

FRANCISCA S. BALUYOT, PETITIONER, VS. PAUL E. HOLGANZA AND THE OFFICE OF THE OMBUDSMAN (VISAYAS) REPRESENTED BY ITS DEPUTY OMBUDSMAN FOR THE VISAYAS ARTURO C. MOJICA, DIRECTOR V...

G.R. No. 136374. February 09, 2000

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-136374/>

DE LEON, JR., J.:

Before us is a special civil action for certiorari, seeking the reversal of the Orders dated August 21, 1998 and October 28, 1998 issued by the Office of the Ombudsman, which denied petitioner's motion to dismiss and motion for reconsideration, respectively.

The facts are:

During a spot audit conducted on March 21, 1977 by a team of auditors from the Philippine National Red Cross (PNRC) headquarters, a cash shortage of P154,350.13 was discovered in the funds of its Bohol chapter. The chapter administrator, petitioner Francisca S. Baluyot, was held accountable for the shortage. Thereafter, on January 8, 1998, private respondent Paul E. Holganza, in his capacity as a member of the board of directors of the Bohol chapter, filed an affidavit-complaint[1] before the Office of the Ombudsman charging petitioner of malversation under Article 217 of the Revised Penal Code. The complaint was docketed as OMB-VIS-CRIM-98-0022. However, upon recommendation by respondent Anna Marie P. Militante, Graft Investigation Officer I, an administrative docket for dishonesty was also opened against petitioner; hence, OMB-VIS-ADM-98-0063.[2]

On February 6, 1998, public respondent issued an Order[3] requiring petitioner to file her counter-affidavit to the charges of malversation and dishonesty within ten days from notice, with a warning that her failure to comply would be construed as a waiver on her part to refute the charges, and that the case would be resolved based on the evidence on record. On March 14, 1998, petitioner filed her counter-affidavit,[4] raising principally the defense that public respondent had no jurisdiction over the controversy. She argued that the Ombudsman had authority only over government-owned or controlled corporations, which the PNRC was not, or so she claimed.

On August 21, 1998, public respondent issued the first assailed Order[5] denying petitioner's motion to dismiss. It further scheduled a clarificatory hearing on the criminal aspect of the complaint and a preliminary conference on its administrative aspect on September 2, 1998. Petitioner received the order on August 26, 1998 and she filed a motion for reconsideration[6] the next day.

On October 28, 1998, public respondent issued the second assailed Order[7] denying petitioner's motion for reconsideration. Hence, this recourse.

We dismiss the petition.

Petitioner contends that the Ombudsman has no jurisdiction over the subject matter of the controversy since the PNRC is allegedly a private voluntary organization. The following circumstances, she insists, are indicative of the private character of the organization: (1) the PNRC does not receive any budgetary support from the government, and that all money given to it by the latter and its instrumentalities become private funds of the organization; (2) funds for the payment of personnel's salaries and other emoluments come from yearly fund campaigns, private contributions and rentals from its properties; and (3) it is not audited by the Commission on Audit. Petitioner states that the PNRC falls under the International Federation of Red Cross, a Switzerland-based organization, and that the power to discipline employees accused of misconduct, malfeasance, or immorality belongs to the PNRC Secretary General by virtue of Section "G", Article IX of its by-laws.[8] She threatens that "to classify the PNRC as a government-owned or controlled corporation would create a dangerous precedent as it would lose its neutrality, independence and impartiality xxx."[9]

Practically the same issue was addressed in *Camporeddo v. National Labor Relations Commission, et. al.*,[10] where an almost identical set of facts obtained. Petitioner therein was the administrator of the Surigao del Norte chapter of the PNRC. An audit conducted by a field auditor revealed a shortage in the chapter funds in the sum of P109,000.00. When required to reconstitute the amount of P135,927.78, petitioner therein instead applied for early retirement, which was denied by the Secretary General of the PNRC. Subsequently, the petitioner filed a complaint for illegal dismissal and damages against PNRC before the National Labor Relations Commission. In turn, PNRC moved to dismiss the complaint on the ground of lack of jurisdiction, averring that PNRC was a government corporation whose employees are embraced by civil service regulation. The labor arbiter dismissed the complaint, and the Commission sustained his order. The petitioner assailed the dismissal of his complaint via a petition for certiorari, contending that the PNRC is a private organization and not a government-owned or controlled corporation. In dismissing the petition, we ruled thus:

"Resolving the issue set out in the opening paragraph of this opinion, we rule that the Philippine National Red Cross (PNRC) is a government owned and controlled corporation, with an original charter under Republic Act No. 95, as amended. The test to determine whether a corporation is government owned or controlled, or private in nature is simple. Is it created by its own charter for the exercise of a public function, or by incorporation under the general corporation law? Those with special charters are government corporations subject to its provisions, and its employees are under the jurisdiction of the Civil Service Commission, and are compulsory members of the Government Service Insurance System. The PNRC was not "impliedly converted to a private corporation" simply because its charter was amended to vest in it the authority to secure loans, be exempted from payment of all duties, taxes, fees and other charges of all kinds on all importations and purchases for its exclusive use, on donations for its disaster relief work and other services and in its benefits and fund raising drives, and be allotted one lottery draw a year by the Philippine Charity Sweepstakes Office for the support of its disaster relief operation in addition to its existing lottery draws for blood program."

Clearly then, public respondent has jurisdiction over the matter, pursuant to Section 13, of Republic Act No. 6770, otherwise known as "The Ombudsman Act of 1989", to wit:

"SEC. 13. Mandate. - The Ombudsman and his Deputies, as protectors of the people, shall 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, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people."[11]

WHEREFORE, the petition for certiorari is hereby DISMISSED. Costs against petitioner.

SO ORDERED.

Quisumbing, and Buena, JJ., concur.

Bellosillo, (Chairman), and Mendoza, JJ., took no part due to relation to a party.

[1] Annexes "A" and "B" of the Petition, Rollo, pp. 15-34.

[2] Annex "B-2" of the Petition, Id., p. 39.

[3] Annex "C" of the Petition, Id., p. 40.

[4] Annex "D" of the Petition, Id., pp. 41-50.

[5] Annex "F" of the Petition, Rollo, pp. 156-157.

[6] Annex "I" of the Petition, Id., pp. 160-162.

[7] Annex "K" of the Petition, Id., pp. 168-170.

[8] A copy of the by-laws is not included in the petition.

[9] Par. 15 of the Petition, Rollo, p. 8.

[10] G.R. No. 129049, August 6, 1999.

[11] Italics ours.

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.