

**BONIFACIO SANZ MACEDA, PRESIDING JUDGE, BRANCH 12,
REGIONAL TRIAL COURT, ANTIQUE, PETITIONER, VS. HON.
OMBUDSMAN CONRADO M. VASQUEZ AND ATTY. NAPOLEON A.
ABIERA, RESPONDENTS.**

G.R. No. 102781. April 22, 1993

Ponente: NOCON, J.

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NOCON, J.:

The issue in this petition for certiorari with prayer for preliminary mandatory injunction and/or restraining order is whether the Office of the Ombudsman could entertain a criminal complaint for the alleged falsification of a judge's certification submitted to the Supreme Court, and assuming that it can, whether a referral should be made first to the Supreme Court.

Petitioner Bonifacio Sanz Maceda, Presiding Judge of Branch 12 of the Regional Trial Court of Antique, seeks the review of the following orders of the Office of the Ombudsman: (1) the Order dated September 18, 1991 denying the ex-parte motion to refer to the Supreme Court filed by petitioner; and (2) the Order dated November 22, 1991 denying petitioner's motion for reconsideration and directing petitioner to file his counter-affidavit and other controverting evidences.

In his affidavit-complaint dated April 18, 1991 filed before the Office of the Ombudsman, respondent Napoleon A. Abiera of the Public Attorney's Office alleged that petitioner had falsified his Certificate of Service^[1] dated February 6, 1989, by certifying "that all civil and criminal cases which have been submitted for decision or determination for a period of 90 days have been determined and decided on or before January 31, 1989," when in truth and in fact, petitioner knew that no decision had been rendered in five (5) civil and ten (10) criminal cases that have been submitted for decision. Respondent Abiera further alleged that petitioner similarly falsified his certificates of service for the months of February, April, May, June, July and August, all in 1989; and the months beginning January up to September 1990, or for a total of seventeen (17) months.

On the other hand, petitioner contends that he had been granted by this Court an extension of ninety (90) days to decide the aforementioned cases.

Petitioner also contends that the Ombudsman has no jurisdiction over said case despite this Court's ruling in *Orap vs. Sandiganbayan*,^[2] since the offense charged arose from the judge's performance of his official duties, which is under the control and supervision of the Supreme Court. Furthermore, the investigation of the Ombudsman constitutes an encroachment into the Supreme Court's constitutional duty of supervision over all inferior courts.

The Court disagrees with the first part of petitioner's basic argument. There is nothing in the decision in *Orap* that would restrict it only to offenses committed by a judge unrelated to his official duties. A judge who falsifies his certificate of service is administratively liable to the Supreme Court for serious misconduct and inefficiency under Section 1, Rule 140 of the Rules of Court, and criminally liable to the State under the Revised Penal Code for his

felonious act.

However, We agree with petitioner that in the absence of any administrative action taken against him by this Court with regard to his certificates of service, the investigation being conducted by the Ombudsman encroaches into the court's power of administrative supervision over all courts and its personnel, in violation of the doctrine of separation of powers.

Article VIII, section 6 of the 1987 Constitution exclusively vests in the Supreme Court administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk. By virtue of this power, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, and take the proper administrative action against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.

The Ombudsman cannot justify its investigation of petitioner on the powers granted to it by the Constitution,[3] for such a justification not only runs counter to the specific mandate of the Constitution granting supervisory powers to the Supreme Court over all courts and their personnel, but likewise undermines the independence of the judiciary.

Thus, the Ombudsman should first refer the matter of petitioner's certificates of service to this Court for determination of whether said certificates reflected the true status of his pending case load, as the Court has the necessary records to make such a determination. The Ombudsman cannot compel this Court, as one of the three branches of government, to submit its records, or to allow its personnel to testify on this matter, as suggested by public respondent Abiera in his affidavit-complaint.[4]

The rationale for the foregoing pronouncement is evident in this case. Administratively, the question before Us is this: should a judge, having been granted by this Court an extension of time to decide cases before him, report these cases in his certificate of service? As this question had not yet been raised with, much less resolved by, this Court, how could the Ombudsman resolve the present criminal complaint that requires the resolution of said question?

In fine, where a criminal complaint against a judge or other court employee arises from their administrative duties, the Ombudsman must defer action on said complaint and refer the same to this Court for determination whether said judge or court employee had acted within the scope of their administrative duties.

WHEREFORE, the instant petition is hereby GRANTED. The Ombudsman is hereby directed to dismiss the complaint filed by public respondent Atty. Napoleon A. Abiera and to refer the same to this Court for appropriate action.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Bellosillo, Melo, and Quiason, JJ., concur.

[1] New Judicial Form No. 86, Revised 1986.

[2] L-50508-11, 139 SCRA 252 (1985).

[3] The Order of September 18, 1991, in denying petitioner's ex-parte motion to refer the case to the Supreme Court, cited Article XI, section 13 (1) and (2), which provides:

Sec. 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

- (1) Investigate on its own, or on complaint be 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.
- (2) Direct, upon complaint or at it own instance, any public official or employee of the government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.

[4] Rollo, p. 19.

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