

Title: Alfredo J. Non, et al. vs. Office of the Ombudsman and Alyansa Para sa Bagong Pilipinas, Inc.

Facts:

The case stems from a series of legal and administrative actions initiated against the Commissioners of the Energy Regulatory Commission (ERC), including Alfredo J. Non, Gloria Victoria C. Yap-Taruc, Josefina Patricia A. Magpale-Asirit, and Geronimo D. Sta. Ana (collectively referred to as the petitioners). The issues originated from the ERC's issuance of Resolution No. 13, Series of 2015, and the subsequent Resolution No. 1, Series of 2016, which adjusted the implementation date of the Competitive Selection Process (CSP) requirement for power supply agreements (PSAs) from November 6, 2015, to April 30, 2016. This adjustment period was perceived to be a strategic move to favor certain private entities, particularly the Manila Electric Company (Meralco), allowing them to file PSAs without undergoing the mandated CSP. Alyansa Para sa Bagong Pilipinas, Inc. (ABP) acted as the respondent, challenging the resolutions issued by the ERC.

A series of legal challenges ensued, including a petition filed by ABP with the Supreme Court (G.R. No. 227670) and a complaint with the Office of the Ombudsman accusing the ERC commissioners of violating Section 3(e) of R.A. No. 3019. The Ombudsman found probable cause to indict the petitioners, leading to the filing of criminal information against them. The petitioners then filed the present Petition for Certiorari (G.R. No. 239168), challenging the Ombudsman's resolutions.

Issues:

1. Whether the Ombudsman committed grave abuse of discretion in finding probable cause to indict the petitioners for violating Section 3(e) of R.A. No. 3019.
2. Whether the principle of non-interference is applicable in this case, particularly concerning the Ombudsman's determination of probable cause.
3. Whether the actions of the petitioners in issuing ERC Resolution No. 1-2016 were performed with manifest partiality, evident bad faith, or gross inexcusable negligence.
4. Whether the trial court already acquired jurisdiction over the case due to the arraignment of the petitioners, and if so, whether the Supreme Court should still intervene.

Court's Decision:

The Supreme Court granted the petition, reversing and setting aside the resolutions of the Ombudsman and ordering the dismissal of the Information against the petitioners for lack of probable cause. The Court held that:

1. The principle of non-interference does not apply in this case due to the Ombudsman's grave abuse of discretion, which constitutes an exception to the general rule.
2. The Ombudsman's determination that the issuance of Resolution No. 1-2016 was a mere ploy to favor Meralco and its affiliates was unsupported by substantial evidence, especially considering that the resolution was intended to address legitimate concerns from various power industry stakeholders.
3. The Court emphasized the distinction between administrative errors and criminal offenses, noting that the error in issuing Resolution No. 1-2016 should not automatically be deemed criminal.
4. Despite the arraignment of the petitioners, the Court exercised its authority to order the dismissal of the case due to the lack of probable cause, underscoring its duty to intervene upon proof of grave abuse of discretion by the Ombudsman.

#### Doctrine:

The Supreme Court reinforced the doctrine that while it generally upholds the policy of non-interference with the Ombudsman's determination of probable cause, it will intervene and review the Ombudsman's actions in cases where there is a charge of grave abuse of discretion. Grave abuse of discretion constitutes an act that is performed in a capricious, whimsical, arbitrary, or despotic manner, stemming from personal hostility or a patent and gross evasion of positive duty or a virtual refusal to perform the duty enjoined by law.

#### Class Notes:

1. The legal threshold for probable cause in initiating criminal prosecution is based on the presence of such facts and circumstances that would lead a reasonably cautious person to believe that a crime has been committed by the suspect.
2. Grave abuse of discretion by the Ombudsman constitutes a valid ground for the Supreme Court to exercise its certiorari jurisdiction, as provided under Rule 65 of the Rules of Court.
3. The determination of probable cause by the Ombudsman for the filing of criminal information is subject to judicial review if made with grave abuse of discretion.
4. Section 3(e) of R.A. No. 3019 requires the elements of manifest partiality, evident bad faith, or gross inexcusable negligence, combined with the act causing undue injury or conferring unwarranted benefits in the discharge of official functions, for a public officer to be held liable.

#### Historical Background:

The Office of the Ombudsman, an independent constitutional body, plays a crucial role in maintaining integrity and accountability within the Philippine government by investigating

and prosecuting government officials for illegal acts. The case highlighted the tensions between the need for accountability and the challenges public officials face in performing their duties within a complex legal and regulatory framework, especially in critical sectors like energy regulation. The transition to competitive selection in power supply procurement was intended to promote transparency and efficiency but also raised significant legal and administrative challenges, as demonstrated by the controversies surrounding ERC resolutions.