OFFICE OF THE OMBUDSMAN, PETITIONER, VS. HON. FRANCISCO B. IBAY, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, MAKATI CITY, BRANCH 135, UNION BANK OF THE PHILI...

G.R. No. 137538. September 03, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This special civil action for certiorari seeks to annul the Orders of public respondent dated August 19, 1998 and December 22, 1998, and to dismiss the proceedings in Civil Case No. 98-1585.

The factual antecedents of this case are as follows:

Sometime in 1998, petitioner conducted an investigation on the alleged "scam" on the Public Estates Authority-Amari Coastal Bay Development Corporation. The case, entitled Fact-Finding and Intelligence Bureau vs. Amadeo Lagdameo, et al., was docketed as OMB-0-97-0411. Initial result of the investigation revealed that the alleged anomaly was committed through the issuance of checks which were subsequently deposited in several financial institutions. On April 29, 1998, petitioner issued an Order directing private respondent Lourdes Marquez, branch manager of Union Bank of the Philippines branch at Julia Vargas Avenue, Pasig City, to produce several bank documents for inspection relative to Account Nos. 011-37270-5, 240-020718, 245-30317-3 and 245-30318-1, reportedly maintained in the said branch. The documents referred to include bank account application forms, signature cards, transactions history, bank statements, bank ledgers, debit and credit memos, deposit and withdrawal slips, application for purchase of manager's checks, used manager's checks and check microfilms. The inspection would be done "in camera" wherein the bank records would be examined without bringing the documents outside the bank premises. Its purpose was to identify the specific bank records prior to the issuance of the required information not in any manner needed in or relevant to the investigation.[1]

Private respondent failed to comply with petitioner's order. She explained that the subject accounts pertain to International Corporate Bank (Interbank) which merged with Union Bank in 1994. She added that despite diligent efforts, the bank could not identify these accounts since the checks were issued in cash or bearer forms. She informed petitioner that she had to first verify from the Interbank records in its archives the whereabouts of said accounts.[2]

Petitioner found private respondent's explanation unacceptable. Petitioner reminded private respondent that her acts constitute disobedience or resistance to a lawful order and is punishable as indirect contempt under Section 3 (b), Rule 71 of the Revised Rules of Court, in relation to Section 15 (9) of R.A. 6770 (Ombudsman Act of 1989). The same might also constitute willful obstruction of the lawful exercise of the functions of the Ombudsman, which is punishable under Section 36 of R.A. 6770. On June 16, 1998, petitioner issued an order to private respondent to produce the requested bank documents for "in camera" inspection. In the event of her failure to comply as directed, private respondent was ordered to show cause why she should not be cited for contempt and

why she should not be charged for obstruction.[3]

Instead of complying with the order of petitioner, private respondent filed a petition for declaratory relief with an application for temporary restraining order and/or preliminary injunction before the Regional Trial Court of Makati City, Branch 135, presided by respondent Judge Francisco Ibay. The petition was docketed as Civil Case No. 98-1585. In her petition, private respondent averred that under Sections 2 and 3 of R.A. 1405 (Law on Secrecy of Bank Deposits), she had the legal obligation not to divulge any information relative to all deposits of whatever nature with banks in the Philippines. But petitioner's Order cited Section 15 (8) of R.A. 6770 stating that the Ombudsman had the power to examine and have access to bank accounts and records. Private respondent, therefore, sought a definite ruling and/or guidelines as regards her rights as well as petitioner's power to inspect bank deposits under the cited provisions of law. Meanwhile, private respondent filed with this Court a petition for certiorari and prohibition, assailing petitioner's order to institute indirect contempt proceedings against her.[4]

Petitioner moved to dismiss the aforesaid petition for declaratory relief on the ground that the RTC has no jurisdiction over the subject matter thereof. In an order dated August 19, 1998, now being assailed, public respondent denied petitioner's motion to dismiss. Petitioner then filed an ex-parte motion for extended ruling. On December 22, 1998, public respondent issued an order declaring that it has jurisdiction over the case since it is an action for declaratory relief under Rule 63 of the Rules of Court.

Seasonably, petitioner filed before this Court the instant petition assailing the Orders dated August 19, 1998 and December 22, 1998 of public respondent on the ground that public respondent assumed jurisdiction over the case and issued orders with grave abuse of discretion and clear lack of jurisdiction. Petitioner sought the nullification of the impugned orders, the immediate dismissal of Civil Case No. 98-1585, and the prohibition of public respondent from exercising jurisdiction on the investigation being conducted by petitioner in the alleged PEA-AMARI land "scam".

The only question raised by petitioner for resolution is whether or not public respondent acted without jurisdiction and/or with grave abuse of discretion in entertaining the cited petition for declaratory relief.

Petitioner contends that the RTC of Makati City lacks jurisdiction over the petition for declaratory relief. It asserts that respondent judge should have dismissed the petition outright in view of Section 14 of R.A. 6770.

Section 14 of R.A. 6770 provides:

> Restrictions.- No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a prima facie evidence that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman.
>
> No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on pure question of law.

Petitioner's invocation of the aforequoted statutory provision is misplaced. The special civil action of declaratory relief falls under the exclusive jurisdiction of the Regional Trial Courts.[5] It is not among the actions within the original jurisdiction of the Supreme Court even if only questions of law are involved.[6] Similarly, the Rules of Court is explicit that such action shall be brought before the appropriate Regional Trial Court. Section 1, Rule 63 of the Rules of Court provides:

> Section 1. Who may file petition.- Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or

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duties, thereunder.

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The requisites of an action for declaratory relief are: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interests are adverse; (3) that the party seeking the relief has a legal interest in the controversy; and (4) that the issue is ripe for judicial determination.[7] In this case, the controversy concerns the extent of the power of petitioner to examine bank accounts under Section 15 (8) of R.A. 6770 vis-à-vis the duty of banks under Republic Act 1405 not to divulge any information relative to deposits of whatever nature. The interests of the parties are adverse considering the antagonistic assertion of a legal right on one hand, that is the power of Ombudsman to examine bank deposits, and on the other, the denial thereof apparently by private respondent who refused to allow petitioner to inspect in camera certain bank accounts. The party seeking relief, private respondent herein, asserts a legal interest in the controversy. The issue invoked is ripe for judicial determination as litigation is inevitable. Note that petitioner has threatened private respondent with "indirect contempt" and "obstruction" charges should the latter not comply with its order.

Circumstances considered, we hold that public respondent has jurisdiction to take cognizance of the petition for declaratory relief. Nor can it be said that public respondent gravely abused its discretion in doing so. We are thus constrained to dismiss the instant petition for lack of merit.

In any event, the relief being sought by private respondent in her action for declaratory relief before the RTC of Makati City has been squarely addressed by our decision in Marquez vs. Desierto.[8] In that case, we ruled that before an in camera inspection of bank accounts may be allowed, there must be a pending case before a court of competent jurisdiction. Further, the account must be clearly identified, and the inspection limited to the subject matter of the pending case before the court of competent jurisdiction. The bank personnel and the account holder must be notified to be present during the inspection, and such inspection may cover only the account identified in the pending case. In the present case, since there is no pending litigation yet before a court of competent authority, but only an investigation by the Ombudsman on the so-called "scam", any order for the opening of the bank account for inspection is clearly premature and legally unjustified.

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 10-12.

[2] Id. at 14-15.

[3] Id. at 15-17.

[4] Rollo, p. 80, referring to Marquez vs. Desierto, G.R. No. 135882, June 27, 2001.

[5] J. Y. Feria. 2 Civil Procedure Annotated (2001) p. 431.

[6] Rural Bank of Olongapo, Inc. vs. Commissioner of Land Registration, 102 SCRA 794, 795 (1981).

[7] Galarosa vs. Valencia, 227 SCRA 729, 737 (1993).

[8] G.R. No. 135882, June 27, 2001.

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