

JESUS S. GUEVARA II, PETITIONER, V. DEVELOPMENT BANK OF THE PHILIPPINES, REPRESENTED BY JOSE A. NUÑEZ AND FRANCISCO F. DEL ROSARIO, JR., RESPONDENTS.

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GALAPATE-LAGUILLES, J:

Before this Court is the Omnibus Motion to Intervene and to Admit Attached Comment-In-Intervention[[1]] filed by the Office of the Ombudsman on 13 September 2013 claiming that its Decision[2] dated 20 November 2012 which is the subject of review in the instant case whereby petitioner Jesus S. Guevarra II was found guilty of administrative offenses is a matter of public interest. As a competent disciplining body and constitutionally mandated protector of the people, the Office of the Ombudsman is asserting its duty to participate in the proceedings of the instant case,[3] consistent with the doctrine laid down by the Supreme Court in *Civil Service Commission v. Dacoycoy*,[4] *Philippine National Bank v. Garcia, Jr.*[5] and *Office of the Ombudsman v. Samaniego*. [6] Thus, it prayed that its Comment-In-Intervention[7] be admitted.

In his Comment/Opposition,[8] petitioner contends that Section 6,[9] Rule 43 of the Rules of Court expressly mandates that the court or agency which rendered the assailed decision should not be impleaded in the petition, which in this case is the Office of the Ombudsman.[10] Heavily relying on the case of *Office of the Ombudsman v. Magno*,[11] petitioner argues that the intervention of the Office of the Ombudsman is improper as it has no legal interest in this case. More importantly, being the disciplining authority which previously heard the case and imposed the penalty, the said agency should be impartial and detached in this appeal.

The Motion is meritorious.

It is fundamental that the allowance or disallowance of a Motion to Intervene is addressed to the sound discretion of the court.[12] The permissive tenor of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing the intervention,[13] thus:

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.

Simply, intervention is a procedure by which third persons, not originally parties to the suit but claiming an interest in the subject matter, come into the case in order to protect their right or interpose their claim.[14] Its main purpose is to settle in one action and by a single judgment all conflicting claims of, or the whole controversy among, the persons involved.[15]

To warrant intervention under Rule 19 of the Rules of Court, two requisites must concur: (1) the movant has a legal interest in the matter in litigation; and (2) intervention must not unduly delay or prejudice the adjudication of the rights of the parties, nor should the claim of the intervenor be capable of being properly decided in a separate

proceeding. The interest, which entitles one to intervene, must involve the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.[16]

In the more recent case of *Office of the Ombudsman v. De Chavez*,[17] the Supreme Court held that the Ombudsman has a legal interest to intervene in the appeal of its decision. Citing the case of *Office of the Ombudsman v. Samaniego*,[18] the High Court exhaustively explained the wisdom of this course of action, viz:

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 x

The Office of the Obudsman 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:

"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."

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? (Emphasis supplied)

It must also be emphasized that the creation of the Office of the Ombudsman is a unique feature of the 1987 Constitution.[19] 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.[20] 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.[21]

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

(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 supplied)

Section 15 of R.A. No. 6670 is substantially the same as Section 13, Article XI of the Constitution which provides for the powers, functions and duties of the Ombudsman.[22] We draw attention to subparagraph 3, to wit:

SEC. 15. Powers, Functions and Duties. – The Office of the Ombudsman shall have the following powers, functions and duties:

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer; (Emphasis supplied)

It is likewise apparent that under RA 6770, the lawmakers intended to provide the Office of the Ombudsman with sufficient muscle to ensure that it can effectively carry out its mandate as protector of the people against inept and corrupt government officers and employees. The Office was granted the power to punish for contempt in accordance with the Rules of Court.[23] It was given disciplinary authority over all elective and appointive officials of the government and its subdivisions, instrumentalities and agencies (with the exception only of impeachable officers, members of Congress and the Judiciary).[24] Also, it can preventively suspend any officer under its authority pending an investigation when the case so warrants.[25]

Here, since its power to ensure enforcement of its Decision is in danger of being impaired, the Office of the Ombudsman had a clear legal interest in defending its right to have its judgment carried out.[26]

ACCORDINGLY, the Motion for Intervention filed by the Office of the Ombudsman is hereby GRANTED and the Comment-In-Intervention ADMITTED.

SO ORDERED.

Diamante[*] (Acting Chairperson) and Bueser,**] JJ., concur.

[*] Vice J. Mariflor P. Punzalan Castillo per Office Order No. 188-14-ABR dated May 6, 2014

[**] Vice J. Amy C. Lazaro-Javier per Office Order No. 185-14-ABR dated May 5, 2014

[1] Rollo, pp. 785-790.

[2] Id., pp. 91-140.

[3] Id., pp. 786-787.

[4] G.R. No. 135805, April 29, 1999.

[5] G.R. No. 141246, September 9, 2002

[6] G.R. No. 175573, September 11, 2008.

[7] Rollo, pp. 793-845.

[8] Id., pp. 1064-1068.

[9] Section 6. Contents of the petition. — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

[10] Id., p. 1064.

[11] G.R. No. 178923, November 27, 2008.

[12] Office of the Ombudsman v. Sison, G.R. No. 185954, February 16, 2010, citing Heirs of Geronimo Restriera v. De Guzman, G.R. No. 146540, July 14, 2004, 434 SCRA 456, 463.

[13] Id.

[14] Office of the Ombudsman v. Sison, supra, citing Black's Law Dictionary 820 (6th ed.).

[15] Office of the Ombudsman v. Sison, supra, citing Union Bank of the Philippines v. Concepcion, G.R. No. 160727, June 26, 2007, 525 SCRA 672, 687.

[16] Id.

[17] G.R. No. 172206, July 3, 2013.

[18] Supra. See Office of the Ombudsman v. De Chavez, supra.

[19] Article XI, Accountability of Public Officers. See Atty. Ronaldo P. Ledesma v. Court of Appeals, G.R. No. 161629, July 29, 2005.

[20] Article XI, Section 12. See Atty. Ronaldo P. Ledesma v. Court of Appeals, *supra*.

[21] Section 13, RA 6770.

[22] See Atty. Ronaldo P. Ledesma v. Court of Appeals, *supra*.

[23] Atty. Ronaldo P. Ledesma v. Court of Appeals, *supra*, citing Section 15(9), RA 6670.

[24] Atty. Ronaldo P. Ledesma v. Court of Appeals, *supra*, citing Section 21, RA 6670.

[25] Atty. Ronaldo P. Ledesma v. Court of Appeals, *supra*, citing Section 24, RA 6670.

[26] Cf. Ombudsman v. De Chavez, *supra*.

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