

OFFICE OF THE OMBUDSMAN, *Petitioner*, VS. FLORITA A. MASING and JOCELYN A. TAYACTAC, *Respondents*.

G.R. No. 165416. January 22, 2008

Ponente: PUNO, CJ.

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PUNO, CJ.:

These cases involve the issue of whether the Ombudsman may directly discipline public school teachers and employees, or merely recommend appropriate disciplinary action to the Department of Education, Culture and Sports (DECS).

In G.R. Nos. 165416 and 165731, respondent Florita A. Masing was the former Principal of the Davao City Integrated Special School (DCISS) in Bangkal, Davao City. Respondent Jocelyn A. Tayactac was an office clerk in the same school. In 1997, respondents were administratively charged before the Office of the Ombudsman for Mindanao for allegedly collecting unauthorized fees, failing to remit authorized fees, and to account for public funds. The cases were docketed as follows:

- OMB-MIN-ADM-97-193 for grave misconduct and neglect of duty, against respondent Masing only;
- OMB-MIN-ADM-97-249 for violation of Republic Act No. 6713, against respondent Masing and a schoolteacher;
- OMB-MIN-ADM-97-253 for violation of Republic Act No. 6713, against respondents Masing and Tayactac, and several schoolteachers;
- OMB-MIN-ADM-97-254 for violation of Republic Act No. 6713, against respondent Masing and several schoolteachers.

The complainants were parents of children studying at the DCISS, among whom were the petitioners in G.R. No. 165731, namely, Paul L. Cansino, Felicidad Mojica, Venerando Mojica, and Ricarte L. Mamparo.

On July 2, 1998, respondents filed a motion to dismiss on the ground that the Ombudsman has no jurisdiction over them. Respondents alleged that the DECS has jurisdiction over them which shall exercise the same through a committee to be constituted under Section 9 of Republic Act (R.A.) No. 4670, otherwise known as the “The Magna Carta for Public School Teachers.” The motion was denied, as well as respondents’ motion for reconsideration.

On June 30, 2000, the Ombudsman for Mindanao rendered a joint decision finding respondents Masing and Tayactac guilty, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, this Office finds substantial evidence that:

- Respondent Florita Masing is guilty of gross misconduct, neglect of duty and violation of Section 4, paragraphs (a), (b), and (c) of RA 6713 in relation to the collection of unauthorized fees, non-remittance of authorized fees and failure to account for public funds; and of misconduct in relation to the complaint of

Felicidad Mojica, and she is hereby DISMISSED FROM [THE] SERVICE with all the accessory penalties including forfeiture of retirement benefits and disqualification from holding public office; and

- Respondent Jocelyn Tayactac is guilty of simple neglect of duty, and is hereby suspended for a period of six (6) months. A repetition of the same offense will be met with stiffer penalty. x x x [1]

Respondents filed a motion for reconsideration which the Ombudsman denied in an Order dated September 26, 2000. Respondents sought recourse to the Court of Appeals via a petition for review under Rule 43 of the Rules of Court, docketed as CA-G.R. SP No. 61993. On February 27, 2004, the Court of Appeals granted the petition, viz:

WHEREFORE, the joint decision of June 30, 2000 and the Order of September 26, 2000 are REVERSED and SET ASIDE; and Administrative Cases Nos. OMB-MIN-ADM-97-193, OMB-MIN-ADM-97-249, OMB-MIN-ADM-97-253, and OMB-MIN-ADM-97-254 of the Office of the Ombudsman-Mindanao are hereby DISMISSED.

The IMMEDIATE REINSTATEMENT of the petitioners with full backwages and other benefits is further ORDERED in the interest of justice.[2]

On April 13, 2004, the Office of the Ombudsman, which was not impleaded as respondent in the cases, filed an Omnibus Motion to Intervene and for Reconsideration.[3] The Court of Appeals denied the omnibus motion on the grounds that (1) intervention is not proper because it is sought by the quasi-judicial body whose judgment is on appeal, and (2) intervention, even if permissible, is belated under Section 2, Rule 19 of the Rules of Court.[4] Hence, the petition before us by the Office of the Ombudsman, docketed as G.R. No. 165416.

The complainant-parents filed their own petition for review of the Court of Appeals' decision dated February 27, 2004, docketed as G.R. No. 165731.

In G.R. No. 165584, respondent Florita A. Masing faced yet another administrative case before the Office of the Ombudsman-Mindanao filed by Erlinda P. Tan.[5] The charges were oppression, serious misconduct, discourtesy in the conduct of official duties, and physical or mental incapacity or disability due to immoral or vicious habits.

As in the other administrative cases, respondent Masing filed a motion to dismiss on the ground that the Office of the Ombudsman has no jurisdiction over the case. The motion was denied, as well as respondent's motion for reconsideration.

On December 27, 1999, the Ombudsman for Mindanao found respondent Masing guilty as charged and ordered her suspension for six (6) months without pay. The DECS Regional Director, Regional Office No. XI, was ordered to implement the decision upon its finality.

Respondent Masing filed a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 58735. On July 31, 2003, the Court of Appeals set aside the assailed Ombudsman decision, viz:

WHEREFORE, finding merit in the herein petition, the same is hereby given due course and the decision of the agency a quo in Case No. OMB-MIN-ADM-97-282 is hereby SET ASIDE, and petitioner is further declared as entitled to her salary which she failed to receive during the period of her flawed suspension.[6]

The Office of the Ombudsman filed an Omnibus Motion to Intervene and for Reconsideration which the Court of Appeals denied in its Resolution dated September 30, 2004.[7] Hence, this petition by the Office of the Ombudsman, docketed as G.R. No. 165584.

We consolidated G.R. Nos. 165416 and 165584 in our Resolution dated November 9, 2005. G.R. No. 165731 was consolidated per Resolution dated June 21, 2006.

The Office of the Ombudsman contends[8]—

I.

THE x x x COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND IGNORED THE CLEAR LANGUAGE OF THE CONSTITUTION, LAW AND JURISPRUDENCE WHEN IT RULED THAT PETITIONER OFFICE OF THE OMBUDSMAN HAS NO AUTHORITY TO DISCIPLINE ERRING MEMBERS OF THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS (DECS), THIS CONSIDERING THAT:

(A) THE TAPIADOR [TAPIADOR VS. OFFICE OF THE OMBUDSMAN, 379 SCRA 322 (2002)] CASE CITED BY THE APPELLATE COURT A QUO IS NOT APPLICABLE, AS THE TAPIADOR OBITER DICTUM CAN NEVER BE CITED AS A VALID RATIO DECIDENDI;

(B) THE FABELLA [FABELLA VS. COURT OF APPEALS, 282 SCRA 256 (1997)] CASE, WHICH INVOLVED AN ILLEGAL CONSTITUTION OF AN INVESTIGATING COMMITTEE IN THE DECS, IS NOT APPLICABLE TO THE DISCIPLINARY CASE AGAINST PRIVATE RESPONDENTS PUBLIC SCHOOL PRINCIPAL AND OFFICE CLERK OF THE DECS;

(C) SECTION 9 OF REPUBLIC ACT NO. 4670 (MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS) HAS NOT ADDED PUBLIC SCHOOL PRINCIPALS, TEACHERS AND EMPLOYEES, LIKE HEREIN PRIVATE RESPONDENTS, TO THE LIST OF SPECIAL PRIVILEGED CLASSES OF PUBLIC SERVANTS EXEMPTED FROM THE OMBUDSMAN'S ADMINISTRATIVE DISCIPLINARY AUTHORITY UNDER THE SUBSEQUENT 1987 CONSTITUTION, AND ANY SUCH INTERPRETATION SUFFERS FROM THE VICE OF UNCONSTITUTIONALITY;

(D) THE CONCEDED ADMINISTRATIVE DISCIPLINARY JURISDICTION OF THE PETITIONER OMBUDSMAN OVER PRIVATE RESPONDENTS, A PUBLIC SCHOOL PRINCIPAL AND AN OFFICE CLERK OF THE DECS, WHICH IS FULLY SUPPORTED BY THE 1987 CONSTITUTION, REPUBLIC ACT NO. 6770 (THE OMBUDSMAN ACT OF 1989) AND EXISTING JURISPRUDENCE, CANNOT BE SUPPLANTED BY SECTION 9 OF REPUBLIC ACT NO. 4670 (MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS); AND

(E) THE POWER OF THE OMBUDSMAN TO DISCIPLINE PUBLIC SERVANTS NOT EXEMPTED FROM ITS JURISDICTION AND TO IMPLEMENT ITS JUDGMENTS HAS BEEN AFFIRMED IN LEDESMA VS. COURT OF APPEALS, G.R. NO. 161629, 29 JULY 2005.[9]

(F) THE OFFICE OF THE OMBUDSMAN HAS CONCURRENT INVESTIGATIVE AND DISCIPLINARY AUTHORITY WITH THE DECS OVER PUBLIC SCHOOL TEACHERS, INCLUDING HEREIN PRIVATE RESPONDENT MASING, AS THERE IS SIMPLY NO REPUGNANCE BETWEEN THE LAWS CONFERRING INVESTIGATIVE AND DISCIPLINARY JURISDICTION ON THE OFFICE OF THE OMBUDSMAN (ART. XI, 1987 CONSTITUTION AND R.A. 6770) AND THE LAWS CONFERRING THE SAME INVESTIGATIVE AND DISCIPLINARY JURISDICTION TO DECS (R.A. 4670 [MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS] AND P.D. 807, NOW BOOK V OF E.O. 292 [CIVIL SERVICE LAW]).[10]

II.

CONTRARY TO THE APPELLATE COURT A QUO'S RULING, THE PETITIONER OFFICE OF THE OMBUDSMAN TIMELY AND RIGHTFULLY FILED ITS OMNIBUS MOTION TO INTERVENE AND FOR RECONSIDERATION ON A PATENTLY ERRONEOUS DECISION OF THE COURT OF APPEALS WHICH HAS NOT YET ATTAINED FINALITY.[11]

The petitioners in G.R. No. 165731 contend—

I.

TAPIADOR V. OFFICE OF THE OMBUDSMAN (379 SCRA 322) CITED BY THE COURT OF APPEALS IS NOT APPLICABLE, AS THE TAPIADOR OBITER DICTUM CAN NEVER BE CITED AS A VALID RATIO DECIDENDI. MOREOVER, THE TAPIADOR RULING HAS EFFECTIVELY BEEN ABANDONED BY THE HONORABLE SUPREME COURT WHEN IT UPHELD THE DISCIPLINARY AUTHORITY OF THE OMBUDSMAN IN SUBSEQUENT CASES EVEN AS TAPIADOR FAILED TO TAKE INTO ACCOUNT THE PROPER CONSTITUTIONAL AND STATUTORY BASES OF THE OMBUDSMAN'S DISCIPLINARY POWER OVER ALL APPOINTIVE AND ELECTIVE PUBLIC OFFICIALS AND EMPLOYEES.

II.

TO INSIST THAT PUBLIC SCHOOL TEACHERS PURSUANT TO THE RULING IN FABELLA V. COURT OF APPEALS (G.R. NO. 110379, 28 NOVEMBER 1997) CAN ONLY BE PROCEEDED AGAINST ADMINISTRATIVELY THROUGH THE "COMMITTEE" UNDER SECTION 9 OF R.A. NO. 4670 WOULD BE AN UNDUE, UNWARRANTED AND INVALID "CLASSIFICATION" BY JUDICIAL FIAT OF A CERTAIN GROUP OF PUBLIC SERVANTS WHICH IS VIOLATIVE OF THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION. MOREOVER, THE SAID LAW DOES NOT CONFER JURISDICTION ON THE "COMMITTEE."

III.

SECTION 9 OF REPUBLIC ACT NO. 4670 HAS NOT ADDED PUBLIC SCHOOL TEACHERS TO THE LIST OF SPECIAL PRIVILEGED CLASSES OF PUBLIC SERVANTS EXEMPTED FROM THE OMBUDSMAN'S ADMINISTRATIVE DISCIPLINARY AUTHORITY UNDER THE 1987 CONSTITUTION, AND ANY SUCH INTERPRETATION SUFFERS FROM THE VICE OF UNCONSTITUTIONALITY.

IV.

THE CONCEDED ADMINISTRATIVE DISCIPLINARY JURISDICTION OF THE OMBUDSMAN OVER THE HEREIN RESPONDENTS, WHICH IS FULLY SUPPORTED BY THE 1987 CONSTITUTION, REPUBLIC ACT NO. 6770 AND EXISTING JURISPRUDENCE CANNOT BE SUPPLANTED BY SECTION 9 OF REPUBLIC ACT NO. 4670.

In sum, the pivotal issues are (1) whether the Office of the Ombudsman may intervene and seek reconsideration of the adverse decisions rendered by the Court of Appeals, and (2) whether the Office of the Ombudsman may directly discipline public school teachers and employees.

First, the procedural issue. The Office of the Ombudsman was not allowed by the Court of Appeals to intervene because (1) the motions to intervene were filed after the decisions have already been rendered in CA-G.R. SP Nos. 58735 and 61993, and (2) the Office of the Ombudsman was the quasi-judicial body which rendered the impugned decisions.

Section 2, Rule 19 of the Rules of Court provides that a motion for intervention may be filed before rendition of judgment, viz:

SECTION 2. Time to intervene.— The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (emphasis ours)

We have ruled however that allowance or disallowance of a motion for intervention rests on the sound discretion of the court[12] after consideration of the appropriate circumstances.[13] Rule 19 of the Rules of Court is a rule of procedure whose object is to make the powers of the court fully and completely available for justice.[14] Its purpose is not to hinder or delay but to facilitate and promote the administration of justice.[15] Thus, interventions have been allowed even beyond the prescribed period in the Rule in the higher interest of justice. Interventions have been granted to afford indispensable parties, who have not been impleaded, the right to be heard even after a decision has been rendered by the trial court,[16] when the petition for review of the judgment was already submitted for decision before the Supreme Court,[17] and even where the assailed order has already become final and executory.[18] In *Lim v. Pacquing*,[19] the motion for intervention filed by the Republic of the Philippines was allowed by this Court to avoid grave injustice and injury and to settle once and for all the substantive issues raised by the parties.

In the cases at bar, the rulings of the Court of Appeals adversely affected the all-important jurisdiction of the Office of the Ombudsman. The rulings aggrieved the Office of the Ombudsman for they have serious consequences on its effectiveness as the body charged by the Constitution with the prosecution of officials and employees of the government suspected of violating our laws on graft and corruption.

In *Civil Service Commission v. Dacoycoy*,[20] we recognized the standing of the Civil Service Commission (CSC) to appeal a decision of the Court of Appeals which reversed its decision finding Dacoycoy guilty of nepotism and ordering his dismissal from the service. Although the CSC was the quasi-judicial body which rendered the decision appealed to the Court of Appeals, it became the party aggrieved or adversely affected by its decision which “seriously prejudices the civil service system.”[21] In *Constantino-David v. Pangandaman-Gania*,[22] we likewise ruled that the CSC may seek a review of decisions of the Court of Appeals that are detrimental to its constitutional mandate as the central personnel agency of the government.[23]

However, rather than remand the cases at bar to the Court of Appeals for a ruling on the merits of the Ombudsman’s motions for reconsideration, we shall resolve the legal issues involved in the interest of speedy justice.

The authority of the Ombudsman to act on complaints filed against public officers and employees is explicit in Article XI, Section 12 of the 1987 Constitution, viz:

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. (emphasis ours)

Article XI, Section 13 of the same Constitution delineates the powers, functions and duties of the Ombudsman as follows:

- 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 or 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 and transactions entered into by his office involving the disbursement or use of public funds or properties, to the Commission on Audit for appropriate and report any irregularity action.

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent 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.

(8) Promulgate its rules and procedure and exercise such other powers or perform such functions or duties as may be provided by law.

The enumeration of these powers is non-exclusive.[24] Congress enacted R.A. No. 6770,[25] otherwise known as The Ombudsman Act of 1989, on November 17, 1989 giving the Office such other powers that it may need to efficiently perform the task given by the Constitution,[26] viz:

Section 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 any investigatory agency of the Government, the investigation of such cases;

(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations 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 officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act; Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, 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 and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by is investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: Provided, That the Ombudsman under its rules and regulations may determine what cases may not be made public: Provided, further, That any publicity issued by the Ombudsman shall be balanced, fair and true;

- (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;
- (8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;
- (9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;
- (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;
- (11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein. x x x[27]

In fine, the manifest intent of the lawmakers was to bestow on the Office of the Ombudsman full administrative disciplinary authority in accord with the constitutional deliberations.[28] Unlike the Ombudsman-like agencies of the past the powers of which extend to no more than making findings of fact and recommendations, and the Ombudsman or Tanodbayan under the 1973 Constitution who may file and prosecute criminal, civil or administrative cases against public officials and employees only in cases of failure of justice, the Ombudsman under the 1987 Constitution and R.A. No. 6770 is intended to play a more active role in the enforcement of laws on anti-graft and corrupt practices and other offenses committed by public officers and employees.[29] The Ombudsman is to be an “activist watchman,” not merely a passive one.[30] He is vested with broad powers to enable him to implement his own actions.[31]

Respondents, however, insist that the findings of the Ombudsman are mere recommendations, and that he may not directly impose administrative sanctions on public officials and employees, citing *Tapiador v. Office of the Ombudsman*[32] where the following statement is found, viz:

x x x x Besides, assuming *arguendo*, that petitioner was administratively liable, the Ombudsman has no authority to directly dismiss the petitioner from the government service, more particularly from his 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.

The foregoing is now a settled issue. In *Ledesma v. Court of Appeals*,[33] we explained *Tapiador* and ruled categorically that:

x x x x Under Section 13(3) of Article XI of the 1987 Constitution, it is provided:
Section 13. The Office of the Ombudsman shall have the following powers, functions, and 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. (Emphasis supplied)

Petitioner insists that the word “recommend” be given its literal meaning; that is, that the Ombudsman’s action is only advisory in nature rather than one having any binding effect, citing *Tapiador v. Office of the Ombudsman*, thus:

. . . Besides, assuming *arguendo*, that petitioner were administratively liable, the Ombudsman has no authority to directly dismiss the petitioner from the government service, more particularly from his 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.

For their part, the Solicitor General and the Office of the Ombudsman argue that the word “recommend” must be taken in conjunction with the phrase “and ensure compliance therewith.” The proper interpretation of the Court’s statement in *Tapiador* should be that the Ombudsman has the authority to determine the administrative liability of a public official or employee at fault, and direct and compel the head of the office or agency concerned to implement the penalty imposed. In other words, it merely concerns the procedural aspect of the Ombudsman’s functions and not its jurisdiction.

We agree with the ratiocination of public respondents. Several reasons militate against a literal interpretation of the subject Constitutional provision. Firstly, 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 x x x x [h]ence, it cannot be cited as a doctrinal declaration of this Court nor is it safe from judicial examination. (emphases ours)

We reiterated this ruling in *Office of the Ombudsman v. Laja*,^[34] where we emphasized that “the Ombudsman’s order to remove, suspend, demote, fine, censure, or prosecute an officer or employee is not merely advisory or recommendatory but is actually mandatory.”^[35] Implementation of the order imposing the penalty is, however, to be coursed through the proper officer.^[36] Recently, in *Office of the Ombudsman v. Court of Appeals*,^[37] we also held—

While Section 15(3) of RA 6770 states that the Ombudsman has the power to “recommend x x x removal, suspension, demotion x x x” of government officials and employees, the same Section 15(3) also states that the Ombudsman in the alternative may “enforce its disciplinary authority as provided in Section 21” of RA 6770. (emphasis supplied)

Finally, respondent Masing contends that she may be administratively dealt with only by following the procedure prescribed in Section 9 of R.A. No. 4670 or the *The Magna Carta for Public School Teachers*. She cites *Fabella v. Court of Appeals*.^[38]

Section 9, R.A. No. 4670 provides—

Section 9. Administrative Charges.- Administrative charges against a teacher shall be heard initially by a committee composed of the corresponding School Superintendent of the Division or a duly authorized representative who should at least have the rank of a division supervisor, where the teacher belongs, as chairman, a representative of the local or, in its absence, any existing provincial or national teachers’ organization and a supervisor of the Division, the last two to be designated by the Director of Public Schools. The Committee shall submit its findings, and recommendations to the Director of Public Schools within thirty days from the termination of the hearings; Provided, however, That where the school superintendent is the complainant or an interested party, all the members of the committee shall be appointed by the Secretary of Education.

In *Fabella*, several public schoolteachers were administratively charged by then DECS Secretary Isidro Cariño for taking part in mass actions in violation of civil service laws and regulations. A committee was constituted to hear the charges. The teachers assailed the procedure adopted by the committee in a petition for certiorari filed before the Regional Trial Court of Quezon City. In affirming the regional trial court’s decision which declared illegal the constitution of the committee, we ruled—

x x x x Section 9 of RA 4670 x x x reflects the legislative intent to impose a standard and a separate set of procedural requirements in connection with administrative proceedings involving public schoolteachers. x x x [R]ight to due process of law requires compliance with these requirements laid down by RA 4670.[39]

Fabella, however, does not apply to the cases at bar. The public schoolteachers in Fabella were charged with violations of civil service laws, rules and regulations in administrative proceedings initiated by the DECS Secretary. In contrast, herein respondents Masing and Tayactac were administratively charged in letter-complaints duly filed before the Office of the Ombudsman for Mindanao. The charges were for violations of R.A. No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, collecting unauthorized fees, failure to remit authorized fees, failure to account for public funds, oppression, serious misconduct, discourtesy in the conduct of official duties, and physical or mental incapacity or disability due to immoral or vicious habits. In short, the acts and omissions complained of relate to respondents' conduct as public official and employee, if not to outright graft and corruption.

The authority of the Office of the Ombudsman to conduct administrative investigations is beyond cavil.[40] As the principal and primary complaints and action center[41] against erring public officers and employees, it is mandated by no less than Section 13(1), Article XI of the Constitution.[42] In conjunction therewith, Section 19 of R.A. No. 6770 grants to the Ombudsman the authority to act on all administrative complaints,[43] viz:

Sec. 19. Administrative complaints.— The Ombudsman shall act on all complaints relating, but not limited, to acts or omissions which:

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

Section 23(1) of the same law provides that administrative investigations conducted by the Office of the Ombudsman shall be in accordance with its rules of procedure and consistent with due process.

It is erroneous, therefore, for respondents to contend that R.A. No. 4670 confers an exclusive disciplinary authority on the DECS over public school teachers and prescribes an exclusive procedure in administrative investigations involving them.[44] R.A. No. 4670 was approved on June 18, 1966. On the other hand, the 1987 Constitution was ratified by the people in a plebiscite in 1987 while R.A. No. 6770 was enacted on November 17, 1989. It is basic that the 1987 Constitution should not be restricted in its meaning by a law of earlier enactment. The 1987 Constitution and R.A. No. 6770 were quite explicit in conferring authority on the Ombudsman to act on complaints against all public officials and employees, with the exception of officials who may be removed only by impeachment or over members of Congress and the Judiciary.[45] If an issue should ever arise, therefore, it should rather be whether the 1987 Constitution and R.A. No. 6770 have abrogated R.A. No. 4670. However, repeals by implication are not favored, and courts have the duty to harmonize, so far as it is practicable, apparently conflicting or inconsistent provisions. Therefore, the statement in Fabella that Section 9 of R.A. No. 4670 "reflects the legislative intent to impose a standard and a separate set of procedural requirements in connection with administrative proceedings involving public schoolteachers" should be construed as referring only to the specific procedure to be followed in administrative investigations conducted by the DECS.

IN VIEW WHEREOF, the petitions are GRANTED. The assailed Decisions of the Court of Appeals dated February 27, 2004 and July 31, 2003, as well as its Resolutions dated September 27, 2004 and September 30, 2004, in CA-G.R. SP No. 61993 and CA-G.R. SP No. 58735, respectively, are REVERSED and SET ASIDE. The

Joint Decision dated June 30, 2000 of the Office of the Ombudsman for Mindanao in Administrative Case Nos. OMB-MIN-ADM-97-193, OMB-MIN-ADM-97-249, OMB-MIN-ADM-97-253 and OMB-MIN-ADM-97-254 and its Decision dated December 27, 1999 in OMB-MIN-ADM-97-282, as well as its orders denying reconsideration, are REINSTATED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] CA rollo (CA-G.R. SP No. 61993), pp. 37-55.

[2] Rollo (G.R. No. 165416), pp. 66-78, and rollo (G.R. No. 165731), pp. 40-52.

[3] Rollo (G.R. No. 165416), pp. 86-123.

[4] Resolution dated September 27, 2004, id. at 82-83, and rollo (G.R. No. 165731), pp. 54-55.

[5] Docketed as Administrative Case No. OMB-MIN-ADM-97-282.

[6] Rollo (G.R. No. 165584), pp. 76-84.

[7] Id. at 86-88.

[8] The quoted contentions are a summary of the contentions presented by the Office of the Ombudsman in its memoranda submitted in G.R. Nos. 165416 and 165584.

[9] Rollo (G.R. No. 165416), pp. 192-193.

[10] Rollo (G.R. No. 165584), p. 201.

[11] Rollo (G.R. No. 165416), p. 193, and rollo (G.R. No. 165584), p. 202.

[12] *Heirs of Geronimo Restrivera v. De Guzman*, G.R. No. 146540, July 14, 2004, 434 SCRA 456.

[13] See *Mago v. Court of Appeals*, 363 Phil. 225, 233 (1999).

[14] *Manila Railroad Company v. Attorney-General*, 20 Phil. 523, 529 (1911). See also *Director of Lands v. Court of Appeals*, No. L-45168, September 25, 1979, 93 SCRA 238, 246 and *Mago v. Court of Appeals*, supra at 234.

[15] *Manila Railroad Company v. Attorney-General*, supra at 530.

[16] *Tahanan Development Corporation v. Court of Appeals*, 203 Phil. 652 (1982).

[17] *Director of Lands v. Court of Appeals*, supra.

[18] *Mago v. Court of Appeals*, supra note 13.

[19] 310 Phil. 722 (1995).

[20] 366 Phil. 86 (1999).

[21] Id. at 104.

[22] 456 Phil. 273 (2003).

[23] Id. at 291.

[24] See *Acop v. The Office of the Ombudsman*, 318 Phil. 673 (1995).

[25] Entitled “An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman,” and approved on November 17, 1989.

[26] *Buenaseda v. Flavie*, G.R. No. 106719, September 21, 1993, 226 SCRA 645.

[27] Section 15, R.A. No. 6770.

[28] *Office of the Ombudsman v. Court of Appeals*, G.R. No. 160675, June 16, 2006, 491 SCRA 92.

[29] *Uy v. Sandiganbayan*, 407 Phil. 154 (2001).

[30] *Office of the Ombudsman v. Court of Appeals*, supra note 28, at 119, citing from II RECORD No. 6, SENATE 181 (August 2, 1988).

[31] *Uy v. Sandiganbayan*, supra at 172.

[32] 429 Phil. 47 (2002).

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

[34] G.R. No. 169241, May 2, 2006, 488 SCRA 574. See also *Office of the Ombudsman v. Court of Appeals*, G.R. No. 160675, June 16, 2006, 491 SCRA 92; *Barillo v. Gervacio*, G.R. No. 155088, August 31, 2006, 500 SCRA 561; and *Office of the Ombudsman v. Court of Appeals*, G.R. No. 167844, November 22, 2006, 507 SCRA 593.

[35] *Id.* at 583.

[36] *Office of the Ombudsman v. Madriaga*, G.R. No. 164316, September 27, 2006, 503 SCRA 631.

[37] G.R. No. 168079, July 17, 2007.

[38] 346 Phil. 940 (1997).

[39] *Id.* at 956.

[40] *Office of the Ombudsman v. Court of Appeals*, supra note 28, at 111.

[41] *Department of Justice v. Liwag*, G.R. No. 149311, February 11, 2005, 451 SCRA 83, 97.

[42] *Id.*

[43] *Id.*

[44] The term “teacher” as used in the Act includes not only those engaged in classroom teaching but also all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions; but not including school nurses, school physicians, school dentists, and other school employees, and the professorial staff of state colleges and universities.

[45] Section 21, R.A. No. 6770.

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