

OFFICE OF THE OMBUDSMAN AND DENNIS M. VILLA-IGNACIO, IN HIS CAPACITY AS SPECIAL PROSECUTOR, OFFICE OF THE OMBUDSMAN, PETITIONERS, VS. ATTY. GIL A. VALERA AND COURT OF APPEALS (S...

G.R. No. 164250. September 30, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is the petition for review on certiorari filed by the Office of the Ombudsman and Dennis M. Villa-Ignacio, in his capacity as the Special Prosecutor, Office of the Ombudsman, seeking the reversal of the Decision^[1] dated June 25, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 83091. The assailed decision set aside the Order dated March 17, 2004 issued by petitioner Special Prosecutor Villa-Ignacio in OMB-C-A-03-0379-J placing respondent Atty. Gil A. Valera, Deputy Commissioner, Office of the Revenue Collection Monitoring Group, Bureau of Customs, under preventive suspension for a period of six months without pay.

Factual and Procedural Antecedents

Respondent Valera was appointed Deputy Commissioner of the Bureau of Customs by President Gloria Macapagal-Arroyo on July 13, 2001. He took his oath of office on August 3, 2001 and assumed his post on August 7, 2001. He is in charge of the Revenue Collection Monitoring Group.

On August 20, 2003, the Office of the Ombudsman received the Sworn Complaint dated July 28, 2003 filed by then Director Eduardo S. Matillano of the Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG). In the said sworn complaint, Director Matillano charged respondent Valera with criminal offenses involving violation of various provisions of Republic Act (R.A.) No. 3019,^[2] the Tariff and Customs Code of the Philippines (TCCP), Executive Order No. 38,^[3] Executive Order No. 298^[4] and R.A. No. 6713^[5] as well as administrative offenses of Grave Misconduct and Serious Irregularity in the Performance of Duty. Likewise subject of the same sworn complaint was respondent Valera's brother-in-law Ariel Manongdo for violation of Section 4 of R.A. No. 3019.

The sworn complaint alleged that:

On January 30, 2002, while in the performance of his official functions, Atty. Gil A. Valera had compromised the case against the Steel Asia Manufacturing Corporation in Civil Case No. 01-102504 before Branch 39, RTC, Manila without proper authority from the Commissioner of the Bureau of Customs in violation of Section 2316 TCCP (Authority of Commission to make Compromise) and without the approval of the President, in violation of Executive Order No. 156 and Executive Order No. 38. Such illegal acts of Atty. Gil A. Valera, indeed, caused undue injury to the government by having deprived the government of its right to collect the legal interest, surcharges, litigation expenses and damages and gave the Steel Asia unwarranted benefits in the total uncollected amount of FOURTEEN MILLION SEVEN HUNDRED SIXTY-TWO

THOUSAND FOUR HUNDRED SIXTY-SEVEN PESOS AND SEVENTY CENTAVOS (P14,762,467.70), which is violative of Sections 3(e) and (g) respectively of RA 3019.

Further investigation disclosed that Atty. Gil A. Valera while being a Bureau of Customs official directly and indirectly had financial or pecuniary interest in the CACTUS CARGOES SYSTEMS a brokerage whose line of business or transaction, in connection with which, he intervenes or takes part in his official capacity by way of causing the employment of his brother-in-law, Ariel Manongdo, thus, violating Section 3(h) of RA 3019 and RA 6713 and Section 4, RA 3019 as against Ariel Manongdo.

Finally, investigation also disclosed that on April 21, 2002 Atty. Gil A. Valera traveled to Hongkong with his family without proper authority from the Office of the President in violation of Executive Order No. 298 (foreign travel of government personnel) dated May 19, 1995, thus, he committed an administrative offense of Grave Misconduct.[6]

The sworn complaint prayed that:

- 1) Appropriate preliminary investigation be conducted with the end-in-view of filing the necessary information before the Sandiganbayan;
- 2) Pending investigation, Atty. Gil A. Valera be indefinitely suspended from public office in order to prevent him from further committing acts of irregularity in public office;
- 3) This Group be furnished a copy of the Resolution of this (sic) cases.[7]

At about the same time as the filing of the complaint against respondent Valera, Director Matillano also filed charges against other officials of the Department of Public Works and Highways (DPWH) and Bureau of Customs. The Philippine Daily Inquirer featured a news article on them with the title “More gov’t execs flunk lifestyle check.”[8]

Prior to Director Matillano’s sworn complaint, criminal and administrative charges were also filed with the Office of the Ombudsman by Atty. Adolfo Casareño against respondent Valera. The complaint of Atty. Casareño contained similar allegations as those in the complaint of Director Matillano in that respondent Valera, without being duly authorized by the Commissioner of Customs, entered into a compromise agreement with Steel Asia Manufacturing Corp. in Civil Case No. 01-102504 to the prejudice of the government.

The cases against respondent Valera before the Ombudsman were docketed as follows:

OMB-C-C-02-0568-I (For: Violation of Sec. 3(e), R.A. 3019, as amended, and Section 3604 of the Tariff and Customs Code) entitled Alfredo Casareño v. Gil A. Valera and Antonio M. Lorenzana

OMB-C-C-03-0547-J (For: Violation of Sec. 3(e), (g) and (h) of R.A. 3019, as amended) entitled PNP-CIDG v. Gil A. Valera and Ariel N. Manongdo

OMB-C-A-0379-J (For: Grave Misconduct and Serious Irregularity in the Performance of Duty) entitled PNP-CIDG v. Gil A. Valera

On November 12, 2003, Ombudsman Simeon V. Marcelo issued a Memorandum[9] inhibiting himself from the foregoing criminal cases as well as the related administrative case and directing petitioner Special Prosecutor Villa-Ignacio to act in his (the Ombudsman’s) stead and place. The said memorandum reads:

MEMORANDUM

TO : HON. DENNIS M. VILLA-IGNACIO
Special Prosecutor
Office of the Special Prosecutor

SUBJECT : OMB-C-C-02-0568-I entitled “Alfredo Casareño vs. Gil Valera, et al.,” CPL No. C-03-1829 entitled “PNP-CIDG vs. Atty. Gil Valera and Ariel Manongdo” and OMB-C-A-0379-J entitled “PNP-CIDG vs. Atty. Gil Valera”

DATE : November 12, 2003

The undersigned is inhibiting himself in the above-captioned cases. Please act in his stead and place.

(Sgd.) SIMEON V. MARCELO
Tanodbayan
(Ombudsman)

On March 17, 2004, pursuant to the above memorandum, petitioner Special Prosecutor Villa-Ignacio, in the administrative case OMB-C-A-0379-J, issued the Order placing respondent Valera under preventive suspension for six months without pay. In the said order, petitioner Special Prosecutor Villa-Ignacio found that respondent Valera entered into the compromise agreement with Steel Asia Manufacturing Corp. in Civil Case No. 01-102504 without being duly authorized to do so by the Commissioner of Customs and without the approval of the Secretary of Finance in violation of Section 2316[10] of the TCCP.

As earlier mentioned, Civil Case No. 01-102504 was a collection suit filed by the Republic of the Philippines represented by the Bureau of Customs against Steel Asia Manufacturing Corp. for payment of duties and taxes amounting to P37,195,859.00. The said amount was allegedly paid by Steel Asia Manufacturing Corp. with spurious tax credit certificates. In addition to the principal amount, the government likewise demanded payment of penalty charges (25% thereof), legal interest from date of demand, litigation expenses and exemplary damages.

Petitioner Special Prosecutor Villa-Ignacio made the finding that by entering into the said compromise agreement whereby Steel Asia Manufacturing Corp. shall pay the overdue taxes and duties in thirty (30) monthly installments of P1,239,862 from January 2002 to June 2004, respondent Valera may have made concessions that may be deemed highly prejudicial to the government, i.e., waiver of the legal interest from the amount demanded, penalty charges imposed by law, litigation expenses and exemplary damages. Further, by the terms of the compromise agreement, respondent Valera had virtually exonerated Steel Asia Manufacturing Corp. of its fraudulent acts of using spurious tax credit certificates.

Petitioner Special Prosecutor Villa-Ignacio concluded the Order dated March 17, 2004 by stating that “[c]onsidering the strong evidence of guilt of respondent Deputy Commissioner Valera and the fact that the charges against him consist of Grave Misconduct and/or Dishonesty which may warrant his removal from the service, it is hereby declared that the requirements under Section 24 of R.A. No. 6770, in relation to Sec. 9, Rule III of Administrative Order No. 7, on the Rules of Procedure of the Office of the Ombudsman, as amended, are present, and placing respondent Deputy Commissioner Valera under preventive suspension pending administrative investigation on the matter for a period of six (6) months without pay is clearly justified.”[11]

The decretal portion of the March 17, 2004 Order reads:

WHEREFORE, pursuant to Sec. 24 of R.A. No. 6770, otherwise known as the Ombudsman Act of 1989, in relation to Sec. 9, Rule III of Administrative Order No. 7, respondent ATTY. GIL A. VALERA, Deputy Commissioner, Office of the Collection and Monitoring Group, Bureau of Customs, is hereby placed under preventive suspension for SIX (6) MONTHS WITHOUT PAY.

Pursuant to Sec. 27(1) of R.A. No. 6770, this Order of Preventive Suspension is deemed immediately effective and executory.

The Honorable Commissioner Antonio M. Bernard, Bureau of Customs, is hereby directed to implement the Order immediately upon receipt hereof and to promptly inform this Office of compliance herewith.

Respondent Atty. Gil A. Valera, Deputy Commissioner, Office of the Collection and Monitoring Group, Bureau of Customs, is hereby ordered to file his counter-affidavit and other controverting evidence to the complaint, copy of which together with the annexes, is hereto attached, within ten (10) days from receipt hereof in three (3) legible copies addressed to the Central Records Division, Office of the Ombudsman, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, Quezon City, furnishing the complainant with a copy of said counter-affidavit.

Further, respondent is also ordered to submit proof of service of his counter-affidavit to the complaint, who may file its reply thereto within a period of ten (10) days from receipt of the same.

Failure to comply as herein directed within the period prescribed by the rules shall be deemed as a waiver of the right to submit the party's counter-affidavit or reply, nonetheless, despite said non-filing, the investigation shall proceed pursuant to existing rules.

This Order is being issued by the undersigned in view of the inhibition of the Honorable Tanodbayan Simeon Marcelo from his case as contained in a Memorandum dated 12 November 2003.

SO ORDERED.[12]

Respondent Valera sought reconsideration of the said Order claiming denial of due process. He averred that he had already submitted his counter-affidavit refuting the charges leveled against him by the PNP-CIDG way back on November 6, 2003. He pointed out that Director Matillano's sworn complaint was filed on August 20, 2003 and it was only two months later or on October 22, 2003 that the Ombudsman found enough basis to proceed with the administrative investigation of the case by requiring respondent Valera to file his counter-affidavit. He did so on November 6, 2003. During the said period of two months, the Preliminary Investigation and Administrative Adjudication Bureau-A (PIAB-A) of the Office of the Ombudsman did not find enough bases to preventively suspend him. According to respondent Valera, he was at a loss as to why it was only then (March 17, 2004) that he was being placed under preventive suspension.

Acting on respondent Valera's motion for reconsideration, petitioner Special Prosecutor Villa-Ignacio issued the Order dated April 5, 2004 explaining that the delay in the issuance of the preventive suspension order was due to the inhibition of the Ombudsman from the case and for which reason, he (petitioner Special Prosecutor Villa-Ignacio), by virtue of the Memorandum dated November 12, 2003, had to act in his place and stead. Petitioner Special Prosecutor Villa-Ignacio averred that contrary to respondent Valera's assertion, his counter-affidavit would not justify the reversal of the March 17, 2004 Order since he failed to show that he had the requisite authority from the Commissioner of Customs to enter into the said compromise agreement with respect to the Steel Asia Manufacturing Corp. case. It was not shown under what authority and on what basis respondent Valera entered into the said compromise agreement.

In light of the foregoing ratiocination, petitioner Special Prosecutor Villa-Ignacio denied respondent Valera's motion for reconsideration. The decretal portion of his Order dated April 5, 2004 reads:

WHEREFORE, the undersigned finds no cogent reason to reconsider the suspension order previously issued dated 17 March 2004 but considers the Counter-Affidavit received by the Office of the Ombudsman 06 November 2003 as sufficient compliance to the portion of the assailed Order directing him to file his counter-affidavit. Consequently, the Order insofar as it requires him to file counter-affidavit contained in the

17 March 200[4] Order is SET ASIDE.[13]

Even before his motion for reconsideration was acted upon, however, respondent Valera already filed with the Court of Appeals a special civil action for certiorari and prohibition as he sought to nullify the March 17, 2004 Order of preventive suspension issued by petitioner Special Prosecutor Villa-Ignacio and to enjoin Commissioner of Customs Antonio M. Bernardo from implementing the said Order.

On April 16, 2004, the appellate court heard the parties on oral arguments on the prayer for injunction. On even date, it issued a temporary restraining order against the implementation of the preventive suspension order.

On June 25, 2004, the appellate court rendered the assailed Decision setting aside the March 17, 2004 Order of preventive suspension and directing petitioner Special Prosecutor Villa-Ignacio to desist from taking any further action in OMB-C-A-03-0379-J.

In so ruling, the CA held mainly that petitioner Special Prosecutor Villa-Ignacio is not authorized by law to sign and issue preventive suspension orders. It cited Section 24 of R.A. No. 6770, otherwise known as "The Ombudsman Act of 1989," which vests on the "Ombudsman and his Deputy" the power to preventively suspend any government officer or employee under the Ombudsman's authority pending investigation subject to certain conditions. In relation thereto, Section 5, Article XI of the Constitution was also cited as it states that the Office of the Ombudsman is "composed of the Ombudsman to be known as the Tanodbayan, one overall Deputy, and at least one Deputy each for Luzon, Visayas and Mindanao. A separate Deputy for the military establishment may likewise be appointed."

Relying on these two provisions of law, the CA declared that petitioner Special Prosecutor Villa-Ignacio has no authority to issue a preventive suspension order since he is neither the Ombudsman nor one of the Deputy Ombudsmen.

The CA was not persuaded by petitioner Special Prosecutor Villa-Ignacio's contention that his authority to issue the March 17, 2004 Order of preventive suspension could be found in Section 11(4)(c) of R.A. No. 6770 which provides that the Office of the Special Prosecutor shall, in addition to those powers expressly enumerated in the said provision, "perform such other duties assigned to it by the Ombudsman." The CA held that the grant of such power to the Office of the Special Prosecutor is subject to the condition that it shall be "under the supervision and control and upon the authority of the Ombudsman."

However, according to the CA, by virtue of the Memorandum dated November 12, 2003 of Ombudsman Marcelo where he stated that he was inhibiting himself and directing petitioner Special Prosecutor Villa-Ignacio to act in his place and stead, the latter (petitioner Special Prosecutor) officially stepped into the position of the Ombudsman insofar as the subject case is concerned. In effect, petitioner Special Prosecutor Villa-Ignacio would act as the Ombudsman. The CA opined that this is not the kind of duties contemplated under Section 11(4)(c) of R.A. No. 6770.

Ombudsman Marcelo's Memorandum dated November 12, 2003 was declared null and void by the appellate court for the following reasons:

- The issuance of that kind of a memorandum effectively stretched (or over-stretched) the limited powers of the special prosecutor under R.A. No. 6770 and the Constitution;
- The issuance of that kind of a memorandum has effectively placed the special prosecutor over and above all of the five (5) deputies of the Ombudsman in terms of hierarchy with respect to administrative adjudication;
- To put it lightly, the Ombudsman, in issuing that kind of a memorandum, has, wittingly or unwittingly,

permitted the Office of the Special Prosecutor to perform the administrative adjudicative powers of the Ombudsman not only to issue preventive suspension but to perform, without qualification, any and all other administrative adjudicative powers, duties functions and responsibilities pertaining to the former as provided under R.A. No. 6770 and the Constitution.[14]

In addition, the CA refuted the finding of petitioner Special Prosecutor Villa-Ignacio that the evidence of guilt against respondent Valera is strong to warrant his preventive suspension. The CA proffered the following circumstances as negating the said finding of petitioner Special Prosecutor Villa-Ignacio: (1) Unlike the other four government officials who were simultaneously charged with him, respondent Valera was not immediately placed under preventive suspension; hence, indicating that there was no strong evidence against him; (2) Petitioner Special Prosecutor Villa-Ignacio's comment filed with the appellate court did not make any reference to respondent Valera's supposed foreign travel violation which was alleged in the sworn complaint of Director Matillano; and (3) The admission of petitioner Special Prosecutor Villa-Ignacio's counsel during the oral arguments on the preliminary injunction that the PIAB-A recommended against placing respondent Valera under preventive suspension.

Finally, the CA strongly denounced petitioner Special Prosecutor Villa-Ignacio for issuing the preventive suspension order without even considering respondent Valera's counter-affidavit and, worse, not knowing that he had already filed it as early as November 5, 2003. The CA opined that had petitioner Special Prosecutor Villa-Ignacio duly considered the said counter-affidavit, he would have reached a different conclusion, i.e., there is no strong evidence against respondent Valera. Further, that the latter, in entering into the compromise agreement with Steel Asia Manufacturing Corp., is authorized to do so under Section 2401[15] of the TCCP and Section 2316 thereof, cited by petitioner Special Prosecutor Villa-Ignacio, is inapplicable. The CA concluded that petitioner Special Prosecutor Villa-Ignacio acted with grave abuse of discretion in issuing the March 17, 2004 placing respondent Valera under preventive suspension for six months without pay in connection with the administrative case OMB-C-A-03-0379-J.

The decretal portion of the decision of the appellate court reads:

WHEREFORE, the petition is hereby GRANTED, and the assailed order of March 17, 2004, issued by respondent Dennis Villa-Ignacio in OMB-C-A-03-0379-J is SET ASIDE.

Respondent Special Prosecutor is DIRECTED to desist from taking any further action in OMB-C-A-03-0379-J.

SO ORDERED.[16]

Hence, the recourse to this Court by petitioners Special Prosecutor Villa-Ignacio and the Office of the Ombudsman.

The Petitioners' Case

They submit the following as grounds for the allowance of their petition:

IN ITS DECISION DATED 25 JUNE 2004, THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN FINDING THAT THE PETITIONER SPECIAL PROSECUTOR COMMITTED GRAVE ABUSE OF DISCRETION, AND IN SETTING ASIDE THE MARCH 17, 2004 ORDER OF PREVENTIVE SUSPENSION ISSUED BY THE PETITIONER SPECIAL PROSECUTOR, CONSIDERING THAT:

I

[PETITIONER] SPECIAL PROSECUTOR ACTED WITH FULL AUTHORITY CONSIDERING THAT THE OMBUDSMAN EXPRESSLY ASSIGNED TO [PETITIONER] SPECIAL PROSECUTOR THE

SPECIFIC FUNCTION OF ACTING IN HIS (OMBUDSMAN'S) PLACE AND STEAD IN OMB-C-A-030379-J, AND THIS DELEGATION OF AUTHORITY SUFFERS FROM NO VICE OR DEFECT AND, ON THE CONTRARY, HAS THE FULL MANDATE OF THE LAW.

II

NO GRAVE ABUSE OF DISCRETION HAS BEEN COMMITTED BY THE PETITIONERS IN FINDING, AT THAT STAGE, THE EVIDENCE OF GUILT TO BE STRONG ON THE PART OF PRIVATE RESPONDENT, FOR GRAVE MISCONDUCT AND/OR DISHONESTY.

III

PRIVATE RESPONDENT'S PETITION FILED BEFORE THE COURT A QUO SHOULD HAVE BEEN DISMISSED FOR VIOLATION OF THE RULE ON FORUM SHOPPING.[17]

The petitioners vigorously maintain that no grave abuse of discretion attended the issuance by petitioner Special Prosecutor Villa-Ignacio of the March 17, 2004 Order placing respondent Valera under preventive suspension because the Ombudsman, in directing petitioner Special Prosecutor Villa-Ignacio to act in his place and stead insofar as OMB-C-A-03-0379-J was concerned, fully clothed the latter with delegated authority to act thereon. Since under Section 24 of R.A. No. 6770, the Ombudsman may preventively suspend respondent Valera in the subject administrative case, it follows that with the delegation of his authority to petitioner Special Prosecutor Villa-Ignacio, he had full authority to preventively suspend respondent Valera. Petitioner Special Prosecutor Villa-Ignacio, upon finding that all the elements for preventive suspension in Section 24 of R.A. No. 6770 are present, accordingly placed respondent Valera under preventive suspension for six months without pay in connection with the subject administrative case.

The petitioners defend the validity of the Ombudsman's delegation of his authority to petitioner Special Prosecutor Villa-Ignacio with respect to the administrative case OMB-C-A-03-0379-J contending that: "a) the authority to preventively suspend is not insusceptible to delegation to an alter ego of the Ombudsman; b) the petitioner Special Prosecutor possessed the necessary qualifications and competence to exercise the delegated functions; c) no law or rule was violated with the said delegation." [18]

Nothing in Section 24 of R.A. No. 6770 allegedly prohibits the delegation by the Ombudsman of his authority to preventively suspend to his alter ego. The petitioners point out that under R.A. No. 6770, the Special Prosecutor, like the Deputy Ombudsmen, heads a major office in the Office of the Ombudsman; [19] he is appointed in the same manner as the Deputy Ombudsmen; [20] he shares the same qualifications [21] and enjoys the same rank and privilege as the latter. [22] As such, the Special Prosecutor, like any of the other Deputy Ombudsmen, has the competence and capability to preventively suspend any officer or employee under the authority of the Ombudsman.

The petitioners invoke, in particular, Section 11(4)(c) of R.A. No. 6770:

Sec. 11. Structural Organization. –

...

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers:

...

(c) To perform such other duties assigned to it by the Ombudsman.

By this provision, the Ombudsman may allegedly validly delegate to the Special Prosecutor such other functions that he cannot, otherwise, perform by himself and that he (the Ombudsman) is not obliged to always make such delegation to the Overall Deputy Ombudsman. In the exercise of quasi-judicial functions, there is no law which mandates that the Ombudsman can only inhibit himself in favor of the Deputy Ombudsmen.

The petitioners assert that the evidence of respondent Valera's guilt for serious administrative infractions is strong. According to them, the facts that have so far been established show that respondent Valera entered into the compromise agreement with Steel Manufacturing Asia Corp. to unduly shield and promote its interests and to the prejudice of the government. It is allegedly suspicious that he (respondent Valera) simply allowed the said company to redeem the spurious tax credit certificates with a 30-month staggered payment when sufficient properties of the said company had already been attached to satisfy not only the P37 million principal amount of taxes owed by the said company but the penalty charges and damages as well. He further unjustifiably exonerated the said company's officers of any criminal wrongdoing when they are conclusively liable for the procurement of these spurious tax credit certificates. Further, respondent Valera was never authorized by the Customs Commissioner to enter into such compromise agreement nor was it approved by the Secretary of Finance as required by Section 2316 of the TCCP. Neither was it approved by the President of the Philippines as further required by E.O. No. 38. Respondent Valera thus committed an act of misrepresentation when he signed the compromise agreement under the clause "By authority of the Commissioner."

The petitioners posit that conclusively at the given stage respondent Valera appeared to have committed Grave Misconduct and Dishonesty to warrant his preventive suspension. They also aver that the evidence strongly show that respondent Valera obtained employment for his brother-in-law, Ariel Manongdo, with Cactus Cargo Systems, Inc., a customs brokerage firm whose business principally involves dealing on a regular basis with the Bureau of Customs, in contravention of R.A. No. 6713 and R.A. No. 3019.

To refute the appellate court's statement that there was inordinate delay in the issuance of the March 17, 2004 Order of preventive suspension, the petitioners explain that the same was due to, among others, the inhibition of the Ombudsman from the case, the delay in the transmittal of the case records and the amount of time that it took petitioner Special Prosecutor Villa-Ignacio to study the recommendation of the PIAB-A and the divergent recommendation of the Assistant Ombudsman for Preliminary Investigation, Adjudication and Monitoring Office (PAMO).

Moreover, even if the PIAB-A recommended against placing respondent Valera under preventive suspension, petitioner Special Prosecutor Villa-Ignacio was not bound to adopt the same. With respect to respondent Valera's counter-affidavit, the petitioners insist that the same failed to rebut the strong evidence against him; hence, justifying his preventive suspension.

Finally, the petitioners fault the appellate court for not dismissing outright respondent Valera's petition for certiorari. They charge him with violation of the rule on non-forum shopping as he filed his petition for certiorari with the CA even when his motion for reconsideration had yet to be acted upon by petitioner Special Prosecutor Villa-Ignacio.

The Respondent's Counter-Arguments

Respondent Valera mainly argues that petitioner Special Prosecutor Villa-Ignacio has no authority to issue the March 17, 2004 Order placing him under preventive suspension. While Section 11(4)(c) of R.A. No. 6770 grants the Office of the Special Prosecutor the power to "perform such other duties assigned to it by the Ombudsman," the performance of such other duties should still be "under the supervision and control and upon the authority of the Ombudsman." Respondent Valera echoes the ratiocination of the CA that the Memorandum dated November

12, 2003 issued by Ombudsman Marcelo directing petitioner Special Prosecutor Villa-Ignacio to act in his place and stead in OMB-C-A-03-0379-J produced the effect of making him (petitioner Special Prosecutor) step into the position of the Ombudsman. This is not the kind of assignment of duties contemplated by Section 11(4)(c) of R.A. No. 6770 because, in such a case, the Ombudsman's power of supervision and control over the Special Prosecutor is undermined.

Respondent Valera submits that the Ombudsman's memorandum designating petitioner Special Prosecutor Villa-Ignacio to act in his place and stead has destroyed the hierarchy of command within the Office of the Ombudsman because it put the Special Prosecutor over and above the Office of the Overall Deputy Ombudsman. Such designation infringes on Section 11(2) of R.A. No. 6770 which provides that the Overall Deputy Ombudsman "shall oversee and administer the operations of the different offices under the Office of the Ombudsman." The Overall Deputy Ombudsman is next in line to the Ombudsman as shown by the fact that he assumes as Acting Ombudsman in case of vacancy in the Office of the Ombudsman due to death, resignation, removal or permanent disability of the incumbent Ombudsman.

Respondent Valera stresses that the power to preventively suspend any officer or employee under the authority of the Ombudsman pending investigation is exclusively vested on the Ombudsman or his Deputy pursuant to Section 24 of R.A. No. 6770. Since the Special Prosecutor is not named therein as vested with the said power, then petitioner Special Prosecutor Villa-Ignacio has no authority to issue a preventive suspension.

In relation thereto, the Special Prosecutor's powers is allegedly limited to the conduct of preliminary investigation and prosecution of criminal cases within the jurisdiction of the Sandiganbayan. Respondent Valera cites the enumeration of the Special Prosecutor's powers in Section 11(4) of R.A. No. 6770:

Sec. 11. Structural Organization. –

...

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers:

(a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan;

(b) To enter into plea bargaining agreement; and

(c) To perform such other duties assigned to it by the Ombudsman.

Applying the rule of ejusdem generis, respondent Valera theorizes that since the first two powers relate to criminal complaints and criminal cases, then the last power – "to perform such other duties assigned to it by the Ombudsman" – can only refer to other duties related to criminal complaints and criminal cases and not to administrative complaints, investigation, adjudication and administrative preventive suspension. While he concedes that the Ombudsman may inhibit himself in certain cases, respondent Valera is of the view that when the Ombudsman does inhibit himself in an administrative investigation pending before the Office of the Ombudsman, he may not designate the Special Prosecutor to act in his place and stead.

Respondent Valera also harps on petitioner Special Prosecutor Villa-Ignacio's alleged failure to consider his (respondent Valera's) counter-affidavit before issuing the preventive suspension order. This omission coupled with the delay in issuing the same allegedly renders the March 17, 2004 Order null and void.

On the evidence against him, respondent Valera claims that the same is not strong. He cites the delay in placing him under preventive suspension as he alleges that the first complaint involving the Steel Manufacturing Asia

Corp. case was filed against him by Atty. Casareño as early as August 26, 2002. However, it was only on March 17, 2004 that he was placed under preventive suspension by petitioner Special Prosecutor Villa-Ignacio. The strength of the evidence against him is also belied by the fact that the PIAB-A recommended against placing him under preventive suspension.

On the procedural point, respondent Valera states that he filed the petition for certiorari with the CA without awaiting the resolution of his motion for reconsideration because, at the time, petitioner Special Prosecutor Villa-Ignacio still had not resolved the same despite the lapse of the period provided by the Ombudsman's rules of procedure.

Issue

The basic issue for the Court's resolution is whether petitioner Special Prosecutor Villa-Ignacio has the authority to place respondent Valera under preventive suspension in connection with the administrative case OMB-C-A-03-0379-J pending before the Office of the Ombudsman.

The Court's Ruling

The Court holds that the Special Prosecutor has no such authority.

Preliminarily, it is noted that petitioner Special Prosecutor Villa-Ignacio anchors his authority to conduct the administrative investigation in OMB-C-A-03-0379-J on the Memorandum dated November 12, 2003 issued by Ombudsman Marcelo inhibiting himself therefrom and directing petitioner Special Prosecutor Villa-Ignacio to act in his place and stead.

Significantly, Ombudsman Marcelo did not state in the said memorandum the reason for his inhibition. On this point, the rule on voluntary inhibition of judges finds application to the Ombudsman in the performance of his functions particularly in administrative proceedings like OMB-C-A-03-0379-J. Like judges, the decision on whether or not to inhibit is admittedly left to the Ombudsman's sound discretion and conscience.[23] However, again similar to judges, Ombudsman Marcelo has no unfettered discretion to inhibit himself. The inhibition must be for just and valid causes.[24] No such cause was proffered by Ombudsman Marcelo for his inhibition in OMB-C-A-03-0379-J.

The Court shall now proceed to resolve the basic issue of the case.

The Ombudsman, pursuant to his power of supervision and control over the Special Prosecutor, may authorize the latter to conduct administrative investigation

The Office of the Ombudsman is vested by the Constitution with the following powers, functions and duties:

- (1) 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;
- (2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned and controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent and correct any abuse or impropriety in the performance of duties;
- (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;

- (4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;
- (5) Request any government agency for assistance an information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent and records and documents;
- (6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence;
- (7) Determine the causes of inefficiency, red tape, mismanagement, fraud and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency; and
- (8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.[25]

R.A. No. 6770 was enacted to provide for the functional and structural organization of the Office of the Ombudsman. It substantially reiterates the constitutional provisions relating to the Office of the Ombudsman. In addition, R.A. No. 6770 granted to the Office of the Ombudsman prosecutorial functions[26] and made the Office of the Special Prosecutor an organic component of the Office of the Ombudsman.[27] As such, R.A. No. 6770 vests on the Office of the Special Prosecutor, under the supervision and control and upon the authority of the Ombudsman, the following powers:

- (a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan;
- (b) To enter into plea bargaining agreement; and
- (c) To perform such other duties assigned to it by the Ombudsman.[28]

Based on the pertinent provisions of the Constitution and R.A. No. 6770, the powers of the Ombudsman have generally been categorized into the following: investigatory power; prosecutory power; public assistance functions; authority to inquire and obtain information; and function to adopt, institute and implement preventive measures.[29] The Ombudsman's investigatory and prosecutory power has been characterized as plenary and unqualified:

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...[30]

On the other hand, the authority of the Office of the Special Prosecutor has been characterized as limited:

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 R.A. 6770. The Office of the Special Prosecutor is merely a component of the Office of the Ombudsman and may act only under the supervision and control and upon the authority of the Ombudsman. Its power to conduct preliminary investigation and 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 in 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 R.A. 6770.[31]

The Court has consistently held that 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.[32]

Section 38(1), Chapter 7, Book IV of the Administrative Code of 1987 defines "supervision and control" thus:

(1) Supervision and Control. – Supervision and control shall include authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units; determine priorities in the execution of plans and programs; and prescribe standards, guidelines, plans and programs. Unless a different meaning is explicitly provided in the specific law governing the relationship of particular agencies, the word "control" shall encompass supervision and control as defined in this paragraph.

The power of supervision and control has been likewise explained as follows:

In administrative law, supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or step as prescribed by law to make them perform such duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter.[33]

Pursuant to its power of supervision and control, the Office of the Ombudsman is empowered under Section 15(10) of R.A. No. 6770 to:

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

...

Complementary thereto, Section 11(4)(c) thereof requires the latter to:

(c) [p]erform such other duties assigned to it by the Ombudsman.

Hence, under the foregoing provisions, the Ombudsman may delegate his investigatory function, including the power to conduct administrative investigation, to the Special Prosecutor.

Section 24 of R.A. No 6770, however, grants the power to preventively suspend only to the Ombudsman and the Deputy Ombudsmen

Section 24 of R.A. No. 6770 reads:

Sec. 24. Preventive Suspension. – The Ombudsman and 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.

It is observed that R.A. No. 6770 has invariably mentioned the Special Prosecutor alongside the Ombudsman and/or the Deputy Ombudsmen with respect to the manner of appointment,[34] qualifications,[35] term of office,[36] grounds for removal from office,[37] prohibitions and disqualifications[38] and disclosure of relationship requirement.[39] However, with respect to the grant of the power to preventively suspend, Section 24 of R.A. No. 6770 makes no mention of the Special Prosecutor. The obvious import of this exclusion is to withhold from the Special Prosecutor the power to preventively suspend. It is a basic precept of statutory construction that the express mention of one person, thing, act or consequence excludes all others as expressed in the familiar maxim *expressio unius est exclusio alterius*. [40]

The petitioners' contention that since the Special Prosecutor is of the same rank as that of a Deputy Ombudsman, then the former can rightfully perform all the functions of the latter, including the power to preventively suspend, is not persuasive. Under civil service laws, rank classification determines the salary and status of government officials and employees.[41] Although there is substantial equality in the level of their respective functions, those occupying the same rank do not necessarily have the same powers nor perform the same functions.

The Ombudsman and the Deputy Ombudsmen, as they are expressly named in Section 24 of R.A. No. 6770, have been granted the power to preventively suspend as the same inheres in their mandate under the Constitution:

Sec. 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.[42]

While R.A. No. 6770 accords the Special Prosecutor the same rank as that of the Deputy Ombudsmen, Section 24 thereof expressly grants only to the Ombudsman and the Deputy Ombudsmen the power to place under preventive suspension government officials and employees under their authority pending an administrative investigation.[43]

However, if the Ombudsman delegates his authority to conduct administrative investigation to the Special Prosecutor and the latter finds that the preventive suspension of the public official or employee subject thereof is warranted, the Special Prosecutor may recommend to the Ombudsman to place the said public officer or employee under preventive suspension.

Pertinently, the investigation of OMB-C-A-03-0379-J was initially conducted by the PIAB-A, a panel composed of two Special Prosecution Officers III[44] and Graft Investigation and Prosecution Officers II.[45] The said investigating panel submitted to the Ombudsman the Memorandum dated November 5, 2003 which contained its initial findings stating in part thus:

After a careful evaluation of the complaint, it appears that the evidence of guilt in the case under review, in the context of Sec. 24, R.A. 6770, are not strong enough to warrant the imposition of preventive suspension of respondent Atty. Gil A. Valera. The evidence on record fall short of the quantum of evidence necessary to establish the necessary weight to preventively suspend him. However, the Investigating Panel finds enough basis to proceed with the administrative investigation of this case.[46]

It appears in the signatory page of the said memorandum that the findings and recommendation therein were reviewed by the Director[47] of the PIAB-A. Further, the memorandum was, likewise, reviewed by the Assistant Ombudsman,[48] Preliminary Investigation, Adjudication and Monitoring Office (PAMO) with the notation "recommending disapproval." This demonstrates that in the conduct of administrative investigation, the PIAB-A exercises merely recommendatory powers particularly with respect to whether to place the public official or employee subject thereof under preventive suspension.

Ombudsman Marcelo designated the Special Prosecutor to conduct the administrative investigation. In the course

thereof, petitioner Special Prosecutor Villa-Ignacio found that the preventive suspension of respondent Valera was warranted under Section 24 of R.A. No. 6770. However, since under the said provision only the Ombudsman or his Deputy may exercise the power of preventive suspension, petitioner Special Prosecutor Villa-Ignacio could only recommend to the Ombudsman or, in this case because of the latter's inhibition, to the designated Deputy Ombudsman to place respondent Valera under preventive suspension.

Stated differently, with respect to the conduct of administrative investigation, the Special Prosecutor's authority, insofar as preventive suspension is concerned, is akin to that of the PIAB-A, i.e., recommendatory in nature. It bears stressing that the power to place a public officer or employee under preventive suspension pending an investigation is lodged only with the Ombudsman or the Deputy Ombudsmen.

Consequently, petitioner Special Prosecutor Villa-Ignacio had no authority to issue the March 17, 2004 Order placing respondent Valera under preventive suspension for six months without pay in connection with the administrative case OMB-C-A-03-0379-J. The appellate court thus correctly nullified and set aside the said assailed order.

Considering the finding that petitioner Special Prosecutor Villa-Ignacio had no authority to issue the March 17, 2004 preventive suspension order, the resolution of the issue of whether or not the evidence of respondent Valera's guilt is strong to warrant his preventive suspension need not be passed upon at this point. Anent respondent Valera's alleged non-compliance with the rule on non-forum shopping when he filed the petition for certiorari with the appellate court, suffice it to state that the appellate court correctly overlooked this procedural lapse. The merits of respondent Valera's case are special circumstances or compelling reasons which justified the appellate court's relaxing the rule requiring certification on non-forum shopping.[49]

It is well to mention, at this point, that after the appellate court rendered its decision nullifying the March 17, 2004 Order of petitioner Special Prosecutor Villa-Ignacio and directing him to desist from taking any further action in OMB-C-A-03-0379-J, the said case was next assigned to the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (MOLEO), headed by Mr. Orlando C. Casimiro.[50] The hearings in OMB-C-A-03-0379-J were, thus, continued by the Deputy Ombudsman for MOLEO. On August 30, 2004, a Decision was rendered in the said administrative case finding petitioner Valera guilty of grave misconduct and decreeing his dismissal from the service. On appeal, the Court of Appeals affirmed the decision of the Deputy Ombudsman for MOLEO. Petitioner Valera subsequently filed a petition for review with this Court assailing the said decision of the appellate court. The said petition, docketed as G.R. No. 167278, is now pending with the Court.

WHEREFORE, the petition is DENIED. The Decision dated June 25, 2004 of the Court of Appeals in CA-G.R. SP No. 83091, insofar as it set aside the March 17, 2004 Order issued by petitioner Special Prosecutor Villa-Ignacio in OMB-C-A-03-0379-J, is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, and Chico-Nazario, JJ., concur,
Garcia, J., no part.

[1] Penned by Associate Justice Andres B. Reyes, Jr., with Presiding Justice Cancio C. Garcia (now an Associate Justice of the Supreme Court) and Associate Justice Arturo D. Brion, concurring.

[2] The Anti-Graft and Corrupt Practices Act.

[3] Reorganizing and Extending the Life of the Special Task Force Created under Executive Order No. 156 dated October 7, 1999, entitled “Creating a Special Task Force to Review, Investigate and Gather Evidence Necessary to Successfully Prosecute Irregularities Committed at the Bureau of Internal Revenue, Bureau of Customs and Other Government Offices or Agencies Under or Attached to the Department of Finance.”

[4] Amending further Executive Order (E.O.) No. 298, series of 1995 as amended by E.O. No. 298-A, Series of 1995, which prescribes rules and regulations and new rates of allowances for official, local and foreign travels of government personnel.

[5] An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations thereof and For Other Purposes, otherwise known as the Code of Conduct and Ethical Standards For Public Officials and Employees.

[6] Rollo, pp. 109-110.

[7] Rollo, p. 110.

[8] Id. at 255.

[9] Rollo, p. 126.

[10] The said provision reads:

Sec. 2316. Authority of Commissioner to make Compromise. – Subject to the approval of the Secretary of Finance, the Commissioner of Customs may compromise any case under this code or other laws as part of laws enforced by the Bureau of Customs, involving the imposition of fines, surcharges, and forfeitures, unless, otherwise, specified by law.

[11] Rollo, p. 131.

[12] Rollo, pp. 131-132.

[13] Rollo, pp. 144-145.

[14] Rollo, p. 91.

[15] The provision reads:

Sec. 2401. Supervision and Control Over Criminal and Civil Proceedings. – Civil and criminal actions and proceedings instituted in behalf of the government under the authority of this Code or other law enforced by the Bureau shall be brought in the name of the government of the Philippines and shall be conducted by customs officers but no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner. (As amended by RA 9135)

[16] Rollo, pp. 28-29.

[17] Id. at 21-22.

[18] Petitioners’ Memorandum, p. 21; Rollo, p. 444.

[19] Section 3 reads in part:

Sec. 3. Office of the Ombudsman. – The Office of the Ombudsman shall include the Office of the Overall Deputy, the Office of the Deputy for Luzon, the Office of the Deputy for the Visayas, the Office of the Deputy for Mindanao, the Office of the Deputy for the Armed Forces, and the Office of the Special Prosecutor ...

While Section 11 reads in part:

Sec. 11. Structural Organization. –

(3) ... The Office of the Special Prosecutor shall be an organic component of the Ombudsman and shall be under the supervision and control of the Ombudsman.

[20] Section 4 reads in part:

Sec. 4. Appointment. – The Ombudsman and his Deputies, including the Special Prosecutor, shall be appointed by the President from a list of at least twenty-one (21) nominees ...

[21] Section 5 reads in part:

Sec. 5. Qualifications. – The Ombudsman and his Deputies, including the Special Prosecutor, shall be natural born citizens of the Philippines, ...

[22] Section 11 reads in part:

Sec. 11. Structural Organization. –

(4) ...

The Special Prosecutor shall have the rank and salary of a Deputy Ombudsman.

[23] *Argana v. Republic*, G.R. No. 147227, 19 November 2004, 443 SCRA 184.

[24] *Chin v. Court of Appeals*, G.R. No. 144618, 15 August 2003, 409 SCRA 206.

[25] Section 13, Article XI.

[26] Section 15(1), R.A. No. 6770 reads:

Sec. 15. Powers, Functions and Duties. – The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from investigatory agency of Government, the investigation of such cases.

[27] *Acop v. Office of the Ombudsman*, G.R. No. 120422, 27 September 1995, 248 SCRA 566.

[28] Section 11(4), R.A. No. 6770.

[29] *Concerned Officials of the Metropolitan Waterworks and Sewerage System v. Vasquez*, G.R. 109113, 25 January 1995, 240 SCRA 502.

[30] *Uy v. Sandiganbayan*, G.R. Nos. 105965-70, 20 March 2001, 354 SCRA 651.

[31] Id. at 659-660.

[32] Zaldivar v. Sandiganbayan, L-79690-707, 27 April 1988, 160 SCRA 843; Acop v. Office of the Ombudsman, supra; and Uy v. Sandiganbayan, supra.

[33] Ledesma v. Court of Appeals, G.R. No. 113216, 5 September 1997, 278 SCRA 656.

[34] Supra, at note 20.

[35] Supra, at note 21.

[36] Section 7 reads:

Sec. 7. Term of Office. – The Ombudsman and his Deputies, including the Special Prosecutor, shall serve for a term of seven years without reappointment.

[37] Section 8 reads in part:

Sec. 8. Removal; Filling of Vacancy. –

...

(2) A Deputy, or the Special Prosecutor, may be removed from office by the President, ...

[38] Section 9 reads in part:

Sec. 9. Prohibitions and Disqualifications. – The Ombudsman, his Deputies and the Special Prosecutor shall not, during their tenure, hold any other office or employment ...

[39] Section 10 reads in part:

Sec. 10. Disclosure of Relationship. – It shall be the duty of the Ombudsman, his Deputies, including the Special Prosecutor, to make under oath, to the best of their knowledge and/or information, a public disclosure of the identities of, and their relationship with the person referred to in the preceding section.

[40] City Government of San Pablo, Laguna v. Reyes, G.R. No. 127708, 25 March 1999, 305 SCRA 353.

[41] See Cuevas v. Bacal, G.R. No. 139382, 6 December 2000, 347 SCRA 338 citing the explanation proffered by the Commission on Reorganization which drafted the Integrated Reorganization Plan, adopted and declared part of the law by Presidential Decree No. 1 on September 24, 1972.

[42] Article XI, Section 12 of the Constitution.

[43] Garcia v. Mojica, G.R. No. 139043, 10 September 1999, 314 SCRA 207.

[44] Special Prosecution Officers III Orlando I. Ines (Chairman) and Roberto T. Aganon (member).

[45] Graft Investigation & Prosecution Officers II Ma. Isabel A. Alcantara and Evangeline Y. Grafil (members).

[46] Rollo, p. 167.

[47] Director Jose T. De Jesus, Jr.

[48] Assistant Ombudsman Pelagio S. Apostol.

[49] Twin Towers Condominium Corp. v. Court of Appeals, G.R. No. 123552, 27 February 2003, 398 SCRA 203.

[50] As stated in the Court's (Third Division) Resolution dated March 9, 2005 in G.R. Nos. 165007-09, entitled

Valera v. Office of the Ombudsman. The petition in the said case was filed by Valera assailing the Joint Resolution dated August 23, 2004 of the Ombudsman, through the Deputy Ombudsman (MOLEO), finding the existence of probable cause that he (Valera) committed violations of penal law in connection with the criminal cases OMB-C-C-03-0547-J and OMB-C-C-02-0568-I. In the said Resolution, the Court dismissed Valera's petition.

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