

AZUCENA B. GARCIA, PETITIONER, VS. THE HONORABLE OFFICE OF THE OMBUDSMAN AND ESMERALDO E. SIOSON, BENEDICTA F. BARRIENTOS, JACQUELINE C. MENDOZA, RESPONDENTS.

G.R. No. 127710. February 16, 2000

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127710/>

PARDO, J.:

The case before the Court is an appeal via certiorari seeking to annul the resolution of the Ombudsman dismissing petitioner's complaint against private respondents for deducting withholding tax from her provident fund benefits upon her early retirement from the service of the National Development Company (NDC), a government owned corporation.[1]

The facts are as follows:

Petitioner Azucena B. Garcia was Department Manager III for administration of the National Development Company (NDC), a government corporation. In 1991, NDC initiated a program of early retirement of its personnel. Those who availed themselves of early retirement or separation were given tax-exempt retirement and separation benefits.

In March 1995, petitioner availed herself of the program, and applied for early retirement under Republic Act No. 1616. NDC approved the application, and in due course paid petitioner her retirement benefits. However, private respondents, who were controller, disbursing officer, and assistant general manager of NDC deducted withholding tax on the amount of provident fund benefits given to petitioner corresponding to her share over and above her personal contribution.

Petitioner protested private respondents' action and requested them to refund the taxes withheld and remitted to the Bureau of Internal Revenue, claiming that such amount was tax exempt.

Due to private respondents' refusal to grant her request, on March 8, 1996 petitioner filed with the Office of the Ombudsman a complaint against them for violation of Section 3 (e) of Republic Act No. 3019, for causing her undue injury.[2]

After requiring respondents' comment, on September 30, 1996, the Ombudsman dismissed petitioner's complaint.[3]

Hence, this appeal.[4]

On February 24, 1997, we required respondents to comment on the petition within ten (10) days from notice.[5]

At issue in this appeal is whether or not respondent Ombudsman acted with grave abuse of discretion in dismissing petitioner's complaint for violation of Section 3 (e) of Republic Act No. 3019, as amended, against private respondents for deducting withholding taxes on the amount of provident fund benefits petitioner received over and above her personal contribution.

We resolve the issue against petitioner.

The elements of violation of Section 3 (e) of Republic Act No. 3019, as amended, are as follows:

- "(1) The accused is a public officer or a private person charged in conspiracy with the former;
- "(2) The said public officer commits the prohibited acts during the performance of his or her official duties or in relation to his or her public positions;
- "(3) That he or she causes undue injury to any party, whether the government or a private party;
- "(4) Such undue injury is caused by giving unwarranted benefits, advantage or preference to such parties; and
- "(5) That the public officer has acted with manifest partiality, evident bad faith or gross inexcusable negligence.[6]

Obviously, private respondents did not transgress the third and fifth elements above-mentioned. Petitioner has not shown that she suffered actual damage[7] nor that private respondents acted with evident bad faith or gross inexcusable negligence.[8]

Private respondents merely complied with their duty under the law. They were guided by the prevailing opinion of the Bureau of Internal Revenue that provident fund benefits above the employee's personal contribution were taxable, and hence, it was their duty to withhold the corresponding income taxes thereon. On the contrary, to grant petitioner's request for exemption for the withholding tax would have subjected private respondents to liability for malfeasance in office, if not for violation of the Tax Code, or the Anti- Graft and Corrupt Practices Act. They could not have foreseen that the Commissioner of Internal Revenue would change his views on the issue at a later time.

Consequently, the Ombudsman acted correctly in dismissing petitioner's complaint because private respondents had not acted in bad faith or with gross negligence in deducting withholding tax from petitioner's provident fund benefits share over and above her personal contribution, as they were guided by the opinion of the Commissioner of Internal Revenue at the time. The latter's change of opinion, while favoring petitioner, will not make private respondents' act prior thereto amount to bad faith as they relied on the prevailing legal opinion on the issue.[9] Hence, they could not be held criminally liable therefor.

WHEREFORE, the Court hereby DENIES the petition for review on certiorari and AFFIRMS the resolution of the Ombudsman in OMB 0-96-0815, dated September 30, 1996.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Petition, Annex "A", Rollo, pp. 29- 33.

[2] Petition, Annex "B", Rollo, pp. 34-36.

[3] Petition, Annex "A", Rollo, pp. 29-33, Note 1.

[4] Filed on January 27, 1997, Rollo, pp. 3-28.

[5] Rollo, p. 78.

[6] Pecho vs. Sandiganbayan, 238 SCRA 116, 128 [1994]; Llorente, Jr. vs. Sandiganbayan, 287 SCRA 382, 398 [1998]; Ingco vs. Sandiganbayan, 272 SCRA 563, 574 [1997].

[7] People vs. Sandiganbayan, G. R. No. 125534, October 13, 1999, citing Pecho vs. Sandiganbayan, supra.

[8] Venus vs. Desierto, 298 SCRA 196 [1998].

[9] Venus vs. Desierto, supra.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.