

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. HEIDI M. ESTANDARTE AND THE COURT OF APPEALS, TWENTIETH DIVISION, RESPONDENTS.

G.R. NO. 168670. April 13, 2007

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a Petition for Review of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 85585 dated June 14, 2005 which set aside the decision of the Office of the Ombudsman (Visayas) finding respondent Heidi M. Estandarte guilty of grave misconduct.

The antecedents are as follows:

On August 17, 1998, People's Graftwatch, through its Chairman, Dr. Patricio Y. Tan, referred to the Office of the Ombudsman (Visayas), for immediate investigation, a complaint of the Faculty Club and Department Heads of the Ramon Torres National High School (hereinafter the Faculty Club) against Heidi Estandarte, the school principal. The complaint consisted of 33 allegations of improprieties ranging from illegal handling of school funds, irregular financial transactions, perjury, and abuse of authority.[2] However, the complaint was not subscribed and sworn to by the complainant, and not supported by the sworn statements of witnesses. The complaint also lacked a statement of non-forum shopping as required under CSC Resolution No. 95-3099 dated May 9, 1995.[3] The Ombudsman (Visayas) treated the matter as a request for assistance, and docketed the complaint as RAS-VIS 98-1030.

On August 31, 1998, the Ombudsman forwarded the complaint to the Department of Education, Culture and Sports Regional Office VI (DECS-Region VI) and the Commission on Audit (COA) for appropriate action pursuant to Section 15(2) of Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989.[4] On September 29, 1998, the DECS-Region VI found that the complaint did not comply with the formalities under Executive Order No. 292, otherwise known as The Administrative Code of 1987. Thus, it dismissed the complaint, without prejudice to the filing of an appropriate one.

Undaunted, the Faculty Club filed a formal complaint — sworn and subscribed to by the complainants — with DECS-Region VI on February 5, 1999.[5] However, in a letter[6] dated February 12, 1999, the said office dismissed the complaint outright for lack of verification and certification against forum shopping.

On March 22, 1999, the DECS-Region VI received the requisite verification and certification.[7] This case was entitled "Faculty and Department Heads of the Ramon Torres National High School, Bago City v. Heidi Estandarte."

On April 19, 1999, the DECS-Region VI required Estandarte to answer the charges in writing.[8] Estandarte filed her answer to the complaint on June 7, 1999.[9] Thereafter, a Special Investigating Committee was created to hear the case; DECS-Region VI approved the composition of the Committee in a 1[st] Indorsement dated July 26,

1999.[10] The Committee issued a subpoena duces tecum addressed to the State Auditor assigned to the case, requiring him to produce the original copies of certain documents. The State Auditor, however, replied that he could not comply with the subpoena because the documents are being used by the Ombudsman (Visayas) in the criminal and administrative cases pending before it which concerned the same parties.[11]

On September 17, 1999, the Committee held a pre-hearing conference.[12] It issued a 1st Indorsement on December 6, 1999, recommending the dismissal of the case on the ground of forum shopping.

Meanwhile, the COA referred the complaint against Estandarte to the Provincial Auditor for the Province of Negros Occidental, Crispin A. Pinaga, Jr. Pursuant thereto, Pinaga conducted an investigation and submitted his report to the Ombudsman (Visayas). He found that Estandarte's actions in connection with 24 of the 33 allegations in the complaint were "within the bounds of propriety." [13] The Provincial Auditor made the following findings:

Complaint No. 2 — The collections of miscellaneous fee of Ten Pesos (P10.00) (Annex II) per student upon enrolment which was not authorized by DECS.

As explained by the principal in her letter dated June 8, 1998, this practice had been going on when she assumed thereat and the same has the implied permission of the PTA (Annex III).

Finding:

The imposition of this miscellaneous fee of Ten Pesos (P10.00) is in violation of DECS Order No. 27 s. 1995 dated May 24, 1995 (Annex IV).

Complaint 19 & 24

The principal, Miss Heidi M. Estandarte bought the .38 Caliber Handgun and Shotgun which she registered under her name, which should not be done so because the money she used to purchase said firearm came from the student government fund.

Finding:

The firearms as alleged by the principal were intended for the use of the security guard of the school. However, the arm dealer had secured the licenses of the firearms in the name of the principal. These firearms had been turned-over to the School Supply Officer (Annex V). Representations had been made for the transfer of the license to the school, Ramon Torres National High School (Annex VI-A).

Complaint 21 & 31

She sold, kept and disbursed the income of the old newspaper with no accounting by the COA since 1994.

Complaint 23 & 25

The principal Ms. Estandarte accepted cash and in kind donations without being properly channeled and accounted first by the property custodian and the cash without first [being] deposited in the Trust Fund.

Finding:

Cash donations as acknowledged by Ms. Heidi Estandarte are as follows:

Source

Amount

Mrs. Ma. Belen J. Elizalde

(not Phil-Am Life) (Annex VI)

P 10,000.00

Coca Cola Bottlers (Annex VIII)

100,000.00

Mr. Kojima (Annex IX)

53,400.00

Sales - Old Newspaper (Annex X)

3,949.00

T o t a l

P167,349.00

The donations and the proceeds from the sale of old newspaper were personally received and disbursed by Ms. Estandarte. However, these amounts were not acknowledged through the issuance of official receipts. Hence the donations were not taken up in the book of accounts of the school. Further these amounts were disbursed personally by the principal Ms. Heidi Estandarte who acted as the procurement and disbursing officer at the same time and in violation of the applicable law which provides to wit:

Section 63, PD 1445

Accounting for Moneys and Property received by public officials — Except as may otherwise be specifically provided by law or competent authority all moneys and property officially received by a public office in any capacity or upon any occasion must be accounted for as government funds and government property. Government property should be taken up in the books of the agency concerned at acquisition cost or an appraised value.

Section 68 PD 1445

Issuance of Official Receipt — (1) No payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. The receipt may be in the form of postage, internal revenue or documentary stamps and the like, or officially numbered receipts, subject to proper custody, accountability and audit.

Section 112 PD 1445

Recording of financial transactions — Each government agency shall record its financial transactions and operation conformably with generally accepted accounting principles and in accordance with pertinent laws and regulations.

In view of the foregoing findings of the Auditor, the Ombudsman (Visayas) issued the Memorandum dated October 8, 1999, with the following recommendation:

- 1.) This RAS be upgraded to criminal and administrative cases against Ms. Estandarte;
- 2.) Provincial Auditor Crispin Pinaga, Jr. be required to submit (his) Affidavit/s or sworn statement/s in order to substantiate his findings. The same is true with respect to the complaints;
- 3.) Upon receipt of the Affidavits of Provincial Auditor Pinaga, Jr. and the complainants, a preventive suspension order be issued against respondent Estandarte for a period as may be warranted under the circumstance, to be determined and recommended by the investigator to whom the administrative case may be assigned; and

4.) RAS-VIS-98-1030 be considered closed and terminated.[14]

The Ombudsman (Visayas) decided to refer the administrative aspect of the case (OMB-VIS-ADM-99-0941, entitled "COA Region 6, Office of the Provincial Auditor v. Heidi Estandarte") to the DECS-Region VI for administrative adjudication pursuant to Section 23(2) of Rep. Act No. 6770. The complete records of the case were forwarded to the DECS-Region VI in a letter dated November 29, 1999.[15]

It appeared, however, that the DECS-Region VI did not receive this referral because on December 7, 1999, it inquired on the status of RAS-VIS-98-1030 from the Ombudsman (Visayas).[16] On March 9, 2000, the Ombudsman (Visayas) inquired about the progress of the case from the DECS-Region VI,[17] and when it did not receive an answer, it sent another letter-inquiry on September 21, 2000.[18] Finally, on November 22, 2000, the Ombudsman (Visayas) received a letter from the DECS-Region VI informing it that the latter did not receive any referral concerning the case.[19] Hence, the Ombudsman (Visayas) again forwarded the records of the case to the DECS-Region VI, which received them on December 26, 2000.[20]

The DECS-Region VI directed the consolidation of this case (COA Region 6, Office of the Provincial Auditor v. Heidi Estandarte) with the case pending before it (Faculty and Department Heads of the Ramon Torres National High School, Bago City v. Heidi Estandarte).[21] Thereafter, the hearing of the case by the Special Investigating Committee resumed.

In view of the referral to DECS-Region VI, the Ombudsman (Visayas) considered OMB-VIS-ADM-99-0941 closed and terminated in its Memorandum of November 27, 2001.[22]

In a letter[23] dated April 29, 2002, the Faculty Club requested the Ombudsman (Visayas) to take over the case for speedier disposition. Ms. Lucia Jane Grecia, a member of the Faculty Club, also wrote a letter to the Ombudsman (Visayas) complaining that she was being oppressed by Estandarte. She likewise requested the Ombudsman (Visayas) to take over the case. Consequently, on July 5, 2002, the Ombudsman (Visayas) informed the DECS-Region VI that it would not object if the case is returned to it.[24]

On August 16, 2002, DECS-Region VI turned over the records of the case to the Ombudsman (Visayas) for adjudication, stating that "[i]t is the impression of this Office that the complainants intend that their case be heard by the Office of the Ombudsman and that Office had also manifested its willingness to reassume jurisdiction of the same." [25] The case was docketed as OMB-V-A-02-0572-J.

On November 6, 2002, the Ombudsman (Visayas) set the case for preliminary conference.[26] In the meantime, Estandarte filed an Urgent Motion to Remand[27] the case to the DECS-Region VI on the ground that jurisdiction is now exclusively vested on the latter. On December 17, 2002, the Ombudsman (Visayas) denied the motion ratiocinating that it was not barred from assuming jurisdiction over the complaint after the DECS-Region VI had relinquished its jurisdiction over the same.[28] Estandarte filed a motion for reconsideration of said Order, which was later denied by the Ombudsman (Visayas).[29]

The preliminary conference was set on May 21, 2003. On the said date, only the counsel of COA was present. The Ombudsman (Visayas), therefore, issued an Order stating that in view of Estandarte's failure to attend the scheduled hearing, she is deemed to have waived her right to a formal investigation unless she is able to justify her absence. In an Urgent Motion for Postponement,[30] Estandarte's counsel explained that he was due to attend a hearing in another court on the scheduled day of the hearing. He manifested that they intended to challenge the Ombudsman's order denying the motion to remand the case to the DECS-Region VI through a petition for certiorari. In its Order[31] dated July 24, 2003, the Ombudsman reset the preliminary conference to July 30, 2003.

On July 21, 2003, Estandarte filed a Motion to Suspend Proceedings on the ground that she filed a petition for

review on certiorari with the CA assailing the order denying her motion to remand the case to the DECS-Region VI. The Ombudsman denied the motion.[32]

On July 29, 2003 Estandarte filed an Urgent Motion for Postponement[33] of the hearing scheduled the following day, and a Motion for Reconsideration with Motion for Voluntary Inhibition, assailing the denial of her motion to suspend the proceedings. However, due to her failure to furnish the complainants with a copy of the motion to postpone, the Ombudsman (Visayas) proceeded with the preliminary conference with only the complainants present. Thereafter, the case was submitted for resolution.[34]

In a Decision dated March 9, 2004, the Ombudsman (Visayas) found Estandarte guilty of grave misconduct, thus:

WHEREFORE, premises considered, respondent Heidi Estandarte, Principal, Ramon Torres National High School, Bago City, Negros Occidental, is hereby found guilty of Grave Misconduct, and is meted the penalty of Dismissal from Service, with perpetual disqualification to hold public office and forfeiture of all benefits and cancellation of Civil Service eligibilities.[35]

The Ombudsman (Visayas) held that Estandarte's failure to issue receipts for the donations received in violation of Sections 63, 68, and 112 of Presidential Decree (PD) No. 1445, as well as "the appropriation for personal use of the proceeds from the sale of the old newspapers and the counterpart contribution of the students for diploma case," constitute grave misconduct. The act of submitting receipts which do not prove that disputed items were purchased suggests that Estandarte is predisposed to commit misrepresentation.[36]

Estandarte filed a petition for review with prayer for the issuance of a temporary restraining order/writ of preliminary injunction with the CA. She alleged that the Ombudsman (Visayas) violated her right to due process when her request for a formal investigation was denied; that the DECS-Region VI has jurisdiction over the case; and that the Ombudsman (Visayas) failed to act with the cold neutrality of an impartial judge.[37]

On September 10, 2004, the CA ordered the issuance of a TRO.[38] It later granted Estandarte's application for a writ of preliminary injunction in a Resolution[39] dated November 10, 2004.

On June 14, 2005, the CA issued the assailed Decision granting the petition and remanding the case to the Special Investigating Committee of the DECS-Region VI. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in the case at bench, SETTING ASIDE the decision rendered by the Office of the Ombudsman (Visayas) on March 9, 2004 in OMB-V-A-02-0572-J and the order issued by it in the same case on June 3, 2004 and ORDERING the Office of the Ombudsman (Visayas) to remand the record of OMB-VIS-ADM-99-0941 to the Special Investigating Committee of DECS-Region VI created on July 26, 1999 for the said committee to conduct further proceedings therein with utmost dispatch and eventually to submit its findings and recommendations to the Director of Public Schools for the proper disposition thereof.

IT IS SO ORDERED.[40]

The CA held that the Ombudsman (Visayas) acted without or in excess of jurisdiction when it took over the case after it issued a memorandum considering the case closed and terminated and after jurisdiction had already been vested in the Special Investigating Committee. Such act violates the doctrine of primary jurisdiction. Once jurisdiction is acquired by or attached to a proper investigative body or agency, such jurisdiction continues until the termination of the case. Citing *Fabella v. Court of Appeals*[41] and *Emin v. de Leon*,[42] the CA held that Rep. Act No. 4670 specifically covers and governs administrative proceedings involving public school teachers, and jurisdiction over such cases is originally and exclusively lodged with the Investigating Committee created pursuant to Section 9 of Rep. Act No. 4670. [43]

The appellate court further held that, assuming the Ombudsman (Visayas) has jurisdiction, the assailed decision and order would have to be set aside because Estandarte was denied her right to substantive and procedural due process. It pointed out that she was denied the right to a formal investigation and the opportunity to be heard. Following the Court's ruling in *Tapiador v. Office of the Ombudsman*,^[44] the CA held that the Ombudsman (Visayas) has no authority to directly impose the penalty of dismissal on those who are the subject of its investigation because its power is merely recommendatory.^[45]

The Ombudsman, now petitioner, submits the following issues:

I.

THE OFFICE OF THE OMBUDSMAN HAS FULL ADMINISTRATIVE DISCIPLINARY JURISDICTION OVER PUBLIC OFFICIALS AND EMPLOYEES UNDER ITS AUTHORITY, INCLUDING THE LESSER POWER TO ENFORCE THE SANCTIONS IMPOSED ON ERRING FUNCTIONARIES, PUBLIC SCHOOL TEACHERS INCLUDED.

II.

THE RELIANCE BY THE HONORABLE COURT OF APPEALS ON THE OBITER DICTUM IN *TAPIADOR VS. OFFICE OF THE OMBUDSMAN*, 379 SCRA 322 (2002) DISPOSSESSING THE OMBUDSMAN OF ITS DISCIPLINARY AUTHORITY, CONSTITUTES A GRAVE ERROR CONSIDERING THAT: THE POWER OF THE OMBUDSMAN TO IMPLEMENT ITS JUDGMENTS HAS ALREADY BEEN SETTLED BY NO LESS THAN THE HONORABLE COURT IN THE CASE OF *LEDESMA [VS.] COURT OF APPEALS, ET AL.*, 465 SCRA 437 (2005), AND FURTHER AFFIRMED IN THE CASE OF *OFFICE OF THE OMBUDSMAN VS. COURT OF APPEALS, ET AL.*, G.R. NO. 160675, PROMULGATED ON 16 JUNE 2006.

III.

THE OFFICE OF THE OMBUDSMAN DID NOT COMMIT ANY REVERSIBLE ERROR WHEN IT TOOK OVER THE ADMINISTRATIVE ADJUDICATION OF THE DISCIPLINARY CASE AGAINST PRIVATE RESPONDENT ESTANDARTE. AS IN POINT OF LAW IT ACQUIRED JURISDICTION OVER THE SAID CASE WHEN THE DEPARTMENT OF EDUCATION REFERRED THE SAME TO THE OMBUDSMAN.

IV.

CONTRARY TO THE FINDINGS OF THE APPELLATE COURT, PRIVATE RESPONDENT ESTANDARTE WAS NOT DENIED SUBSTANTIVE AND PROCEDURAL DUE [PROCESS], AND NEITHER WAS THE ADMINISTRATIVE PROCEEDING AGAINST HER TAINTED WITH ANY IRREGULARITY, AS IN FACT THE OMBUDSMAN AFFORDED HER DUE PROCESS.

V.

SUBSTANTIAL EVIDENCE EXISTS TO SUPPORT THE FINDINGS OF GUILT OF PRIVATE RESPONDENT ESTANDARTE WHICH WARRANTS THE IMPOSITION ON HER OF THE ADMINISTRATIVE PENALTY OF DISMISSAL FROM THE SERVICE.^[46]

Petitioner contends that the CA erred in holding that it is bereft of the authority to directly impose on the respondent the sanction of dismissal from service. It stresses that it has full and complete administrative disciplinary jurisdiction over public school teachers. It points out that *Ledesma v. Court of Appeals*^[47] already declared that the ruling in the *Tapiador* case, that the Ombudsman has no authority to directly dismiss an employee from government service, is merely an obiter dictum. Therefore, it has the authority to determine the

administrative liability of a public official or employee, and direct and compel the head of office and agency concerned to implement the penalty imposed.[48]

Petitioner submits that it has concurrent disciplinary jurisdiction with the DECS over the administrative case against the respondent. Jurisdiction over the said case is not exclusive to the DECS, as the respondent is a public official and the offense charged pertains to the performance of her official functions. Consequently, there is no bar for it to take cognizance of the case after the DECS referred it for administrative adjudication.[49]

Petitioner further avers that the Fabella case is not applicable to the present case because it does not involve an issue of illegal constitution of any investigating committee. Rep. Act No. 4670 provides for the administrative disciplinary procedure in cases involving public school teachers where the case is filed with the DECS.[50]

Petitioner contends that the respondent was given ample opportunities to rebut the charges and defend herself from the administrative case filed against her. By her failure to comply with the order to submit a position paper, submitting instead frivolous motions that delayed the proceedings, respondent was deemed to have waived her right to a formal investigation. Petitioner points out that respondent opted for a formal investigation only when the case was submitted for resolution.[51]

Finally, petitioner maintains that its finding is based on more than substantial evidence. Factual findings of administrative and quasi-judicial agencies are generally accorded not only respect but at all times finality.[52]

Respondent, for her part, argues that petitioner cannot divest the DECS of its jurisdiction over the administrative case because "once jurisdiction attaches, it continues until the termination of the case." She posits that when the DECS assumed jurisdiction over the case, the petitioner was effectively precluded from assuming the same jurisdiction.[53]

The pivotal issue in this petition is whether or not the DECS has exclusive jurisdiction over the case.

The petition has no merit.

The jurisdiction of the Ombudsman over disciplinary cases against government employees, which includes public school teachers, is vested by no less than Section 12, Article XI of the Constitution which states —

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.[54]

In a case of recent vintage, the Court held that the Ombudsman has full administrative disciplinary authority over public officials and employees of the government, thus:

All these provisions in Republic Act No. 6770 taken together reveal the manifest intent of the lawmakers to bestow on the Office of the Ombudsman full administrative disciplinary authority. These provisions cover the entire gamut of administrative adjudication which entails the authority to, inter alia, receive complaints, conduct investigations, hold hearings in accordance with its rules of procedure, summon witnesses and require the production of documents, place under preventive suspension public officers and employees pending an investigation, determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence, and necessarily, impose the said penalty.[55]

However, Section 9 of Rep. Act No. 4670, otherwise known as the Magna Carta for Public School Teachers, provides that:

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 would 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 teacher's 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 v. Court of Appeals*,^[56] the Court ruled that Section 9 of Rep. Act No. 4670 reflects the legislative intent to impose a standard and a separate set of procedural requirements in connection with administrative proceedings involving public school teachers. And in *Alcala v. Villar*,^[57] this Court emphasized that:

Republic Act No. 6770, the Ombudsman Act of 1989, provides that the Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries except over officials who may be removed by impeachment or over Members of Congress, and the Judiciary. However, in *Fabella v. Court of Appeals*, it was held that R.A. No. 4670, the Magna Carta for Public School Teachers, specifically covers and governs administrative proceedings involving public school teachers.^[58]

Undoubtedly, the DECS-Region VI first assumed jurisdiction over the administrative complaint against the respondent. It should be recalled that when People's Graftwatch forwarded the complaint to the Ombudsman (Visayas), the latter treated it as a request for assistance and referred it to the DECS-Region VI and COA for appropriate action. After it had resolved to upgrade the matter to an administrative case, the Ombudsman decided not to take cognizance of the same and refer it, instead, to the DECS-Region VI pursuant to Section 23(2) of R.A. 6770 which provides:

Section 23. Formal Investigation.—

x x x x

(2) At its option, the Office of the Ombudsman may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees, which shall be terminated within the period prescribed in the civil service law. Any delay without just cause in acting on any referral made by the Office of the Ombudsman shall be a ground for administrative action against the officers or employees to whom such referrals are addressed and shall constitute a graft offense punishable by a fine of not exceeding five thousand (P5,000.00). (Emphasis supplied.)

We do not agree with petitioner's contention that it could assume jurisdiction over the administrative case after the DECS-Region VI had voluntarily relinquished its jurisdiction over the same in favor of the petitioner. Jurisdiction is a matter of law. Jurisdiction once acquired is not lost upon the instance of the parties but continues until the case is terminated.^[59] When the complainants filed their formal complaint with the DECS-Region VI, jurisdiction was vested on the latter. It cannot now be transferred to petitioner upon the instance of the complainants, even with the acquiescence of the DECS and petitioner.

Nonetheless, even if we hold that the Ombudsman (Visayas) had concurrent jurisdiction over the administrative case, we would still sustain the DECS' authority to decide the administrative case. In one case, the Court pronounced that—

In any event, since We are not dealing with jurisdiction but mainly with venue, considering both court concerned do have jurisdiction over the cause of action of the parties herein against each other, the better rule

in the event of conflict between two courts of concurrent jurisdiction as in the present case, is to allow the litigation to be tried and decided by the court which, under the circumstances obtaining in the controversy, would, in the mind of this Court, be in a better position

to serve the interests of justice, considering the nature of the controversy, the comparative accessibility of the court to the parties, having in view their peculiar positions and capabilities, and other similar factors. x x x x[60]

Considering that the respondent is a public school teacher who is covered by the provisions of Rep. Act No. 4670, the Magna Carta for Public School Teachers, the DECS-Region VI is in a better position to decide the matter. Moreover, the DECS has already commenced proceedings over the administrative case by constituting the Special Investigating Committee pursuant to Section 9 of Rep. Act No. 4670.

We are not unmindful of the Court's ruling in *Emin v. De Leon*[61] reiterated in *Alcala v. Villar*,[62] that a party may be estopped from assailing the jurisdiction of the DECS:

As held previously, participation by parties in the administrative proceedings without raising any objection thereto bars them from raising any jurisdictional infirmity after an adverse decision is rendered against them. In the case at bar, petitioner raised the issue of lack of jurisdiction for the first time in his amended petition for review before the CA. He did not raise this matter in his Motion to Dismiss filed before the CSC Regional Office. Notably, in his Counter-Affidavit, he himself invoked the jurisdiction of the Commission by stating that he was "open to further investigation by the CSC to bring light to the matter" and by further praying for "any remedy or judgment which under the premises are just and equitable. It is an undesirable practice of a party participating in the proceedings, submitting his case for decision, and then accepting the judgment only if favorable, but attacking it for lack of jurisdiction, when adverse.[63]

However, the rulings of the Court in *Alcala* and *de Leon* are not applicable in this case. From the very start, respondent consistently protested the referral of the case back to the Ombudsman, and demanded that the same be remanded to the DECS. She refused to participate in the proceedings before the Ombudsman precisely because she believed that jurisdiction was already vested on the DECS-Region VI. Hence, she filed

instead a motion to remand the case to the DECS-Region VI and motions to postpone or suspend the proceedings. On the other hand, what was striking in the *Emin* and *Alcala* cases was that the respondent therein actively participated in the proceedings before the other tribunal.

WHEREFORE, premises considered, the petition is DENIED. The Decision of the Court of Appeals dated June 14, 2005 is AFFIRMED.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Vicente L. Yap and Enrico A. Lanzanas, concurring; rollo, pp. 76-87.

[2] Records, p. 1.

[3] Id. at 47-48.

[4] Id. at 41-42.

[5] Id. at 107-109.

- [6] CA rollo, p. 277.
- [7] Records, p. 131.
- [8] CA rollo, p. 78.
- [9] Records, p. 133.
- [10] CA rollo, p. 171.
- [11] Id. at 172.
- [12] Id. at 93.
- [13] Records, p. 53.
- [14] Id. at 85-86.
- [15] Id. at 88.
- [16] CA rollo, p. 173.
- [17] Records, p. 89.
- [18] Id. at 90.
- [19] Id. at 91.
- [20] CA rollo, p. 175.
- [21] Id. at 176.
- [22] Id. at 99.
- [23] Records, p. 95.
- [24] CA rollo, p. 375.
- [25] Records, pp. 93-94.
- [26] Id. at 159.
- [27] Id. at 160-163.
- [28] Id. at 167.
- [29] Id. at 243.
- [30] Id. at 246.
- [31] Id. at 256-257.
- [32] Id. at 261.
- [33] Id. at 266-267.
- [34] Id. at 276-277.
- [35] Rollo, p. 103.
- [36] Id. at 102.

[37] CA rollo, pp. 14-15.

[38] Id. at 151.

[39] Id. at 210.

[40] Rollo, p. 87.

[41] 346 Phil. 340 (1997).

[42] 428 Phil. 172 (2002).

[43] Rollo, pp. 83-85.

[44] 429 Phil. 47 (2002).

[45] Rollo, pp. 85-86.

[46] Rollo, pp. 209-210.

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

[48] Rollo, pp. 211-221.

[49] Id. at 222-224.

[50] Id. at 225-227.

[51] Id. at 232 .

[52] Id. at 234.

[53] Id. at 273-281.

[54] This is substantially reproduced in Section 13 of Rep. Act No. 6770, which provides:

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

[55] Office of the Ombudsman v. Court of Appeals, G.R. No. 160675, June 16, 2006, 491 SCRA 92, 116.

[56] Supra note 41.

[57] 461 Phil. 617 (2003).

[58] Id. at 622-623 (Emphasis supplied).

[59] Deltaventures Resources, Inc. v. Hon. Cabato, 384 Phil. 252 (2000).

[60] Roa-Magsaysay v. Magsaysay, No. L-49847, July 17, 1980, 98 SCRA 592, 605-606 (Emphasis ours.)

[61] Supra note 42.

[62] Supra note 57.

[63] Emin v. De Leon, supra note 42, at 185-186.

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