

**SHARON CASTRO, PETITIONER, VS. HON. MERLIN DELORIA, AS
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 65,
GUIMARAS; THE COA- REGION VI, REPRESENTED BY ITS DIRECTOR;
AND HON. COUR...**

G.R. No. 163586. January 27, 2009

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Certiorari under Rule 65 of the Rules of Court filed by Sharon Castro (petitioner) to assail the July 22, 2003 Decision[1] of the Court of Appeals (CA) which dismissed CA-G.R. SP No. 69350; and the March 26, 2004 CA Resolution[2] which denied the motion for reconsideration.

The facts are of record.

On May 31, 2000, petitioner was charged by the Ombudsman before the Regional Trial Court (RTC), Branch 65, Guimaras, with Malversation of Public Funds, under an Information which reads, as follows:

That on or about the 17[th] day of August 1998, and for sometime prior thereto, in the Municipality of Buenavista, Province of Guimaras, Philippines and within the jurisdiction of the this Honorable Court, abovenamed accused, a public officer, being the Revenue Officer I of the Bureau of Internal Revenue, Buenavista, Guimaras and as such, was in the custody and possession of public funds in the amount of P556,681.53, Philippine Currency, representing the value of her collections and other accountabilities, for which she is accountable by reason of the duties of her office, in such capacity and committing the offense in relation to office, taking advantage of her public position, with deliberate intent, and with intent to gain, did then and there willfully, unlawfully and feloniously appropriate, take, misappropriate, embezzle and convert to her own personal use and benefit said amount of P556,681.53, and despite notice and demands made upon her account for said public funds, she has failed to do so, to the damage and prejudice of the government.

CONTRARY TO LAW.[3]

Petitioner pleaded NOT GUILTY when arraigned on February 16, 2001.

On August 31, 2001, petitioner filed a Motion to Quash on the grounds of lack of jurisdiction and lack of authority of the Ombudsman to conduct the preliminary investigation and file the Information. Petitioner argued that the Information failed to allege her salary grade — a material fact upon which depends the jurisdiction of the RTC. Citing *Uy v. Sandiganbayan*,[4] petitioner further argued that as she was a public employee with salary grade 27, the case filed against her was cognizable by the RTC and may be investigated and prosecuted only by the public prosecutor, and not by the Ombudsman whose prosecutorial power was limited to cases cognizable by the Sandiganbayan.[5]

The RTC denied the Motion to Quash in an Order[6] dated September 7, 2001. It held that the jurisdiction of the RTC over the case did not depend on the salary grade of petitioner, but on the penalty imposable upon the latter

for the offense charged.[7] Moreover, it sustained the prosecutorial authority of the Ombudsman in the case, pointing out that in Uy, upon motion for clarification filed by the Ombudsman, the Court set aside its August 9, 1999 Decision and issued a March 20, 2001 Resolution expressly recognizing the prosecutorial and investigatory authority of the Ombudsman in cases cognizable by the RTC.

The RTC further held that the Motion to Quash was contrary to Sec. 1, Rule 117, for it was filed after petitioner pleaded not guilty under the Information.[8]

Petitioner filed a Motion for Reconsideration,[9] which the RTC denied in its December 18, 2001 Order.[10]

Petitioner filed a petition for certiorari[11] with the CA, but the latter dismissed the petition in the Decision under review.

Petitioner's motion for reconsideration[12] was also denied.

Hence, the present petition, confining the issues to the following:

- Whether or not the Ombudsman, as of May 31, 2000, when the Information for Malversation of Public Funds was instituted against the Petitioner, had the authority to file the same in light of this Supreme Court's ruling in the First "Uy vs. Sandiganbayan" case, which declared that the prosecutorial powers of the Ombudsman is limited to cases cognizable by the Sandiganbayan.
- Whether or not the clarificatory Resolution issued by the Supreme Court dated February 22, 2001 in the Uy vs. Sandiganbayan case can be made applicable to the Petitioner-Accused, without violating the constitutional provision on ex-post facto laws and denial of the accused to due process.[13]

Petitioner contends that from the time of the promulgation on August 9, 1999 of the Decision of the Court in Uy up to the time of issuance on March 20, 2001 of the Resolution of the Court in the same case, the prevailing jurisprudence was that the Ombudsman had no prosecutorial powers over cases cognizable by the RTC. As the investigation and prosecution against petitioner was conducted by the Ombudsman beginning April 26, 2000, then the August 9, 1999 Decision in Uy was applicable, notwithstanding that the said decision was set aside in the March 20, 2001 Resolution of the Court in said case. Hence, the Information that was filed against petitioner was void for at that time the Ombudsman had no investigatory and prosecutorial powers over the case.

The petition lacks merit.

The petition calls to mind *Office of the Ombudsman v. Enoc*,[14] wherein accused Ruben Enoc, et al. invoked the August 9, 1999 Decision of the Court in Uy[15] in a motion to dismiss the 11 counts of malversation that were filed against them by the Ombudsman before the RTC. The RTC granted the motion but upon petition filed by the Ombudsman, the Court reversed the RTC and held:

In turn, petitioner filed a Manifestation invoking the very same resolution promulgated on March 20, 2001 in Uy v. Sandiganbayan reconsidering the ruling that the prosecutory power of the Ombudsman extended only to cases cognizable by the Sandiganbayan.

Indeed, this Court has reconsidered the said ruling and held that the Ombudsman has powers to prosecute not only graft cases within the jurisdiction of the Sandiganbayan but also those cognizable by the regular courts. It held:

The power to investigate and to prosecute granted by law to the Ombudsman is plenary and unqualified. It pertains to any act or omission of any public officer or employee when such act or omission appears to be illegal, unjust, improper or inefficient. The law does not make a distinction between cases cognizable by the Sandiganbayan and those cognizable by regular courts. It has been held that the clause "any illegal act or omission of any public official" is broad enough to embrace any crime committed by a public officer or

employee.

The reference made by RA 6770 to cases cognizable by the Sandiganbayan, particularly in Section 15(1) giving the Ombudsman primary jurisdiction over cases cognizable by the Sandiganbayan, and Section 11(4) granting the Special Prosecutor the power to conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan, should not be construed as confining the scope of the investigatory and prosecutory power of the Ombudsman to such cases.

Section 15 of RA 6770 gives the Ombudsman primary jurisdiction over cases cognizable by the Sandiganbayan. The law defines such primary jurisdiction as authorizing the Ombudsman "to take over, at any stage, from any investigatory agency of the government, the investigation of such cases." The grant of this authority does not necessarily imply the exclusion from its jurisdiction of cases involving public officers and employees cognizable by other courts. The exercise by the Ombudsman of his primary jurisdiction over cases cognizable by the Sandiganbayan is not incompatible with the discharge of his duty to investigate and prosecute other offenses committed by public officers and employees. Indeed, it must be stressed that the powers granted by the legislature to the Ombudsman are very broad and encompass all kinds of malfeasance, misfeasance and non-feasance committed by public officers and employees during their tenure of office.

Moreover, the jurisdiction of the Office of the Ombudsman should not be equated with the limited authority of the Special Prosecutor under Section 11 of RA 6770. The Office of the Special Prosecutor is merely a component of the Office of the Ombudsman and may only act under the supervision and control and upon authority of the Ombudsman. Its power to conduct preliminary investigation and to prosecute is limited to criminal cases within the jurisdiction of the Sandiganbayan. Certainly, the lawmakers did not intend to confine the investigatory and prosecutory power of the Ombudsman to these types of cases. The Ombudsman is mandated by law to act on all complaints against officers and employees of the government and to enforce their administrative, civil and criminal liability in every case where the evidence warrants. To carry out this duty, the law allows him to utilize the personnel of his office and/or designate any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. Those designated or deputized to assist him work under his supervision and control. The law likewise allows him to direct the Special prosecutor to prosecute cases outside the Sandiganbayan's jurisdiction in accordance with Section 11(4c) of RA 6770.

We, therefore, hold that the Ombudsman has authority to investigate and prosecute Criminal Case Nos. 374(97) to 385(97) against respondents in the RTC, Branch 19 of Digos, Davao Del Sur even as this authority is not exclusive and is shared by him with the regular prosecutors.

WHEREFORE, the order, dated October 7, 2000, of the Regional Trial Court, branch 19 of Digos, Davao del Sur is SET ASIDE and Criminal Case Nos. 374(97) to 385(97) are hereby REINSTATED and the Regional Trial Court is ORDERED to try and decide the same. (Emphasis supplied)

Similarly relevant is the case of Office of Ombudsman v. Hon. Breva,[16] in which, citing the August 9, 1999 Decision in Uy, the RTC dismissed a criminal complaint that was filed before it by the Ombudsman. The Court reversed the RTC, for, "given the Court's Uy ruling under its March 20, 2001 Resolution, the trial court's assailed Orders x x x are, in hindsight, without legal support and must, therefore, be set aside."

It is settled, therefore, that the March 20, 2001 Resolution in Uy, that the Ombudsman has prosecutorial powers in cases cognizable by the RTC, extends even to criminal information filed or pending at the time when its August 9, 1999 Decision was the operative ruling on the issue.

Petitioner would argue, however, that the March 20, 2001 Resolution in Uy cannot have retroactive effect, for otherwise it would amount to "an ex-post facto law, which is constitutionally proscribed."[17]

Petitioner is grasping at straws.

A judicial interpretation of a statute, such as the Ombudsman Act, constitutes part of that law as of the date of its original passage. Such interpretation does not create a new law but construes a pre-existing one; it merely casts light upon the contemporaneous legislative intent of that law.[18][] Hence, the March 20, 2001 Resolution of the Court in Uy interpreting the Ombudsman Act is deemed part of the law as of the date of its effectivity on December 7, 1989.

Where a judicial interpretation declares a law unconstitutional or abandons a doctrinal interpretation of such law, the Court, recognizing that acts may have been performed under the impression of the constitutionality of the law or the validity of its interpretation, has consistently held that such operative fact cannot be undone by the mere subsequent declaration of the nullity of the law or its interpretation; thus, the declaration can only have a prospective application.[19] But where no law is invalidated nor doctrine abandoned, a judicial interpretation of the law should be deemed incorporated at the moment of its legislation.[20]

In the present case, the March 20, 2001 Resolution in Uy made no declaration of unconstitutionality of any law nor did it vacate a doctrine long held by the Court and relied upon by the public. Rather, it set aside an erroneous pubescent interpretation of the Ombudsman Act as expressed in the August 9, 1999 Decision in the same case. Its effect has therefore been held by the Court to reach back to validate investigatory and prosecutorial processes conducted by the Ombudsman, such as the filing of the Information against petitioner.

With the foregoing disquisition, the second issue is rendered moot and academic.

WHEREFORE, the petition is DISMISSED for lack of merit.

No costs.

SO ORDERED.

Tinga,[*]Chico-Nazario, Nachura, and Leonardo-De Castro,[**] JJ., concur.

* In lieu of Justice Consuelo Ynares-Santiago, per Special Order No. 556 dated January 15, 2009.

** In lieu of Justice Diosdado M. Peralta, per Special Order No. 560 dated January 16, 2009.

[1] Penned by Associate Justice Eloy Bello, Jr. and concurred in by Associate Justices Cancio Garcia (a retired member of the Supreme Court) and Mariano del Castillo; rollo, p. 42

[2] Id. at 56.

[3] Rollo, pp. 18-19.

[4] G.R. No. 180214, August 9, 1999, 312 SCRA 77.

[5] Rollo, pp. 22-23.

[6] Rollo, p. 24.

[7] Id. at 25.

[8] Id. at 25-26.

[9] Id. at 27.

[10] Id. at 32.

[11] Id. at 33.

[12] Id. at 50.

[13] Rollo, p. 8.

[14] G.R. Nos. 145957-68, January 25, 2002, 374 SCRA 691.

[15] Uy v. Sandiganbayan, *supra* note 4.

[16] G.R. No. 145938, February 10, 2006, 482 SCRA 182.

[17] Petition, rollo, p. 12.

[18] Roos Industrial Construction, Inc. v. National Labor Relations Commission, G.R. No. 172409, February 4, 2008, 543 SCRA 666.

[19] Ejercito v. Sandiganbayan, G.R. No. 157294-95, November 30, 2006, 509 SCRA 190.

[20] Chavez v. Public Estates Authority, G. R. No. 133250, May 6, 2003, 403 SCRA 1.

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