

MAYOR ALVIN B. GARCIA, PETITIONER, VS. HON. ARTURO C. MOJICA, IN HIS CAPACITY AS DEPUTY OMBUDSMAN FOR THE VISAYAS, VIRGINIA PALANCA-SANTIAGO, IN HIS CAPACITY AS DIRECTOR, OFFICE...

G.R. No. 139043. September 10, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

The present controversy involves the preventive suspension order issued on June 25, 1999, by the Office of the Ombudsman (Visayas) in OMB-VIS-ADM-99-0452, against petitioner Cebu City Mayor Alvin B. Garcia and eight other city officials. Under the said order, petitioner was placed under preventive suspension without pay for the maximum period of six months and told to cease and desist from holding office immediately.

The factual antecedents are as follows:

On May 7, 1998, petitioner, in his capacity as Cebu City mayor, signed a contract with F.E. Zuellig for the supply of asphalt to the city. The contract covers the period 1998-2001, which period was to commence on September 1998 when the first delivery should have been made by F.E. Zuellig.

Sometime in March 1999, news reports came out regarding the alleged anomalous purchase of asphalt by Cebu City, through the contract signed by petitioner. This prompted the Office of the Ombudsman (Visayas) to conduct an inquiry into the matter.[1]

Respondent Jesus Rodrigo T. Tagaan, special prosecution officer of the Office of the Ombudsman, was assigned to conduct the inquiry, docketed as INQ-VIS-99-0132. After his investigation, he recommended that the said inquiry be upgraded to criminal and administrative cases against petitioner and the other city officials involved. Respondent Arturo C. Mojica, Deputy Ombudsman for the Visayas, approved this recommendation.

In a memorandum dated June 22, 1999, respondent Allan Francisco S. Garciano, the graft investigating officer to whom the case was raffled for investigation, recommended the preventive suspension of petitioner and the others. Two days later, or on June 24, 1999, the affidavit-complaint against petitioner was filed. The following day, on June 25, 1999, the Office of the Ombudsman issued the questioned preventive suspension order. On June 29, 1999, petitioner filed a motion for reconsideration of said order, which motion was denied in an order dated July 5, 1999.

Petitioner is now before this Court assailing the validity of the said order. He pleads for immediate relief through the present petition for certiorari and prohibition with a prayer for temporary restraining order and/or writ of preliminary injunction. Petitioner contends that:

I

THE RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ASSUMING JURISDICTION OVER OMB-VIS-ADM-99-0452 AND

ISSUING THE PREVENTIVE SUSPENSION ORDER, THE OFFICE OF THE OMBUDSMAN BEING WITHOUT JURISDICTION OVER THE ADMINISTRATIVE CASE, CONSIDERING THAT THE ALLEGED ACT CONSTITUTING THE CHARGE AGAINST PETITIONER HEREIN WAS COMMITTED DURING HIS PREVIOUS TERM, AND PETITIONER HAVING BEEN REELECTED TO THE SAME POSITION.

II

ASSUMING, ARGUENDO, THAT THE OFFICE OF THE OMBUDSMAN HAS JURISDICTION OVER OMB-VIS-ADM-99-0452, THE PREVENTIVE SUSPENSION FOR SIX MONTHS WAS WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, AND IN GROSS VIOLATION OF THE PROVISIONS OF SECTION 63 OF THE LOCAL GOVERNMENT CODE WHICH MANDATES THAT THE PREVENTIVE SUSPENSION OF LOCAL ELECTIVE OFFICIALS BE ORDERED ONLY AFTER THE ISSUES HAVE BEEN JOINED, AND ONLY FOR A PERIOD NOT IN EXCESS OF SIXTY (60) DAYS.

III

ASSUMING, ARGUENDO, THAT THE OFFICE OF THE OMBUDSMAN HAS JURISDICTION OVER OMB-VIS-ADM-99-0452, THE PREVENTIVE SUSPENSION WAS ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, AND IN GROSS VIOLATION OF SECTION 26(2) OF THE OMBUDSMAN LAW.

IV

ASSUMING, ARGUENDO, THAT THE OFFICE OF THE OMBUDSMAN HAS JURISDICTION, THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONCLUDING THAT THE EVIDENCE AGAINST PETITIONER WAS “STRONG”, THE LITTLE EVIDENCE ON RECORD CONSISTING SOLELY OF A HEARSAY AFFIDAVIT, AND INADMISSIBLE NEWSPAPER REPORTS.

On July 19, 1999, we directed the parties to maintain the status quo until further orders from this Court. It appears that on the same day, petitioner issued a memorandum informing employees and officials of the Office of the City Mayor that he was assuming the post of mayor effective immediately. On July 23, 1999, respondents filed a motion seeking clarification of our status quo order. Respondents claimed that the status quo referred to in the order should be that where petitioner is already suspended and vice mayor Renato Osmeña is the acting city mayor.

Petitioner, in reply, argued that the status quo refers to “the last actual peaceable uncontested status which preceded the pending controversy.”[2] Thus, the status quo could not be that where petitioner is preventively suspended since the suspension did not precede the present controversy; it is the controversy.

We agree with petitioner in this regard. As explained by Justice Florenz D. Regalado, an authority on remedial law:

“There have been instances when the Supreme Court has issued a status quo order which, as the very term connotes, is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. This was resorted to when the projected proceedings in the case made the conservation of the status quo desirable or essential, but the affected party neither sought such relief or the allegations in his pleading did not sufficiently make out a case for a temporary restraining order. The status quo order was thus issued *motu proprio* on equitable considerations. Also, unlike a temporary restraining order or a preliminary injunction, a status quo order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. The further distinction is provided by the present amendment in the sense that, unlike the amended rule on restraining orders, a status quo order does not require the posting of a bond.”[3]

On July 28, 1999, we heard the parties' oral arguments on the following issues:

1. What is the effect of the reelection of petitioner on the investigation of acts done before his reelection? Did the Ombudsman for the Visayas gravely abuse his discretion in conducting the investigation of petitioner and ordering his preventive suspension?
2. Assuming that the Ombudsman properly took cognizance of the case, what law should apply to the investigation being conducted by him, the Local Government Code (R.A. 7160) or the Ombudsman Law (R.A. 6770)? Was the procedure in the law properly observed?
3. Assuming further that the Ombudsman has jurisdiction, is the preventive suspension of petitioner based on "strong evidence" as required by law?

We will now address these issues together, for the proper resolution on the merits of the present controversy.

Petitioner contends that, per our ruling in *Aguinaldo v. Santos*,^[4] his reelection has rendered the administrative case filed against him moot and academic. This is because reelection operates as a condonation by the electorate of the misconduct committed by an elective official during his previous term. Petitioner further cites the ruling of this Court in *Pascual v. Hon. Provincial Board of Nueva Ecija*,^[5] that

"... When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct to practically overrule the will of the people."

Respondents, on the other hand, contend that while the contract in question was signed during the previous term of petitioner, it was to commence or be effective only on September 1998 or during his current term. It is the respondents' submission that petitioner "went beyond the protective confines"^[6] of jurisprudence when he "agreed to extend his act to his current term of office."^[7] *Aguinaldo* cannot apply, according to respondents, because what is involved in this case is a misconduct committed during a previous term but to be effective during the current term.

Respondents maintain that,

"...petitioner performed two acts with respect to the contract: he provided for a suspensive period making the supply contract commence or be effective during his succeeding or current term and during his current term of office he acceded to the suspensive period making the contract effective during his current term by causing the implementation of the contract."^[8]

Hence, petitioner cannot take refuge in the fact of his reelection, according to respondents.

Further, respondents point out that the contract in question was signed just four days before the date of the 1998 election and so it could not be presumed that when the people of Cebu City voted petitioner to office, they did so with full knowledge of petitioner's character.

On this point, petitioner responds that knowledge of an official's previous acts is presumed and the court need not inquire whether, in reelecting him, the electorate was actually aware of his prior misdeeds.

Petitioner cites our ruling in *Salalima v. Guingona*,^[9] wherein we absolved Albay governor Romeo R. Salalima of his administrative liability as regards a retainer agreement he signed in favor of a law firm during his previous term, although disbursements of public funds to cover payments under the agreement were still being done during his subsequent term. Petitioner argues that, following *Salalima*, the doctrine in *Aguinaldo* applies even where the effects of the act complained of are still evident during the subsequent term of the reelected official. The implementation of the contract is a mere incident of its execution. Besides, according to petitioner, the "sole act"

for which he has been administratively charged is the signing of the contract with F.E. Zuellig. The charge, in his view, excludes the contract's execution or implementation, or any act subsequent to the perfection of the contract.

In *Salalima*, we recall that the Solicitor General maintained that *Aguinaldo* did not apply to that case because the administrative case against Governor Rodolfo Aguinaldo of Cagayan was already pending when he filed his certificate of candidacy for his reelection bid. Nevertheless, in *Salalima*, the Court applied the *Aguinaldo* doctrine, even if the administrative case against Governor *Salalima* was filed after his reelection.

Worth stressing, to resolve the present controversy, we must recall that the authority of the Ombudsman to conduct administrative investigations is mandated by no less than the Constitution. Under Article XI, Section 13[1], the Ombudsman has the power to:

“investigate on its own, or on complaint by 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.”

R.A. 6770, the Ombudsman Law, further grants the Office of the Ombudsman the statutory power to conduct administrative investigations. Thus, Section 19 of said law provides:

“SEC. 19. Administrative Complaints. – The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.”

Section 21 of R.A. 6770 names the officials subject to the Ombudsman's disciplinary authority:

“SEC. 21. Officials Subject To Disciplinary Authority; Exceptions. – The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.”(Emphasis supplied.)

Petitioner is an elective local official accused of grave misconduct and dishonesty.[10] That the Office of the Ombudsman may conduct an administrative investigation into the acts complained of, appears clear from the foregoing provisions of R.A. 6770.

However, the question of whether or not the Ombudsman may conduct an investigation over a particular act or omission, is different from the question of whether or not petitioner, after investigation, may be held administratively liable. This distinction ought here to be kept in mind, even as we must also take note that the power to investigate is distinct from the power to suspend preventively an erring public officer.

Likewise worthy of note, the power of the Office of the Ombudsman to preventively suspend an official subject to its administrative investigation is provided by specific provision of law. Under Section 24 of R.A. 6770 –

“SEC. 24. Preventive Suspension. – The Ombudsman or his Deputy may preventively suspend any officer or employee under his authority pending an investigation, if in his judgment the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (b) the charges would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the case filed against him.

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.” (Underscoring supplied.)

We have previously interpreted the phrase “under his authority” to mean that the Ombudsman can preventively suspend all officials under investigation by his office, regardless of the branch of government in which they are employed,[11] excepting of course those removable by impeachment, members of Congress and the Judiciary.

The power to preventively suspend is available not only to the Ombudsman but also to the Deputy Ombudsman. This is the clear import of Section 24 of R.A. 6770 abovesited.

There can be no question in this case as to the power and authority of respondent Deputy Ombudsman to issue an order of preventive suspension against an official like the petitioner, to prevent that official from using his office to intimidate or influence witnesses[12] or to tamper with records that might be vital to the prosecution of the case against him.[13] In our view, the present controversy simply boils down to this pivotal question: Given the purpose of preventive suspension and the circumstances of this case, did respondent Deputy Ombudsman commit a grave abuse of discretion when he set the period of preventive suspension at six months?

Preventive suspension under Sec. 24, R.A. 6770, to repeat, may be imposed when, among other factors, the evidence of guilt is strong. The period for which an official may be preventively suspended must not exceed six months. In this case, petitioner was preventively suspended and ordered to cease and desist from holding office for the entire period of six months, which is the maximum provided by law.

“SEC. 24. Preventive Suspension. –

x x x

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.” (Underscoring supplied.)

The determination of whether or not the evidence of guilt is strong as to warrant preventive suspension rests with the Ombudsman.[14] The discretion as regards the period of such suspension also necessarily belongs to the Ombudsman, except that he cannot extend the period of suspension beyond that provided by law.[15] But, in our view, both the strength of the evidence to warrant said suspension and the propriety of the length or period of suspension imposed on petitioner are properly raised in this petition for certiorari and prohibition. These equitable remedies under Rule 65 of the Rules of Court precisely exist to provide prompt relief where an “officer exercising judicial or quasi-judicial functions has acted...with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.” (See Rule 65, Sec. 1).

It is pertinent to note here that the inquiry that preceded the filing of an administrative case against petitioner was prompted by newspaper reports regarding the allegedly anomalous contract entered into by petitioner, on behalf of Cebu City, with F.E. Zuellig.[16] In the memorandum to respondent Mojica,[17] respondent Garciano recommended that petitioner be preventively suspended, based on an initial investigation purportedly showing: (1) the contract for supply of asphalt to Cebu City was designed to favor F.E. Zuellig, (2) the amount quoted in the contract was too expensive compared to the amount for which asphalt may be bought from local suppliers such as Shell and Petron, particularly considering that the amount was fixed in dollars and was payable in pesos, thus exposing the city government to the risks attendant to a fluctuating exchange rate, and (3) the interest of the city

under the contract is not protected by adequate security. These findings were based on the contract itself and on letters from Bitumex and Credit Lyonnais. There were also letters from Shell and Petron that were replies to the Office of the Ombudsman's (Visayas) inquiry on whether or not they could supply Cebu City with asphalt and on what terms.

Given these findings, we cannot say now that there is no evidence sufficiently strong to justify the imposition of preventive suspension against petitioner. But considering its purpose and the circumstances in the case brought before us, it does appear to us that the imposition of the maximum period of six months is unwarranted.

On behalf of respondents, the Solicitor General stated during his oral argument at the hearing that the documents mentioned in respondents' comment (such as purchase orders, purchase requests, and disbursement vouchers), documents that show petitioner's guilt, were obtained after petitioner had been suspended. Even if an afterthought, he claimed they strengthen the evidence of respondents against petitioner. If the purpose of the preventive suspension was to enable the investigating authority to gather documents without intervention from petitioner, then, from respondents' submission, we can only conclude that this purpose was already achieved, during the nearly month-long suspension of petitioner from June 25 to July 19, 1999. Granting that now the evidence against petitioner is already strong, even without conceding that initially it was weak, it is clear to us that the maximum six-month period is excessive and definitely longer than necessary for the Ombudsman to make its legitimate case against petitioner. We must conclude that the period during which petitioner was already preventively suspended, has been sufficient for the lawful purpose of preventing petitioner from hiding and destroying needed documents, or harassing and preventing witnesses who wish to appear against him.

We reach the foregoing conclusion, however, without necessarily subscribing to petitioner's claim that the Local Government Code, which he averred should apply to this case of an elective local official, has been violated. True, under said Code, preventive suspension may only be imposed after the issues are joined, and only for a maximum period of sixty days. Here, petitioner was suspended without having had the chance to refute first the charges against him, and for the maximum period of six months provided by the Ombudsman Law. But as respondents argue, administrative complaints commenced under the Ombudsman Law are distinct from those initiated under the Local Government Code. Respondents point out that the shorter period of suspension under the Local Government Code is intended to limit the period of suspension that may be imposed by a mayor, a governor, or the President, who may be motivated by partisan political considerations. In contrast the Ombudsman, who can impose a longer period of preventive suspension, is not likely to be similarly motivated because it is a constitutional body. The distinction is valid but not decisive, in our view, of whether there has been grave abuse of discretion in a specific case of preventive suspension.

Respondents base their argument on the deliberations of the Senate on Senate Bill No. 155, which became the Local Government Code. Senator Aquilino Pimentel, Jr., commenting on the preservation in the proposed Code of the power of the Office of the President to suspend local officials, said:

"Senator Pimentel. Now, as far as we are concerned, the Senate Committee is ready to adopt a more stringent rule regarding the power of removal and suspension by the Office of the President over local government officials, Mr. President. We would only wish to point out that in a subsequent section, we have provided for the power of suspension of local government officials to be limited only to 60 days and not more than 90 days in any one year, regardless of the number of administrative charges that may be filed against a local government official. We, in fact, had in mind the case of Mayor Ganson of Iloilo where the Secretary of Local Government sort of serialized the filing of charges against him so that he can be continuously suspended when one case is filed right after the other, Mr. President." [18]

Respondents may be correct in pointing out the reason for the shorter period of preventive suspension imposable

under the Local Government Code. Political color could taint the exercise of the power to suspend local officials by the mayor, governor, or President's office. In contrast the Ombudsman, considering the constitutional origin of his Office, always ought to be insulated from the vagaries of politics, as respondents would have us believe.

In *Hagad v. Gozo-Dadole*,^[19] on the matter of whether or not the Ombudsman has been stripped of his power to investigate local elective officials by virtue of the Local Government Code, we said:

“Indeed, there is nothing in the Local Government Code to indicate that it has repealed, whether expressly or impliedly, the pertinent provisions of the Ombudsman Act. The two statutes on the specific matter in question are not so inconsistent, let alone irreconcilable, as to compel us to only uphold one and strike down the other.”^[20]

It was also argued in *Hagad*, that the six-month preventive suspension under the Ombudsman Law is “much too repugnant” to the 60-day period that may be imposed under the Local Government Code. But per J. Vitug, “the two provisions govern differently.” ^[21]

However, petitioner now contends that *Hagad* did not settle the question of whether a local elective official may be preventively suspended even before the issues could be joined. Indeed it did not, but we have held in other cases that there could be preventive suspension even before the charges against the official are heard, or before the official is given an opportunity to prove his innocence.^[22] Preventive suspension is merely a preliminary step in an administrative investigation and is not in any way the final determination of the guilt of the official concerned.

Petitioner also avers that the suspension order against him was issued in violation of Section 26(2) of the Ombudsman Law, which provides:

“SEC. 26. Inquiries. – xxx

(2) The Office of the Ombudsman shall receive complaints from any source in whatever form concerning an official act or omission. It shall act on the complaint immediately and if it finds the same entirely baseless, it shall dismiss the same and inform the complainant of such dismissal citing the reasons therefor. If it finds a reasonable ground to investigate further, it shall first furnish the respondent public officer or employee with a summary of the complaint and require him to submit a written answer within seventy-two hours from receipt thereof...”

Petitioner argues that before an inquiry may be converted into a full-blown administrative investigation, the official concerned must be given 72 hours to answer the charges against him. In his case, petitioner says the inquiry was converted into an administrative investigation without him being given the required number of hours to answer.

Indeed, it does not appear that petitioner was given the requisite 72 hours to submit a written answer to the complaint against him. This, however, does not make invalid the preventive suspension order issued against him. As we have earlier stated, a preventive suspension order may be issued even before the charges against the official concerned is heard.

Moreover, respondents state that petitioner was given 10 days to submit his counter-affidavit to the complaint filed by respondent Tagaan. We find this 10-day period is in keeping with Section 5(a) of the Rules of Procedure of the Office of the Ombudsman,^[23] which provides:

“Sec. 5. Administrative adjudication; How conducted.—

(a) If the complaint is not dismissed for any of the causes enumerated in Section 20 of Republic Act No. 6770, the respondent shall be furnished with copy of the affidavits and other evidences submitted by the complainant, and shall be ordered to file his counter-affidavits and other evidences in support of his defense, within ten (10)

days from receipt thereof, together with proof of service of the same on the complainant who may file reply affidavits within ten (10) days from receipt of the counter-affidavits of the respondent.”

We now come to the concluding inquiry. Granting that the Office of the Ombudsman may investigate, for purposes provided for by law, the acts of petitioner committed prior to his present term of office; and that it may preventively suspend him for a reasonable period, can that office hold him administratively liable for said acts?

In a number of cases, we have repeatedly held that a reelected local official may not be held administratively accountable for misconduct committed during his prior term of office.[24] The rationale for this holding is that when the electorate put him back into office, it is presumed that it did so with full knowledge of his life and character, including his past misconduct. If, armed with such knowledge, it still reelects him, then such reelection is considered a condonation of his past misdeeds.

However, in the present case, respondents point out that the contract entered into by petitioner with F.E. Zuellig was signed just four days before the date of the elections. It was not made an issue during the election, and so the electorate could not be said to have voted for petitioner with knowledge of this particular aspect of his life and character.

For his part, petitioner contends that “the only conclusive determining factor”[25] as regards the people’s thinking on the matter is an election. On this point, we agree with petitioner. That the people voted for an official with knowledge of his character is presumed, precisely to eliminate the need to determine, in factual terms, the extent of this knowledge. Such an undertaking will obviously be impossible. Our rulings on the matter do not distinguish the precise timing or period when the misconduct was committed, reckoned from the date of the official’s reelection, except that it must be prior to said date.

As held in *Salalima*,

“The rule adopted in *Pascual*, qualified in *Aguinaldo* insofar as criminal cases are concerned, is still a good law. Such a rule is not only founded on the theory that an official’s reelection expresses the sovereign will of the electorate to forgive or condone any act or omission constituting a ground for administrative discipline which was committed during his previous term. We may add that sound policy dictates it. To rule otherwise would open the floodgates to exacerbating endless partisan contests between the reelected official and his political enemies, who may not stop to hound the former during his new term with administrative cases for acts alleged to have been committed during his previous term. His second term may thus be devoted to defending himself in the said cases to the detriment of public service...” (Emphasis added.)[26]

The above ruling in *Salalima* applies to this case. Petitioner cannot anymore be held administratively liable for an act done during his previous term, that is, his signing of the contract with F.E. Zuellig.

The assailed retainer agreement in *Salalima* was executed sometime in 1990. Governor *Salalima* was reelected in 1992 and payments for the retainer continued to be made during his succeeding term. This situation is no different from the one in the present case, wherein deliveries of the asphalt under the contract with F.E. Zuellig and the payments therefor were supposed to have commenced on September 1998, during petitioner’s second term.

However, respondents argue that the contract, although signed on May 7, 1998, during petitioner’s prior term, is to be made effective only during his present term.

We fail to see any difference to justify a valid distinction in the result. The agreement between petitioner (representing Cebu City) and F.E. Zuellig was perfected on the date the contract was signed, during petitioner’s prior term. At that moment, petitioner already acceded to the terms of the contract, including stipulations now alleged to be prejudicial to the city government. Thus, any culpability petitioner may have in signing the contract

already became extant on the day the contract was signed. It hardly matters that the deliveries under the contract are supposed to have been made months later.

While petitioner can no longer be held administratively liable for signing the contract with F. E. Zuellig, however, this should not prejudice the filing of any case other than administrative against petitioner. Our ruling in this case, may not be taken to mean the total exoneration of petitioner for whatever wrongdoing, if any, might have been committed in signing the subject contract. The ruling now is limited to the question of whether or not he may be held administratively liable therefor, and it is our considered view that he may not.

WHEREFORE, the petition is hereby DENIED insofar as it seeks to declare that respondents committed grave abuse of discretion in conducting an inquiry on complaints against petitioner, and ordering their investigation pursuant to respondents' mandate under the Constitution and the Ombudsman Law. But the petition is hereby GRANTED insofar as it seeks to declare that respondents committed grave abuse of discretion concerning the period of preventive suspension imposed on petitioner, which is the maximum of six months, it appearing that 24 days – the number of days from the date petitioner was suspended on June 25, 1999, to the date of our status quo order on July 19, 1999 – were sufficient for the purpose. Accordingly, petitioner's preventive suspension, embodied in the order of respondent Deputy Ombudsman, dated June 25, 1999, should now be, as it is hereby, LIFTED immediately.

SO ORDERED.

Bellosillo, Acting C.J., (Chairman), Mendoza, and Buena, JJ., concur.

[1] Rollo, p. 134.

[2] Rollo, p. 157.

[3] F.D. REGALADO, I Remedial Law Compendium 651 (6th Revised Ed., 1997).

[4] 212 SCRA 768 (1992).

[5] 106 Phil. 466, 472 (1959), citing *Conant v. Brogan*, 6 N.Y.S.R. 332 (1887), cited in 17 A.I.R. 281, 63 So. 559, 50 LRA (NS) 553.

[6] Rollo, p. 205.

[7] *Ibid.*

[8] *Ibid.*

[9] 257 SCRA 55 (1996).

[10] Rollo, p. 43.

[11] *Buenaseda v. Flavier*, 226 SCRA 645, 654 (1993).

[12] *Gloria v. CA, et al.*, G.R. No. 131012, April 21, 1999, p. 7.

[13] *Yasay v. Desierto, et al.*, G.R. No. 134495, December 28, 1998, p. 9.

[14] *Nera v. Garcia*, 106 Phil. 1031 (1960); *Buenaseda v. Flavier*, 226 SCRA 645 (1993); *Lastimosa v. Vasquez*, 243 SCRA 497 (1995); *Castillo-Co v. Barbers*, 290 SCRA 717 (1998)).

[15] Castillo-Co v. Barbers, *supra*.

[16] Rollo, p. 134.

[17] Rollo, pp. 43-49.

[18] I RECORD OF THE SENATE 68-69 (1990).

[19] 251 SCRA 242 (1995).

[20] Hagad v. Gozo-Dadole, *supra*, at 251-252.

[21] *Id.* at 253-254.

[22] *Supra* at note 14, excluding the case of Buenaseda vs. Flavier.

[23] Administrative Order No. 07.

[24] Pascual v. Hon. Provincial Board of Nueva Ecija, 106 Phil. 466 (1959); Lizares v. Hechanova, 17 SCRA 58 (1966); Aguinaldo v. Santos, 212 SCRA 768 (1992); Salalima v. Guigona, Jr., 257 SCRA 55 (1996).

[25] TSN, July 28, 1999, p. 23.

[26] Salalima v. Guingona, *supra* at 115.

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