felicia to cancel TCT No. T-9438 without presenting the title’s owner’s duplicate copy and without paying necessary taxes. Noor denied the allegations, claiming good faith based on Alfred’s representation. Felicia claimed compliance based on Alfred’s affidavit of loss, later withdrawn.

In Joint Resolution dated October 26, 2015, and Joint Order dated June 20, 2016, the Ombudsman dismissed the complaints on the grounds of the existence of a prejudicial question (the pending civil case). Tismo sought reconsideration but was denied; thus, he escalated the case to the Supreme Court via a Petition for Certiorari under Rule 65.

**\*\*Issues:\*\***

1. Whether the Ombudsman committed grave abuse of discretion in dismissing the criminal and administrative aspects of the complaint based on the existence of a prejudicial question.
2. The appropriate remedy to assail the administrative aspect of the Ombudsman’s ruling.
3. Whether the criminal complaint should have been outrightly dismissed due to the prejudicial question, or merely suspended.

**\*\*Court’s Decision:\*\***

1. **\*\*Criminal Aspect (OMB-M-C-15-0171):\*\***

– **\*\*Grave Abuse of Discretion:\*\*** The Ombudsman gravely abused its discretion by outrightly dismissing the complaint. Under Section 6, Rule 111 of the Revised Rules on Criminal

Procedure, the existence of a prejudicial question should result in the suspension of the criminal action, not its dismissal. This gravely affects the statute of limitations, as the prescription would continue to run if the case is dismissed rather than suspended.

- **Remand:** The Supreme Court reinstated OMB-M-C-15-0171 and remanded it to the Ombudsman for further proceedings, emphasizing the need to suspend the case pending the resolution of the related civil action.

2. **Administrative Aspect (OMB-M-A-15-0195):**

- **Incorrect Remedy:** Following the Yatco jurisprudence, the correct approach to challenge the Ombudsman's ruling on administrative cases is to file a petition for certiorari under Rule 65 with the Court of Appeals if the penalty is exoneration; if a more severe penalty is involved, then appeal under Rule 43 to the Court of Appeals is appropriate.

- **Dismissal:** The Supreme Court dismissed the administrative aspect of the petition for being filed with the wrong court.

**Doctrine:**

- **Prejudicial Question:** The proper handling of a prejudicial question under criminal proceedings involves suspension rather than dismissal to avoid evading the duty to resolve probable cause and to prevent adverse effects on the statute of limitations.

**Class Notes:**

1. **Elements of Prejudicial Question (Section 7, Rule 111, Revised Rules on Criminal Procedure):**

- Previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal case.

- The resolution of such an issue determines whether or not the criminal action may proceed.

2. **Proper Remedy for Ombudsman Rulings:**

- Administrative Exoneration: Certiorari to the Court of Appeals under Rule 65.

- Administrative Penalties (other than exoneration,  $\geq 1$  month suspension): Appeal to the Court of Appeals under Rule 43.

- Criminal Cases: Certiorari to the Supreme Court under Rule 65.

**Historical Background:**

This case underscores longstanding principles in Philippine jurisprudence regarding the separation of civil and criminal liabilities. Specifically, it demonstrates the handling of prejudicial questions in the context of intertwined probate actions and anti-graft

proceedings, highlighting procedural safeguards. The case reflects the judiciary's effort to ensure justice while adhering to procedural rules, avoiding circumventions that might debilitate judicial mandates or jeopardize statutes of limitations.