

ANTONIO M. CARANDANG, PETITIONER, VS. HONORABLE ANIANO A. DESIERTO, OFFICE OF THE OMBUDSMAN, RESPONDENT.*G.R. No. 148076. January 12, 2011*

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148076/>**BERSAMIN, J.:**

Petitioner Antonio M. Carandang (Carandang) challenges the jurisdiction over him of the Ombudsman and of the Sandiganbayan on the ground that he was being held to account for acts committed while he was serving as general manager and chief operating officer of Radio Philippines Network, Inc. (RPN), which was not a government-owned or -controlled corporation; hence, he was not a public official or employee.

In G.R. No. 148076, Carandang seeks the reversal of the decision[1] and resolution[2] promulgated by the Court of Appeals (CA) affirming the decision[3] of the Ombudsman dismissing him from the service for grave misconduct.

In G.R. No. 153161, Carandang assails on certiorari the resolutions dated October 17, 2001[4] and March 14, 2002[5] of the Sandiganbayan (Fifth Division) that sustained the Sandiganbayan's jurisdiction over the criminal complaint charging him with violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act).

Antecedents

Roberto S. Benedicto (Benedicto) was a stockholder of RPN, a private corporation duly registered with the Securities and Exchange Commission (SEC).[6] In March 1986, the Government ordered the sequestration of RPN's properties, assets, and business. On November 3, 1990, the Presidential Commission on Good Government (PCGG) entered into a compromise agreement with Benedicto, whereby he ceded to the Government, through the PCGG, all his shares of stock in RPN. Consequently, upon motion of the PCGG, the Sandiganbayan (Second Division) directed the president and corporate secretary of RPN to transfer to the PCGG Benedicto's shares representing 72.4% of the total issued and outstanding capital stock of RPN.

However, Benedicto moved for a reconsideration, contending that his RPN shares ceded to the Government, through the PCGG, represented only 32.4% of RPN's outstanding capital stock, not 72.4%. Benedicto's motion for reconsideration has remained unresolved to this date.[7]

Administrative Complaint for Grave Misconduct

On July 28, 1998, Carandang assumed office as general manager and chief operating officer of RPN.[8]

On April 19, 1999, Carandang and other RPN officials were charged with grave misconduct before the Ombudsman. The charge alleged that Carandang, in his capacity as the general manager of RPN, had entered into a contract with AF Broadcasting Incorporated despite his being an incorporator, director, and stockholder of that corporation; that he had thus held financial and material interest in a contract that had required the approval of his office; and that the transaction was prohibited under Section 7 (a) and Section 9 of Republic Act No. 6713 (Code

of Conduct and Ethical Standards for Public Officials and Employees), thereby rendering him administratively liable for grave misconduct.

Carandang sought the dismissal of the administrative charge on the ground that the Ombudsman had no jurisdiction over him because RPN was not a government-owned or -controlled corporation.[9]

On May 7, 1999, the Ombudsman suspended Carandang from his positions in RPN.

On September 8, 1999, Carandang manifested that he was no longer interested and had no further claim to his positions in RPN. He was subsequently replaced by Edgar San Luis.[10]

In its decision dated January 26, 2000,[11] the Ombudsman found Carandang guilty of grave misconduct and ordered his dismissal from the service.

Carandang moved for reconsideration on two grounds: (a) that the Ombudsman had no jurisdiction over him because RPN was not a government-owned or -controlled corporation; and (b) that he had no financial and material interest in the contract that required the approval of his office.[12]

The Ombudsman denied Carandang's motion for reconsideration on March 15, 2000.[13]

On appeal (CA G.R. SP No. 58204),[14] the CA affirmed the decision of the Ombudsman on February 12, 2001, stating:

The threshold question to be resolved in the present case is whether or not the Office of the Ombudsman has jurisdiction over the herein petitioner.

It is therefore of paramount importance to consider the definitions of the following basic terms, to wit: A public office "is the right, authority and duty, created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the state to be exercised by him for the benefit of the public." (San Andres, Catanduanes vs. Court of Appeals, 284 SCRA 276: Chapter I, Section 1, Mechem, A Treatise on Law of Public Offices and Officers). The individual so invested is called the public officer which "includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exemption service receiving compensation, even nominal, from the government as defined in xxx [Sec. 2 (a) of Republic Act No. 3019 as amended]." (Sec. 2 (b) of Republic Act No. 3019 as amended. Unless the powers conferred are of this nature, the individual is not a public officer.

With these time-honored definitions and the substantial findings of the Ombudsman, We are constrained to conclude that, indeed, the herein petitioner (Antonio M. Carandang) is a public officer. Precisely, since he (Antonio M. Carandang) was appointed by then President Joseph Ejercito Estrada as general manager and chief operating officer of RPN-9 (page 127 of the Rollo). As a presidential appointee, the petitioner derives his authority from the Philippine Government. It is *luce clarius* that the function of the herein petitioner (as a presidential appointee), relates to public duty, i.e., to represent the interest of the Philippine Government in RPN-9 and not purely personal matter, thus, the matter transcends the petitioner's personal pique or pride.

x x x

Having declared earlier that the herein petitioner is a public officer, it follows therefore that, that jurisdiction over him is lodged in the Office of the Ombudsman.

It is worth remembering that as protector of the people, the Ombudsman has the power, function and duty to 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. (Section 13 of Republic Act No. 6770).

x x x

Accordingly, the Office of the Ombudsman is, therefore, clothed with the proper armor when it assumed jurisdiction over the case filed against the herein petitioner. x x x

x x x

It appears that RPN-9 is a private corporation established to install, operate and manage radio broadcasting and/or television stations in the Philippines (pages 59-79 of the Rollo). On March 2, 1986, when RPN-9 was sequestered by the Government on ground that the same was considered as an illegally obtained property (page 3 of the Petition for Review; page 2 of the Respondent's Comment; pages 10 and 302 of the Rollo), RPN-9 has shed-off its private status. In other words, there can be no gainsaying that as of the date of its sequestration by the Government, RPN-9, while retaining its own corporate existence, became a government-owned or controlled corporation within the Constitutional precept.

Be it noted that a government-owned or controlled corporation "refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether government or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock; Provided, That government-owned or controlled corporations may be further categorized by the department of Budget, the Civil Service, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations." (Section 2 [13], Executive Order No. 292).

Contrary to the claim of the petitioner, this Court is of the view and so holds that RPN-9 perfectly falls under the foregoing definition. For one, "the government's interest to RPN-9 amounts to 72.4% of RPN's capital stock with an uncontested portion of 32.4% and a contested or litigated portion of 40%." (page 3 of the Petition for Review; pages 8-9 of the Respondent's Comment). On this score, it ought to be pointed out that while the forty percent (40%) of the seventy two point four percent (72.4%) is still contested and litigated, until the matter becomes formally settled, the government, for all interests and purposes still has the right over said portion, for the law is on its side. Hence, We can safely say that for the moment, RPN-9 is a government owned and controlled corporation. Another thing, RPN 9, though predominantly tackles proprietary functions--those intended for private advantage and benefit, still, it is irrefutable that RPN-9 also performs governmental roles in the interest of health, safety and for the advancement of public good and welfare, affecting the public in general.

x x x

Coming now to the last assignment of error- While it may be considered in substance that the "latest GIS clearly shows that petitioner was no longer a stockholder of record of AF Broadcasting Corporation at the time of his assumption of Office in RPN 9 x x x" (Petitioner's Reply [to Comment]; page 317 of the Rollo), still severing ties from AF Broadcasting Corporation does not convince this Court fully well to reverse the finding of the Ombudsman that Antonio Carandang "appears to be liable for Grave Misconduct" (page 10 of the Assailed Decision; page 36 of the Rollo). Note that, as a former stockholder of AF Broadcasting Corporation, it is improbable that the herein petitioner was completely oblivious of the developments therein and unaware of the contracts it (AF Broadcasting Corporation) entered into. By reason of his past (Antonio Carandang) association with the officers of the AF Broadcasting Corporation, it is unbelievable that herein petitioner could simply have ignored the contract entered into between RPN-9 and AF Broadcasting Corporation and not at all felt to reap the benefits thereof. Technically, it is true that herein petitioner did not directly act on behalf of AF Broadcasting Corporation, however, We doubt that he (herein petitioner) had no financial and/or material interest in that particular transaction requiring the approval of his office--a fact that could not have eluded Our

attention.

x x x

WHEREFORE, premises considered and pursuant to applicable laws and jurisprudence on the matter, the present Petition for Review is hereby DENIED for lack of merit. The assailed decision (dated January 26, 2000) of the Office of the Ombudsman in OMB-ADM-0-99-0349 is hereby AFFIRMED in toto. No pronouncement as to costs.

SO ORDERED.[15]

After the denial of his motion for reconsideration,[16] Carandang commenced G.R. No. 148076.

Violation of Section 3 (g), Republic Act No. 3019

On January 17, 2000, the Ombudsman formally charged Carandang in the Sandiganbayan with a violation of Section 3 (g) of RA 3019 by alleging in the following information, [17] viz:

That sometime on September 8, 1998 or thereabouts, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, accused ANTONIO M. CARANDANG, a high ranking officer (HRO) being then the General Manager of Radio Philippines Network, Inc. (RPN-9), then a government owned and controlled corporation, did then and there willfully, unlawfully and criminally give unwarranted benefits to On Target Media Concept, Inc. (OTMCI) through manifest partiality and gross inexcusable negligence and caused the government undue injury, by pre-terminating the existing block time contract between RPN 9 and OTMCI for the telecast of "Isumbong Mo Kay Tulfo" which assured the government an income of Sixty Four Thousand and Nine Pesos (P 64,009.00) per telecast and substituting the same with a more onerous co-production agreement without any prior study as to the profitability thereof, by which agreement RPN-9 assumed the additional obligation of taking part in the promotions, sales and proper marketing of the program, with the end result in that in a period of five (5) months RPN-9 was able to realize an income of only Seventy One Thousand One Hundred Eighty Five Pesos (P 71,185.00), and further, by waiving RPN-9's collectible from OTMCI for August 1-30, 1998 in the amount of Three Hundred Twenty Thousand and Forty Five Pesos (P 320,045.00).

Carandang moved to quash the information,[18] arguing that Sandiganbayan had no jurisdiction because he was not a public official due to RPN not being a government-owned or -controlled corporation.

The Sandiganbayan denied Carandang's motion to quash on October 17, 2001.[19]

After the denial by the Sandiganbayan of his motion for reconsideration,[20] Carandang initiated G.R. No. 153161.[21]

On May 27, 2002, Carandang moved to defer his arraignment and pre-trial, citing the pendency of G.R. No. 153161.[22]

On July 29, 2002, the Court directed the parties in G.R. No. 153161 to maintain the status quo until further orders.[23]

On November 20, 2006, G.R. No. 148076 was consolidated with G.R. No. 153161.[24]

Issue

Carandang insists that he was not a public official considering that RPN was not a government-owned or -controlled corporation; and that, consequently, the Ombudsman and the Sandiganbayan had no jurisdiction over him. He prays that the administrative and criminal complaints filed against him should be dismissed. Accordingly, decisive is whether or not RPN was a government-owned or -controlled corporation.

Ruling

We find the petitions to be meritorious.

It is not disputed that the Ombudsman has jurisdiction over administrative cases involving grave misconduct committed by the officials and employees of government-owned or -controlled corporations; and that the Sandiganbayan has jurisdiction to try and decide criminal actions involving violations of R.A. 3019 committed by public officials and employees, including presidents, directors and managers of government-owned or -controlled corporations. The respective jurisdictions of the respondents are expressly defined and delineated by the law.[25]

Similarly, the law defines what are government-owned or -controlled corporations. For one, Section 2 of Presidential Decree No. 2029 (Defining Government Owned or Controlled Corporations and Identifying Their Role in National Development) states:

Section 2. A government-owned or controlled corporation is a stock or a non-stock corporation, whether performing governmental or proprietary functions, which is directly chartered by a special law or if organized under the general corporation law is owned or controlled by the government directly, or indirectly through a parent corporation or subsidiary corporation, to the extent of at least a majority of its outstanding capital stock or of its outstanding voting capital stock.

Section 2 (13) of Executive Order No. 292 (Administrative Code of 1987)[26] renders a similar definition of government-owned or -controlled corporations:

Section 2. General Terms Defined. - Unless the specific words of the text or the context as a whole or a particular statute, shall require a different meaning:

x x x

(13) government-owned or controlled corporations refer to any agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least 51% of its capital stock.

It is clear, therefore, that a corporation is considered a government-owned or -controlled corporation only when the Government directly or indirectly owns or controls at least a majority or 51% share of the capital stock. Applying this statutory criterion, the Court ruled in *Leyson, Jr. v. Office of the Ombudsman*:[27]

But these jurisprudential rules invoked by petitioner in support of his claim that the CIIF companies are government owned and/or controlled corporations are incomplete without resorting to the definition of "government owned or controlled corporation" contained in par. (13), Sec.2, Introductory Provisions of the Administrative Code of 1987, i.e., any agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least fifty-one (51) percent of its capital stock. The definition mentions three (3) requisites, namely, first, any agency organized as a stock or non-stock corporation; second, vested with functions relating to public needs whether governmental or proprietary in nature; and, third, owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) of its capital stock.

In the present case, all three (3) corporations comprising the CIIF companies were organized as stock corporations. The UCPB-CIIF owns 44.10% of the shares of LEGASPI OIL, xxx. Obviously, the below 51% shares of stock in LEGASPI OIL removes this firm from the definition of a government owned or controlled corporation. x x x The Court thus concludes that the CIIF are, as found by public respondent, private

corporations not within the scope of its jurisdiction.[28]

Consequently, RPN was neither a government-owned nor a controlled corporation because of the Government's total share in RPN's capital stock being only 32.4%.

Parenthetically, although it is true that the Sandiganbayan (Second Division) ordered the transfer to the PCGG of Benedicto's shares that represented 72.4% of the total issued and outstanding capital stock of RPN, such quantification of Benedicto's shareholding cannot be controlling in view of Benedicto's timely filing of a motion for reconsideration whereby he clarified and insisted that the shares ceded to the PCGG had accounted for only 32.4%, not 72.4%, of RPN's outstanding capital stock. With the extent of Benedicto's holdings in RPN remaining unresolved with finality, concluding that the Government held the majority of RPN's capital stock as to make RPN a government-owned or -controlled corporation would be bereft of any factual and legal basis.

Even the PCGG and the Office of the President (OP) have recognized RPN's status as being neither a government-owned nor -controlled corporation.

In its Opinion/Clarification dated August 18, 1999, the PCGG communicated to San Luis as the president and general manager of RPN regarding a case involving RPN and Carandang:[29]

MR. EDGAR S. SAN LUIS

President & General Manager
Radio Philippines Network, Inc.
Broadcast City, Capitol Hills
Diliman, Quezon City

Sir:

This refers to your letter dated August 4, 1999, seeking "PCGG's position on the following:

"1. Whether RPN-9 is a GOCC x x x or a private corporation outside the scope of OGCC and COA's control given 32% Government ownership x x x.

x x x

It appears that under the RP-Benedicto Compromise Agreement dated November 3, 1990 - validity of which has been sustained by the Supreme Court in G.R. No. 96087, March 31, 1992, (Guingona, Jr. vs. PCGG, 207 SCRA 659) - Benedicto ceded all his rights, interest and/or participation, if he has any, in RPN-9, among others, to the government which rights, interest and/or participation per PCGG's understanding, include 9,494,327.50 shares of stock, i.e, about 72.4% of the total issued and outstanding capital stock of RPN-9.

Accordingly, the Sandiganbayan (Second Division), on motion of the government through PCGG, ordered the president and corporate secretary of the RPN-9 to "effect the immediate cancellation and transfer of the 9,494,327.50 shares corresponding to Benedicto's proprietary interest in RPN-9 to the Republic of the Philippines c/o PCGG" (Sandiganbayan's Resolution of February 3, 1998 in Civil Case No. 0034, RP vs. Roberto Benedicto, et. al.) Benedicto, however, filed a motion for reconsideration of said Resolution, contending that the number of RPN-9 shares ceded by him embraces only his personal holdings and those of his immediate family and nominees totaling 4,161,207.5 shares but excluding the RPN-9 shares in the name of Far East Managers and Investors, Inc. ("FEMIE"), which is about 40%, as they are corporate properties/assets of FEMIE and not his personal holdings. Said motion for reconsideration is still pending resolution by the Sandiganbayan.

x x x

We agree with your x x x view that RPN-9 is not a government owned or controlled corporation within the contemplation of the Administrative Code of 1987, for admittedly, RPN-9 was organized for private needs and profits, and not for public needs and was not specifically vested with functions relating to public needs.

Neither could RPN-9 be considered a "government-owned or controlled corporation" under Presidential Decree (PD) No. 2029 dated February 4, 1986, which defines said terms as follows:

"Sec.2. Definition. - A government owned- or controlled corporation is a stock or non-stock corporation, whether performing governmental or proprietary functions which is directly chartered by special law or organized under the general corporation law is owned or controlled by the government directly, or indirectly through a parent corporation or subsidiary corporation, to the extent of at least a majority of its outstanding capital stock or of its outstanding voting capital stock;

Provided, that a corporation organized under the general corporation law under private ownership at least a majority of the shares of stock of which were conveyed to a government corporation in satisfaction of debts incurred with a government financial institution, whether by foreclosure or otherwise, or a subsidiary corporation of a government corporation organized exclusively to own and manage, or lease, or operate specific physical assets acquired by a government financial institution in satisfaction of debts incurred therewith, and which in any case by enunciated policy of the government is required to be disposed of to private ownership within a specified period of time, shall not be considered a government-owned or controlled corporation before such disposition and even if the ownership or control thereof is subsequently transferred to another government-owned or controlled corporation."

A government-owned or controlled corporation is either "parent" corporation, i.e., one "created by special law" (Sec. 3 (a), PD 2029) or a "subsidiary" corporation, i.e, one created pursuant to law where at least a majority of the outstanding voting capital stock of which is owned by parent government corporation and/or other government-owned subsidiaries. (Sec. 3 (b), PD 2029).

RPN-9 may not likewise be considered as an "acquired asset corporation" which is one organized under the general corporation law (1) under private ownership at least a majority of the shares of stock of which were conveyed to a government corporation in satisfaction of debts incurred with a government financial institution, whether by foreclosure or otherwise, or (2) as a subsidiary corporation of a government corporation organized exclusively to own and manage, or lease, or operate specific physical assets acquired by a government financial institution in satisfaction of debts incurred therewith, and which in any case by enunciated policy of the government is required to be disposed of to private ownership within a specified period of time" (Sec 3 c, PD 2029), for the following reasons:

- as noted above, the uncontested (not litigated) RPN-9 shares of the government is only 32.4% (not a majority) of its capital stock;
- said 32.4% shares of stock, together with the contested/litigated 40%, were not conveyed to a government corporation or the government "in satisfaction of debts incurred with government financial institution, whether by foreclosure or otherwise;
- RPN-9 was not organized as a subsidiary corporation of a government corporation organized exclusively to own and manage, or lease, or operate specific physical assets acquired by a government financial institution in satisfaction of debts incurred therewith.

It should be parenthetically noted that the 32.4% or 72.4% shares of stocks were turned over to the government by virtue of a compromise agreement between the government and Benedicto in Civil Case No. 0034 which is "a civil action against Defendants Roberto S. Benedicto, Ferdinand E. Marcos, Imelda R. Marcos" and others, to recover from them ill-gotten wealth" (Amended Complaint, Aug. 12, 1987, Civil Case No. 0034, p. 2.) As the

case between the government and Benedicto, his family and nominees was compromised, no judicial pronouncement was made as to the character or nature of the assets and properties turned over by Benedicto to the government - whether they are ill-gotten wealth or not.[30]

The PCGG's Opinion/Clarification was affirmed by the OP itself on February 10, 2000: [31]

February 10, 2000

Mr. Edgar S. San Luis
President and General Manager
Radio Philippines Network Inc.
Broadcasting City, Capitol Hills, Diliman
Quezon City

Dear President San Luis,

x x x

Relative thereto, please be informed that we affirm the PCGG's opinion that RPNI is not a government-owned and/or controlled corporation (GOCC). Section 2 (13), Introductory Provisions of the Administrative Code of 1987 defines a GOCC as an agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least 51% of its capital stock. As government ownership over RPNI is only 32.4% of its capital stock, pending the final judicial determination of the true and legal ownership of RPNI, the corporation is deemed private.[32]

Even earlier, a similar construction impelled the Ombudsman to dismiss a criminal complaint for violation of R.A. 3019 filed against certain RPN officials, as the Ombudsman's resolution dated December 15, 1997 indicates,[33] a pertinent portion of which is quoted thus:

This is not to mention the fact that the other respondents, the RPN officials, are outside the jurisdiction of this Office (Office of the Ombudsman); they are employed by a private corporation registered with the Securities and Exchange Commission, the RPN, which is not a government owned or controlled corporation x x x[34]

Considering that the construction of a statute given by administrative agencies deserves respect,[35] the uniform administrative constructions of the relevant aforequoted laws defining what are government-owned or -controlled corporations as applied to RPN is highly persuasive.

Lastly, the conclusion that Carandang was a public official by virtue of his having been appointed as general manager and chief operating officer of RPN by President Estrada deserves no consideration. President Estrada's intervention was merely to recommend Carandang's designation as general manager and chief operating officer of RPN to the PCGG, which then cast the vote in his favor vis-à-vis said positions.[36] Under the circumstances, it was RPN's Board of Directors that appointed Carandang to his positions pursuant to RPN's By-Laws.[37]

In fine, Carandang was correct in insisting that being a private individual he was not subject to the administrative authority of the Ombudsman and to the criminal jurisdiction of the Sandiganbayan.[38]

WHEREFORE, we grant the petitions in G.R. No. 148076 and G.R. No. 153161.

We reverse and set aside the decision promulgated on February 12, 2001 by the Court of Appeals in C.A.-G.R. SP No. 58204, and dismiss the administrative charge for grave misconduct against the petitioner.

We annul and set aside the resolutions dated October 17, 2001 and March 14, 2002, as well as the order dated

March 15, 2002, all issued by the Sandiganbayan (Fifth Division) in Criminal Case No. 25802, and dismiss Criminal Case No. 25802 as against the petitioner.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo (G.R. No. 148076), pp. 34-50; penned by Associate Justice Jose L. Sabio, Jr. (retired), with Associate Justices Ma. Alicia Austria-Martinez (later Presiding Justice of the CA, and a Member of the Court, but already retired) and Hilarion L. Aquino (retired), concurring.

[2] Id., pp. 52-53.

[3] Id., pp. 285-297.

[4] Rollo (G.R. No. 153161), pp. 30-39; penned by Associate Justice Minita V. Chico-Nazario (later Presiding Justice of the Sandiganbayan, and a Member of the Court, but already retired), with Associate Justice Ma. Cristina G. Cortez-Estrada (later Presiding Justice of the Sandiganbayan, but already retired) and Associate Justice Nicodemo T. Ferrer (retired), concurring.

[5] Id., pp. 40-43; penned by Associate Justice Chico-Nazario with Associate Justice Cortez-Estrada and Associate Justice Francisco H. Villaruz, Jr., concurring.

[6] Rollo (G.R. No. 148076), pp. 66-86.

[7] Rollo (G.R. No. 153161), pp. 68-69.

[8] Id., p. 182.

[9] Rollo (G.R. No. 148076), pp. 150 and 170-190.

[10] CA rollo, pp. 397 and 629-630.

[11] Supra, note 3.

[12] Rollo (G.R. No. 148076), pp. 298-304.

[13] Id. pp. 305-308.

[14] Rollo (G.R. No. 148076), pp. 309-324.

[15] Supra, note 1, pp. 43-49.

[16] Supra, note 2.

[17] Rollo (G.R. No. 153161), pp. 89-90.

[18] Id., pp. 94-100.

[19] Supra, note 8.

[20] Supra, note 9.

[21] Supra, note 7.

[22] Rollo (G.R. No. 153161), pp. 133-138.

[23] *Id.*, pp. 140-141.

[24] *Id.*, p. 219.

[25] Article XI, Sections 12 and 13 of the 1987 Constitution; Republic Act No. 6770, otherwise known as The Ombudsman Act of 1989; Article XI, Section 4 of the 1987 Constitution, in relation to Article XIII, Section 5 of the 1973 Constitution (See *People v. Sandiganbayan*, G.R. Nos. 147706-07, February 16, 2005, 451 SCRA 413); Section 4 (a) (1) (g), Republic Act No. 8249 (approved on February 5, 1997), entitled An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as amended, Providing Funds Therefor, and for Other Purposes.

[26] Enacted on July 25, 1987.

[27] G.R. No. 134990, April 27, 2000, 331 SCRA 227, 235-236.

[28] Bold underscoring supplied for emphasis.

[29] *Rollo* (G.R. No. 153161), pp. 66-72.

[30] Emphasis and underscoring supplied.

[31] *Rollo* (G.R. No. 148076), p. 358.

[32] Emphasis supplied.

[33] *Rollo* (G.R. No. 148076), pp. 634-638.

[34] Emphasis supplied.

[35] *Philippine Amusement and Gaming Corporation (PAGCOR) v. Philippine Gaming Jurisdiction, Incorporated (PEJI)*, G.R. No. 177333, April 24, 2009, 586 SCRA 658, 667; *Alfonso v. Office of the President*, G.R. No. 150091, April 2, 2007, 520 SCRA 64, 75; *Delos Santos v. Court of Appeals*, G.R. No. 147912, April 26, 2006, 488 SCRA 351, 359.

[36] *Rollo* (G.R. No. 148076), p. 99.

[37] *Rollo* (G.R. No. 153161), pp. 56 and 182.

[38] *Azarcon v. Sandiganbayan*, G.R. No. 116033, February 26, 1997, 268 SCRA 747.

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