

ALLIED BANKING CORPORATION, PETITIONER, VS. OFFICE OF THE OMBUDSMAN, THROUGH ASSISTANT OMBUDSMAN EDWARD HARUN V. PAGUNSAN OF THE FACT FINDING INTELLIGENCE AND RESEARCH OFFICE, R...

Ponente: BARRIOS, J.

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BARRIOS, J.:

When President Joseph E. Estrada resigned from his post, criminal complaints were filed against him with the respondent Office of the Ombudsman (or the Ombudsman). A fact-finding investigation of the alleged criminal acts was undertaken and in the course of the investigation a subpoena duces tecum was issued against the petitioner Allied Banking Corporation (or Allied Bank). Allied Bank was directed to submit clear certified true copies of the bank records and all documents relative thereto pertaining to all bank accounts (Savings, Current, Time Deposits, Trust, Foreign Currency Deposit, etc...) under account names of Jose Velarde, Joseph E. Estrada, Laarni Enriquez, Guia Gomez, Joy Melendrez, Peachy Osorio, Rowena Lopez, Kevin and Kelvin Gracia, 727, 737, 747, 757, 777 and 858 (vide: Annex “D”, p. 93, rollo).

In its Manifestation and Motion for Clarification, Allied Bank requested the Ombudsman to describe with particularity the bank records required to be submitted. Allied Bank also claimed that the subpoena failed to show the relevancy of the bank records and documents of the named individuals to the subject matter of the inquiry, and considering that these are common names shared by several Filipinos, the accounts of its several depositors not actually covered by the inquiry might thus be unlawfully disclosed. Hence the motion for clarification.

Another motion for clarification was filed by Allied Bank asking for the legal basis for the disclosure of the information on the foreign currency deposits. Allied Bank argued that under the Foreign Currency Deposit Act of the Philippines and the General Banking Act of 2000, foreign currency deposits are absolutely confidential; hence its disclosure might result in penal sanctions. On February 19, 2001, the first assailed Order was handed down resolving that:

WHEREFORE, premises considered, the Allied Banking Corporation is hereby directed to immediately submit to this Office the documents and records cited in the latter’s subpoena duces tecum dated 8 February 2001 including but not limited to, the certified true copies if the following: applications to open account; specimen signature cards, debit and credit memos; daily transaction reports; ledgers; deposit slips; withdrawal slips; checks drawn against the accounts of former President Estrada, et al.; checks deposited to the said accounts; list of transactions involving payments made to stock brokers acting for and in behalf of the account holders; remittances made by stock brokers to the accounts stated in the subpoena; checks; investment denominated accounts, marketable securities bonds, etc. relative to the transactions involving the said stock brokers; and all other documents showing the transfer of funds to and from the said accounts.

It is so ordered. (p. 92, rollo)

Hon. Pagunsan issued another Order on February 26, 2001 decreeing that:

WHEREFORE, premises considered, the Allied Banking Corporation is hereby directed to immediately submit to this Office the documents and records subject of this Office the documents and records subject of this Office's Subpoena duces tecum dated 8 February 2001 as they are now particularly described and specified in the instant Order.

SO ORDERED. (p. 83, rollo)

A Joint Motion for Reconsideration was filed by Allied Bank but this was struck down on March 9, 2001:

WHEREFORE, premises considered, the Allied Banking Corporation is hereby directed to submit to this Office, within forty eight (48) after receipt of this Order, the documents and records cited in the subpoena duces tecum dated 8 February 2001 and the two Orders dated 21 February 2001, including but not limited to, the certified true copies of the following: applications to open account; specimen signature cards, debit and credit memos; daily transaction reports; ledgers; deposit slips; withdrawal slips; checks drawn against the accounts of former President Estrada, et al.; checks deposited to the said accounts; list of transactions involving payments made to stock brokers acting for and in behalf of the account holders; remittances made by stock brokers to the accounts stated in the subpoena; checks; investment denominated accounts, marketable securities bonds, etc. relative to the transactions involving the said stock brokers; and all other documents showing the transfer of funds to and from the said accounts. The bank's failure to comply with this Order shall cause the immediate filing of criminal charges for violation of Presidential Decree No. 1829 and the initiation of other appropriate actions against its concerned officials.

It is so ordered. (p. 77, rollo)

For recourse against the said set backs before the Ombudsman, Allied Bank has come before this Court via the present petition for certiorari theorizing that:

I

RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT THE PROTECTION AND CONFIDENTIALITY OF FOREIGN CURRENCY DEPOSITS APPLY ONLY TO SUCH DEPOSITS OF NON-RESIDENTS AND ARE NOT ENGAGED IN TRADE AND BUSINESS IN THE PHILIPPINES.

II

RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THE RELEVANCY OF THE DOCUMENTS AND RECORDS STATED IN THE SUBPOENA DUCES TECUM HAS BEEN SHOWN. (p. 11, rollo)

We deny due course to the petition for lack of jurisdiction.

Jurisprudence is now replete that the jurisdiction of this Court over the orders or decisions of the Ombudsman extends only to those rendered in administrative cases (Fabian vs. Desierto, G.R. No. 129742, September 16, 1998; Kuizon vs. Desierto, G.R. No. 140619-24, March 9, 2001). Otherwise stated, it is limited to appeals from the decisions of the Ombudsman in administrative disciplinary cases, filed pursuant to Rule 43 of the 1997 Revised Rules of Civil Procedure.

Note that the assailed subpoena duces tecum and Orders are offshoots of the fact-finding investigation on the possible criminal liabilities of former President Estrada and his friends. Clear as the light of day, it is not a ruling rendered in an administrative case.

Petitions for certiorari under Rule 65 questioning the resolutions or orders of the Office of the Ombudsman in criminal or non-administrative cases should be taken to the Supreme Court (Kuizon vs. Desierto, G.R. No.

140619-24, March 9, 2001; Estrada vs. Desierto. G.R. No. 156160, December 9, 2004; Osorio vs. Desierto, G.R. No. 156652 October 13, 2005). Section 14 of Republic Act No. 6770 or the Ombudsman Act of 1989 provides that (N)o court shall hear any appeal or application for remedy against a decision or findings of the Ombudsman, except Supreme Court on pure questions of law. Allied Bank should have therefore filed this petition directly with the Supreme Court and not before this Court.

As the Supreme Court has already resolved said issue of jurisdiction in several cases, it is salutary and necessary judicial practice to apply the rulings therein to the subject petition. Stare decisis et non quieta movere. Stand by the decision and disturb not what is settled (Estrada vs. Desierto, supra). Applying the foregoing –

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.
SO ORDERED.

Guariña III, and Romilla-Lontok, JJ., concur.

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