

**WALTER T. YOUNG, PETITIONER, VS. OFFICE OF THE OMBUDSMAN,
ALBERTO P. ATAS, JUANITO B. ALMOSA, JR., AND ROLANDO C.
MALABONGA, MEMBERS, PANEL OF HEARING OFFICES OF THE SEC,
RESPON...**

G.R. No. 110736. December 27, 1993

Ponente: VITUG, J.

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VITUG, J.:

Petitioner Walter Young, in his capacity as "counsel" for Allied Finance and Leasing Corporation ("ALFC"), filed the instant petition for certiorari praying for the reversal of the Resolution, dated 5 March 1993, and the Order, dated 1 June 1993, of the Ombudsman, which dismissed petitioner's complaint against herein respondents, all members of the panel of hearing officers in the Securities and Exchange Commission ("SEC"), and, ultimately, asking for an order from us to direct the Ombudsman to charge said hearing officers with having violated paragraphs (e) and (i) of Section 3, Republic Act 3019, and Article 204 of the Revised Penal Code.

This case is an offshoot of SEC Case No. EB-187, entitled "In the Matter of Suspension of Payments, Ruby Industrial Corporation ('RUBY'), Petitioner," pending with the SEC en banc.

In an Order, dated 10 August 1984, the SEC created a Management Committee, headed by a representative of ALFC, along with, as members, representatives of the majority and minority stockholders of RUBY. The committee was tasked to manage and to preserve the latter's assets. On 29 May 1990, the majority stockholders of RUBY filed a verified "URGENT EX-PARTE PETITION TO CREATE A NEW MANAGEMENT COMMITTEE AND APPROVE THE REVISED REHABILITATION PLAN OF RUBY INDUSTRIAL CORPORATION." After an exchange of pleadings, the SEC en banc referred the petition to herein respondent hearing officers. On 16 January 1991, the panel set the case for hearing and directed RUBY to furnish each and every creditor listed in the petition with a copy of the order. One such copy was sent to the law firm of "Ocampo, Quiroz, Mina and Associates," counsel for ALFC and its representative in the management committee.

On 21 May 1991, RUBY manifested that it was submitting the petition to constitute a new management committee for resolution on the basis of the pleadings. The minority stockholders of RUBY, as well as ALFC, however, expressed their desire to present evidence. Respondent hearing officers scheduled a hearing for the purpose. On 19 August 1991, the panel issued an order, directing the management committee and ALFC to submit their respective comments and position papers on the rehabilitation plan prepared by the majority stockholders of RUBY.

The management committee moved for a reconsideration but the motion was denied.

On 18 September 1991, the hearing officers granted the petition to create a new management committee and approved a revised rehabilitation plan.

An appeal to the SEC en banc was taken by ALFC, as well as the minority stockholders of RUBY and the still

standing management committee, on 22 October, 21 October and 23 October 1991, respectively. During the pendency of the appeal, RUBY filed an urgent motion to implement the order of 18 September 1991, which the herein respondent hearing officers granted on 12 December 1991. The order, however, was interdicted due to the issuance by the SEC en banc of a writ of preliminary injunction.

On 13 July 1992, herein petitioner Walter Young filed a complaint with the Ombudsman against respondent hearing officers for alleged corrupt practices under Section 3 [(e) and (i) of Republic Act 3019] and for knowingly rendering an unjust judgment punishable under Article 204 of the Revised Penal Code.

On 5 March 1993, the Office of the Ombudsman dismissed the petitioner's complaint. It also denied the subsequent motion for reconsideration.

Hence, this recourse.

Initially, a fatal defect pointed out by the Solicitor General is the failure of the petitioner to move, within the reglementary period, for the reconsideration of the Resolution of 5 March 1993 of the public respondent dismissing the complaint. In the order, dated 1 June 1993, denying petitioner's Motion for Reconsideration, the public respondent said:

"Finally, as correctly pointed out by respondents in their Opposition, dated May 11, 1993 (Vide: Record, page 239), the subject Motion for Reconsideration should not be given due course by this Office anymore under Section 27 of Republic Act 6770, otherwise known as "The Ombudsman Act of 1989" and its implementing Administrative Order No. 09 issued by this Office on October 15, 1991, amending Section 7 (a), Rule II of Administrative Order No. 07, which fixes "an INEXTENSIBLE period of five (5) days from notice thereof" in that, while complainant admitted having received his copy of the resolution in question on April 16, 1993, yet he filed his instant Motion for Reconsideration with this Office only on April 29, 1993 or after the lapse of more than five (5) days, counted from April 16, 1993."

Ordinarily, the above infirmity should warrant the outright dismissal of the petition. Let us, nonetheless, also delve into the propositions advanced in support of the petition.

The petitioner contends that the management committee has not been duly notified of the orders, dated 19 August 1991 and 18 September 1991, and that, instead, said orders have been sent erroneously to the law firm of "Ocampo, Quiroz, Mina and Associates," counsel for the representative of ALFC and chairman of the management committee, and not to the law office of "Quiroz and Young," being the counsel for the management committee itself. On this score, the Office of the Ombudsman finds, thus:

"x x x (C)ontrary to the allegations of complaint (petitioner herein), the records of this case clearly show that these hearings as well as in the other previous hearings by the Commission en banc, it was the Law Firm of Ocampo, Quiroz, Mina and Associates, represented invariably therein by either the herein complainant or Atty. Raymundo Quiroz, who appeared not only for ALFC, but also for the Chairman of the Management Committee (MC), Atty. Raymundo Quiroz, and who were invariably furnished by respondents with copies of the assailed orders. Hence, it is not true as claimed by complainant that the MC was not furnished by respondents with copies of their Order dated September 18, 1991. The law is clear on this matter that notice to the Law Firm appearing for a client is notice upon the client himself.

Clearly, we must accord due respect and weight to the above factual findings of the Office of the Ombudsman. On such basis, the legal conclusion is inevitable, i.e., that the service of notice has been properly effected.

The petitioner next avers that it is an error on the part of the public respondent in refusing to consider the respondent hearing officers to have acted without jurisdiction, and to have thus knowingly rendered an unjust judgment, when they issued the "implement order" of 12 December 1991. The order, however, along with the

other orders of the hearing officers, are still pending consideration by the SEC en banc. It would have been unduly precipitate for the Ombudsman, as it would be for us, to preempt the SEC en banc on such matter. Simple courtesy demands it. We can understand the frustration that litigants, and lawyers alike, would at times encounter in procedural bureaucracy but imperative justice require our proper observance of indispensable technicalities precisely designed to ensure its proper dispensation. Surely, we cannot righteously be asked to utterly disregard them.

Furthermore, absent a clear case of grave abuse of discretion, this Court will not interfere with the discretion of the Ombudsman, who, depending on his own findings and considered evaluation of the case, either dismisses a complaint or proceeds with it. In *Ocampo vs. Ombudsman* (G.R. No. 103446-47, 30 August 1993), this Court, speaking through Mr. Justice Teodoro Padilla, said:

x x x "The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant."

In this instance, given the attendant circumstances, we see no grave abuse of discretion on the part of the Ombudsman in dismissing the complaint.

All told, we cannot grant the extraordinary relief prayed for.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Puno, JJ., concur.

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