COMMISSION ON AUDIT, REGIONAL OFFICE NO. 13, BUTUAN CITY, PETITIONER, VS. AGAPITO A. HINAMPAS AND EMMANUEL J. CABANOS, RESPONDENTS;

G.R. NO. 158672. August 07, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Cast against different factual backdrops but raising a common issue relative to the nature of the administrative disciplinary power of the Office of the Ombudsman (OOMB) are these five (5) consolidated petitions for review assailing the decisions of the Court of Appeals (CA) which overturned the Ombudsman's actions on the premise that the Ombudsman's administrative disciplinary power is merely recommendatory.

More particularly, the consolidated petitions assail and seek to set aside the following issuances of the CA in the different proceedings brought before it and whence the corresponding consolidated petitions herein sprung, to wit:

> - IN G.R. NO. 158672:
>
> Decision[1] dated May 29, 2003 in CA-G.R. SP No. 70137, which reversed and set aside an earlier decision dated August 27, 2001 of the Ombudsman finding herein respondents Agapito A. Hinampas and Emmanuel J. Cabanos, among others, guilty of gross neglect of duty, grave misconduct and conduct prejudicial to the best interest of the service and meting on them the penalty of one year suspension from office without pay;
>
> - IN G.R. NO. 160410:
>
> Decision[2] dated October 14, 2003 in CA-G.R. SP No. 73991 reversing and setting aside the August 16, 2002 Memorandum Order of the OOMB which found respondent Rogelio P. Montealto, along with Nellie R. Apolonio, guilty of dishonesty, grave misconduct and conduct grossly prejudicial to the best interest of the service, and meted on them the penalty of dismissal from the service.
>
> - IN G.R. NOS. 160605 & 160627:
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> Decision[3] dated April 28, 2003 in CA-G.R. SP No. 72790 reversing and setting aside the September 19, 2001 decision of the Ombudsman which found respondent Virgilio M. Danao guilty of dishonesty and imposed upon him the penalty of dismissal from the service; and
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> - IN G.R. NO. 161099:
>
> Decision[4] dated December 3, 2003 in CA-G.R. SP No. 74222 reversing and setting aside the Ombudsman's modified decision of April 17, 2001 which found respondents Sonia Gonzales-Dela Cerna and Milagros Umali-Ventura guilty of simple neglect of duty and meted upon them the penalty of one month suspension

As culled from the records, the respective facts of each of the consolidated petitions are as follows:
Re: G.R. No. 158672 -

On September 21, 1998, a certain Teodoro A. Gapuzan filed a letter-complaint with the OOMB alleging

anomalies in the conduct of public biddings by the Office of the District Engineer, First Engineering District of Agusan del Sur, and the collusion of licensed private contractor Engr. Rafael A. Candol, representing JTC Development, Construction and Supply and NBS Construction under a joint venture agreement. The letter-complaint alleged that, despite these firms being holders of small licenses entitled only to projects costing not more than three million pesos (P3,000,000.00) on a single undertaking, Engr. Candol was awarded seven (7) projects of more than P3,000,000.00 each, to wit:

1. Construction of Bunawan Bridge, Phase IV, Bunawan P13,000,000.00

2. Construction of Bunawan Bridge, Phase V, Bunawan P13,000,000.00

3. Construction of Concrete Pavement and Approach, Bunawan Bridge P7,000,000.00

4. Improvement of Agusan-Davao Road (Tabon-Tabok-Wawa Section) P8,617, 890.60

5. Improvement of Agusan-Davao Road (Bahbah-Patinay Section) P8,618,054.77

6. Improvement of Agusan-Davao Road (Sianib-Awa Section) P9,072,998.54

7. Improvement of Agusan-Davao Road (Noli-Panaytay Section) P9,097,999.47

The Ombudsman endorsed the aforesaid letter-complaint to the Commission on Audit (COA), Region XII, Caraga Administrative Region, Butuan City, for an audit investigation. The resultant special audit report recommended the filing of criminal charges against Engr. Candol and the members of the Agusan del Sur 1[st] Engineering District Pre-Qualification, Bids and Awards Committee (PBAC), as well as the institution of administrative charges against the same PBAC members, for negligence and failure to properly validate the veracity/authenticity of the documents submitted in the pre-qualification process of JTC and NBS, resulting in the award of seven (7) projects to unqualified contractors.

A verification with the Philippine Contractors Accreditation Board (PCAB) of the licenses submitted by JTC and NBS revealed that the PCAB file did not reconcile with those submitted to the PBAC, particularly on the category/GP size range. The actual category/GP size range of JTC/NBS is C/Small B while the copy submitted to the PBAC included Medium A in addition to the C/Small B category. Under Presidential Decree (PD) No. 1594, contractors with category/GP size range of C/Small B are allowed to undertake projects costing not more than P3,000,000.00.

In a Resolution dated November 25, 1999, the Ombudsman found sufficient evidence to warrant the filing of criminal cases against Engr. Candol, PBAC members Agapito Hinampas, Lilia P. Baskinas, Emmanuel Cabanos, Roberto Salise, and the Chairman of the PBAC Technical Staff, Gloria Razo. It is the technical staff's duty to assist the PBAC in reviewing and evaluating pre-qualification requirements of contractors and in checking and evaluating bid proposals.

In the same resolution, the Ombudsman likewise directed the filing of an administrative case against the PBAC members and Gloria Razo for grave misconduct, gross neglect of duty and conduct prejudicial to the best interest of the service for awarding public work contracts without actually verifying and validating the special contractors' licenses resulting in the contracts being awarded to an unqualified contractor. The case was docketed as OMB-MIN-ADM-00-032. After the submission of counter-affidavits and the requisite preliminary conference, the parties presented their evidence in formal hearings. The case was then submitted for decision.

In a decision of August 27, 2000, the Ombudsman disposed as follows:

> WHEREFORE, premises considered, this Office finds respondents Agapito A. Hinampas, Lilia P. Baskinas,

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> Emmanuel J. Cabanos, Roberto C. Salise, and Gloria T. Razo, GUILTY of gross neglect of duty, grave misconduct and conduct prejudicial to the best interest of the service and are hereby meted the penalty of SUSPENSION from office for one (1) year without pay, effective upon the finality hereof.

Their motions for reconsideration having been denied by the Ombudsman, respondents filed their appeal with the CA whereat their appellate recourse was docketed as CA-G.R. SP No. 70137. In its decision of May 29, 2003, the 8[th] Division of the CA reversed that of the Ombudsman on the following grounds:

> - The Ombudsman cannot implement its decisions in administrative disciplinary cases pursuant to the obiter dictum in Tapiador v. Office of the Ombudsman, et al.;[5]
>
> - Since the allegedly same case had already been earlier resolved and disposed of by the DPWH, res judicata bars the OOMB from exercising its administrative disciplinary authority thereon; and
>
> - The reliance in good faith on the documents submitted to the respondents by the contractors, coupled with lack of undue injury to the government, cannot give rise to administrative liability.

Respondent Gloria Razo had appealed earlier than the other respondents from the same Ombudsman decision. This was docketed as CA-G.R. SP No. 70137. Later, the 5[th] Division of the CA took a stand contrary to that of the 8[th] Division and denied her appeal, in effect sustaining the decision dated August 27, 2000 of the Ombudsman.

Meanwhile, the COA had brought the CA's 8[th] Division decision for review to this Court in G.R. No. 158672.

Re: G.R. No. 160410 -

On August 24, 2001, Nicasio I. Marte filed with the OOMB a complaint charging Dr. Nellie R. Apolonio and Rogelio P. Montealto, both officers of the National Book Development Board (NBDB), with Grave Misconduct, Dishonesty, and Conduct Prejudicial to the Best Interests of the Service.

In his complaint, Marte alleged that Montealto wrote a letter to Apolonio requesting that a cash advance in the amount of P88,000.00 be issued in Apolonio's name to "cover the cost of supplies and materials, food and other miscellaneous expenses" for an upcoming Team Building Workshop for NBDB employees. As requested, Apolonio secured a cash advance in her name, and, in due course, Check No. 19595 for P88,000.00 was issued. Apolonio encashed the check and used P80,200.00 to purchase gift checks from SM North Edsa. The gift checks were then distributed to the members of the NBDB Secretariat who attended the seminar workshop.

An administrative inquiry was conducted. In defending her actions, Apolonio stated that:

> [B]ecause of the clamor of the participants of the said workshop seminar who are all NBDB employees not to consume all by themselves the budget, they requested that they be allowed instead to share them with their respective families during the Christmas season.

Montealto, on the other hand, argued that his only participation was to make a request authorizing the granting of a cash advance in the name of Apolonio, without malice nor intent to defraud the government. He denied having participated in the processing, release and use of the funds.

In a Memorandum Order dated August 16, 2002, which modified its decision dated April 3, 2003, the OOMB found Apolonio and Montealto to have "misapplied the amount of P88,000 for their own benefit and of others who participated in the said seminar workshop," and stated the observation that "it has become apparent that their respective fiscal responsibilities were not observed." It then adjudged Apolonio and Montealto guilty of dishonesty, grave misconduct and conduct grossly prejudicial to the best interest of the service, and meted on them the penalty of dismissal from service.

On appeal to the CA in CA-G.R. SP No. 73991, that court, as in previous cases, found the OOMB to be without authority to directly dismiss government employees from public service, relying, as basis therefor, on the so-called Tapiador doctrine, to wit:

> x x x Besides, assuming arguendo, that petitioners were administratively liable, the Ombudsman has no authority to directly dismiss the petitioners from the government service, more particularly from thier position in the BID. Under Section 13, subparagraph (3), of Article XI of the 1987 Constitution, the Ombudsman can only "recommend" the removal of the public official or employee found to be at fault, to the public official concerned.[6]

Re: G.R. Nos. 160605 and 160627 -

Roseller A. Rojas, a Special Agent I of the Bureau of Customs-Enforcement and Security Service (BOC-ESS), filed a complaint with the OOMB against his superior, herein respondent Virgilio M. Danao (Director III) for Dishonesty. The complaint alleged that respondent Danao had falsely made it appear in his personal data sheets (PDS) that he is a 1972 graduate of the Manila Central University (MCU) with a course in Bachelor of Science in Business Administration (BSBA).

By way of proof, complainant Rojas submitted a Certification issued by MCU stating that per its records, there is no graduate of BSBA for the year 1972 by the name of Virgilio M. Danao. Rojas also presented copies of the PDS prepared and submitted to the Bureau of Customs (BOC) whereon it is stated that Danao had graduated with a degree in BSBA from MCU in 1972.

After due proceedings, the Ombudsman found Danao guilty of dishonesty and meted on him the penalty of dismissal from service.

The implementation of the aforesaid decision was then sought through the BOC per the Ombudsman's Implementing Order of October 1, 2001. The desired implementation, however, was temporarily stayed upon Danao's filing of his motion for reconsideration, which the OOMB eventually denied.

Dissatisfied with the action thus taken by the OOMB, Danao went on appeal to the CA in G.R. SP No. 72790, claiming that the PDS on which the Ombudsman's decision was based is not the PDS he submitted to the BOC and the Civil Service Commission (CSC).

In a decision of April 28, 2003 in CA-G.R. SP No. 7270, the CA reversed the Ombudsman's judgment due to the lack of an NBI report proving that the handwritings and signatures on the PDS in question really belonged to respondent Danao. Said reversal also pronounced, citing Tapiador, that the Ombudsman has no power to impose the penalty of dismissal.

The OOMB moved for a reconsideration, but the appellate court denied the motion in its November 4, 2003 resolution. Hence the present recourse of the Ombudsman in G.R. No. 160605 and of Rojas in G.R. No. 160627.

Re: G.R. No. 161099 -

Respondent Sonia Gonzales-Dela Cerna is the Chief of the Entry Processing Unit (EPU), MIASCOR Composite Unit, Bureau of Customs (BOC) at the Ninoy Aquino International Airport (NAIA), while respondent Milagros Umali-Ventura is the Customs Document Processor of the Cargohaus Warehouse Collection Unit, BOC-NAIA, Pasay City.

On November 2, 1996 and January 12, 1997, Samsung Mabuhay Corporation (Samsung) imported, on each occasion, 1,020 units of Samsung cellular phones with no value declared for customs purposes.

In both shipments, Samsung represented itself as being a first-time importer of cellular phones; hence its failure to secure the corresponding clean report of findings (CRF). It nonetheless offered to pay the duty, tax and penalty for non-compliance with the CRF requirement.

The Societe Generale de Surveillance (SGS) Manila Liason Office, however, produced respective copies of the CRF on Samsung's importations with a value of $140,000.00 for each importation.

In both importations, Samsung submitted with the BOC spurious commercial invoices covering the shipments for processing, as well as fake National Telecommunications Commission (NTC) permit to import cellular phones.

Samsung valued the entire November 2, 1996 shipment at $480.00. Incongruously, it valued the January 12, 1997 shipment at $20,400.00 despite its being similar in quantity and quality to that of the November 2, 1996 shipment.

Concerned Customs Examiners appraised the shipments based on the invoice value submitted by Samsung, which amounts were found to be grossly undervalued.

The November 2, 1996 shipment was successfully released from the Customs warehouse on November 27, 1996 under the pretext of voluntary payment of duty, tax, plus penalty for non-submission of the CRF requirement. An attempt to release the January 12, 1997 shipment in the same manner was also made.

As a consequence of the fraudulent acts adverted to, the government suffered a revenue loss of P1,246,983.00. This was made possible by Samsung's undervaluation with the complicity of concerned Customs officials and employees assigned at BOC's Cargohaus Warehouse Collection Unit at NAIA.

On March 22, 2000, the OOMB's Fact-Finding Intelligence Bureau (FFIB) recommended, among others, that an administrative complaint against respondent dela Cerna, Marius Aseron (Customs Examiner) and respondent Milagros Umali-Ventura (Customs Document Processor) be filed with the OOMB's Administrative Adjudication Board (ABB).

FFIB, as represented by Atty. Franco T. Falcon, filed an administrative complaint with the AAB, docketed as OMB-ADM-0-00-0439 (OMB-0-00-0917), charging respondent dela Cerna, Aseron and respondent Umali-Ventura with Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, Inefficiency, and Incompetence in the Performance of Duty.

After evaluating the parties' respective positions, Plaridel Oscar J. Bohol, Graft Investigation Officer (GIO), rendered a decision dated April 17, 2001 with the following decretal portion:

> WHEREFORE, the foregoing premises considered, respondents SONIA GONZALES-DELA CERNA, Chief, Entry Processing Unit; and MILAGROS UMALI-VENTURA, Customs Document Processor, all from the Cargohaus Unit, Bureau of Customs, Ninoy Aquino International Airport (NAIA), Pasay City, are hereby EXONERATED and the case against them DISMISSED.
>
> Likewise, the instant case against MARIUS ASERON, Customs Examiner, is hereby DISMISSED for being MOOT and ACADEMIC.

Because said decision was subject to review, then Overall Deputy Ombudsman Margarito P. Gervacio, Jr., modified GIO Bohol's decision with the following marginal note:

> Modified - Pursuant to the Memorandum of GIO Julita Calderon dated Jan. 2, 2002 find[ing] respondents Sonia G. dela Cerna and Milagros Ventura [G]uilty of Simple Neglect of Duty.

Dissatisfied with the action of the Ombudsman, respondents dela Cerna and Ventura went on certiorari to the CA in CA-G.R. SP No. 74222 and secured a reversal from the appellate court, again on the ground that the

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Ombudsman's disciplinary powers are merely recommendatory. Hence, the OOMB'S petition in G.R. No. 161099.

The major issue which these five (5) consolidated petitions for review raise in common is whether or not the disciplinary power of the Ombudsman is indeed merely recommendatory in nature, as ruled by the CA.

The answer, as laid out by recent jurisprudence, is a resounding NO. As this Court has already held in Ledesma v. CA[7] and Estarija v. Ranada,[8] the so-called Tapiador "doctrine," upon which the assailed CA decisions are based, is mere obiter.

Tapiador takes note of the following Section of the Constitution:

> Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:
>
> xxx xxx xxx
>
> (3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith. (Emphasis supplied)

The word "recommend" must be taken in conjunction with the phrase "and ensure compliance therewith." In Ledesma v. CA, supra, we had this to say:

> x x x [A] cursory reading of Tapiador reveals that the main point of the case was the failure of the complainant therein to present substantial evidence to prove the charges of the administrative case. The statement that made reference to the power of the Ombudsman is, at best, merely an obiter dictum and, as it is unsupported by sufficient explanation, is susceptible to varying interpretations, as what precisely is before us in this case. Hence, it cannot be cited as a doctrinal declaration of this Court nor is it safe from judicial examination.[9] (Emphasis supplied)

In Estarija v. Ranada,[10] we reiterated our pronouncements in Ledesma and went on to categorically state:

> x x x [T]he Constitution does not restrict the powers of the Ombudsman in Section 13, Article XI of the 1987 Constitution, but allows the Legislature to enact a law that would spell out the powers of the Ombudsman. Through the enactment of Rep. Act No. 6770, specifically Section 15, par. 3, the lawmakers gave the Ombudsman such powers to sanction erring officials and employees, except members of Congress, and the Judiciary. To conclude, we hold that Sections 15, 21, 22 and 25 of Republic Act No. 6770 are constitutionally sound. The powers of the Ombudsman are not merely recommendatory. His office was given teeth to render this constitutional body not merely functional but also effective. Thus, we hold that under Republic Act No. 6770 and the 1987 Constitution, the Ombudsman has the constitutional power to directly remove from government service an erring public official other than a member of Congress and the Judiciary. (Emphasis supplied)

In G.R. Nos. 160410 and 161099, the CA affirmed the findings of facts by the Ombudsman, relying only on the Tapiador obiter to reverse and set aside the Ombudsman's actions as being beyond the ambit of his authority. There is no question, therefore, that the assailed decisions in those cases should be annulled and the Ombudsman's decisions therein reinstated.

However, G.R. No. 158672 and G.R. Nos. 160605,160627 confront us with additional issues to tackle. We shall now specifically address these cases one at a time.
Re: G.R. No. 158672 -

In CA-G.R. SP No. 70137 (Hinampas case), the CA did not solely rely on the Tapiador obiter in reversing and setting aside the OOMB's decision. In arriving at its decision, the CA reasoned that reliance in good faith on the documents submitted to respondents by the contractors, coupled with lack of undue injury to the government,

cannot give rise to administrative liability. Further, the CA found that res judicata bars the OOMB from exercising its administrative disciplinary authority since the allegedly same case had already been resolved and disposed of by the DPWH.

Res judicata cannot be made to apply in CA-G.R. SP No. 70137 (Hinampas case). It is apparent from the facts on record that the Ombudsman had already acquired jurisdiction over the case when the DPWH learned of it. DPWH was only furnished a copy of the complaint filed with the OOMB when it decided to conduct its own inquiry based on the same complaint. Furthermore, the DPWH's investigation did not qualify as a quasi-judicial proceeding wherein necessarily respondents are named, offenses are charged, and parties are heard. The DPWH proceeding was just a fact-finding investigation and the resultant finding therein cannot act as a bar to the Ombudsman's decision.

In an administrative proceeding, the quantum of proof required for a finding of guilt is only substantial evidence, meaning that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[11] Further, precedents teach us that the factual findings of the OOMB, when supported by substantial evidence, are conclusive,[12] and such findings made by an administrative body which has acquired expertise are accorded not only respect but even finality.[13]

Hence, the CA decision assailed in G.R. No. 158672 must also be reversed and set aside, and the decision of the Ombudsman finding respondents Hinampas and Cabanos guilty of grave misconduct, gross neglect of duty and conduct prejudicial to the best interest of the service, should be reinstated.

Re: G.R. Nos. 160605 and 160627 -

When there is substantial evidence in support of the Ombudsman's decision, that decision will not be overturned.[14] However, the Danao cases present an instance where there is no substantial evidence to back up the OOMB's decision. Hence, in CA-G.R. SP No. 72790, the CA was correct in setting aside the OOMB decision in this case. As the appellate court elucidated:

> But then, on the basis of the records, these PDS on which the [OOMB's] Decision dated September 19, 2000 (September 26, 2001) as well as the Order dated February 27, 2002 are based is being questioned by herein petitioner to be not the PDS that he has submitted to the Bureau of Customs and the Office of the Civil Service Commission. Hence, the entries appearing therein are doubtful.
>
> That being the case, [the OOMB] cannot correctly make the PDS as a basis of its decision since the same is questionable there being no report yet made by the NBI as to whether the handwriting contained therein is genuine and belonging to petitioner especially in view of the report of the NBI dated May 16, 2002 regarding 2 of the 5 PDS submitted by [Rojas] to the [OOMB] to the effect that the thumbmarks appearing thereon are impressed by a different person which, in effect, support the stand of petitioner that the subject PDS herein were not submitted or filed by him with the Bureau of Customs and the Office of the CSC. In fact, the presumption of regularity in the performance of one's duty is not applicable in this case considering that being disputable it has been contradicted by the Partial Report of the NBI dated May 16, 2002.[15] (Emphasis supplied)

Indeed, it does not appear that it was respondent Danao who accomplished the questioned PDS. Nor is there any proof that the signatures and thumbmarks thereon are his. It cannot be assumed that the PDS was prepared, signed and submitted by Danao, especially in light of his denial. The physical evidence being such, the CA really had no choice but to exculpate respondent Danao.

WHEREFORE, the Court RULES as follows:

- In G.R. No. 158672 [COA v. Hinampas, et al.]: The May 29, 2003 decision of the CA in C.A.-G.R. SP No.

70137 is SET ASIDE and the decision of the Ombudsman in OMB-MIN-ADM-00-032 is REINSTATED;

- In G.R. No. 160410 [OOMB v. Montealto]: The assailed CA decision of October 14, 2003 in CA-G.R. SP No. 73991 is SET ASIDE and the Ombudsman's August 16, 2002 Memorandum Order in OMB-ADM-0-00-0405 is REINSTATED;

- In G.R. Nos. 160605 & 160627 [OOMB v. Danao; Rojas v. Danao]: The assailed decision and resolution of the CA in CA-G.R. SP No. 72790 are AFFIRMED.

- In G.R. No. 161099 [OOMB v. Gonzales-dela Cerna, et al.]: The CA decision in CA-G.R. SP No. 74222 dated December 3, 2003 is SET ASIDE and the decision of the Ombudsman in OMB-ADM-0-00-0183 is REINSTATED.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Chico-Nazario, and Velasco, Jr., JJ., concur.
Tinga, J., no part. Former counsel of a party.
Nachura, J., no part.

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[1] Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Conrado M. Vasquez, Jr. and Rosmari D. Carandang, concurring; rollo of G.R. No. 158672, pp. 18-33.

[2] Penned by Associate Justice Sergio L. Pestaño (ret.), with Associate Justices Marina L. Buzon and Jose C. Mendoza, concurring; rollo of G.R. No. 160410, pp-66-72.

[3] Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Conrado M. Vasquez, Jr. and Rosmari D. Carandang, concurring; rollo of G.R. No. 160605, pp. 8-22; rollo of G.R. No. 160627, pp. 40-54.

[4] Penned by Associate Justice Eliezer R. de los Santos, with Associate Justices B.A. Adefuin-de la Cruz (ret.), and Jose C. Mendoza, concurring; rollo of G.R. No. 161099, pp. 80-86.

[5] G.R. No. 129124, March 15, 2002, 379 SCRA 322.

[6] Supra note 7 at p. 333.

[7] G.R. No. 161629, July 29, 2005, 465 SCRA 437.

[8] G.R. No. 159314, June 26, 2006, 492 SCRA 652.

[9] Supra note 9 at pp. 448-449.

[10] Supra note 10 at pp. 673-674.

[11] Avancena v. Liwanag, A.M. No. MTJ-01-1383, July 17, 2003, 406 SCRA 300, 303.

[12] Republic Act No. 6770 (1989), Sec. 27(2).

[13] Advincula v. Dicen, G.R. No. 162403, May 16, 2005, 458 SCRA 696, 712.

[14] Morong Water District v. Office of the Deputy Ombudsman, G.R. No. 116754, March 17, 2000, 328 SCRA 363, 373.

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[15] Rollo of G.R. No. 160627, p. 51.

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