

## **MAMBURAO, INC. AND PETER H. MESSER, PETITIONERS, VS. OFFICE OF THE OMBUDSMAN, RODOLFO D. ABELLA, LYDIA P. FERNANDEZ AND NANNY P. GARCIA, RESPONDENTS.**

*G.R. Nos. 139141-42. November 15, 2000*

Ponente: GONZAGA-REYES, J.

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### **GONZAGA-REYES, J.:**

At issue in this petition for certiorari under Rule 65 of the Rules of Court is whether the Ombudsman acted with grave abuse of discretion when he dismissed the criminal charges against private respondents.

The factual antecedents are undisputed. Sometime in October, 1994, Mamburao, Inc. (Mamburao), as represented by its general manager Peter H. Messer, applied for a P6 million loan with the Balagtas Branch of Landbank of the Philippines (Landbank) in order to finance the construction of a restaurant in Bocaue, Bulacan. According to petitioners, they were initially informed by the bank that, based upon an appraisal of their proposed collateral, a loan of about P5 million could be expected. Petitioners claim that sometime in February, 1995, the amount of the loan was subsequently reduced to P2 to 3 million because the newly appointed branch manager, respondent Rodolfo D. Abella, ordered the re-appraisal of their collateral. On 21 April 1995, Messer requested for another appraisal, but was turned down by Abella, resulting in a shouting match between the two. Consequently, by means of a letter dated 24 April 1995, petitioners withdrew their loan application from the Balagtas Branch.

Sometime in June, 1995, petitioners re-applied for a loan with the Landbank branch located in Baliuag, Bulacan. Petitioners contend that they were informed by the officers of the Baliuag Branch that a loan in the amount of P6.3 million could be expected provided the lessors of the construction site, spouses Felipe P. Mendoza and Maria G. Mendoza, signed a "Consent and Waiver" document prepared by the bank. On 13 June 1996, the Mendozas signed the waiver. However, instead of submitting the loan application of Mamburao to the board of directors of Landbank, respondent Lydia P. Fernandez, Head of the Northern and Central Luzon Banking Group, ordered the "rollback" of the loan application to the Provincial Lending Center (PLC) of the Baliuag Branch headed by respondent Nanny P. Garcia, who was appointed thereto by Fernandez on 18 June 1996, just five days after the Mendozas signed the "Consent and Waiver" document. Petitioners insist that the rollback of their loan application was instigated by Abella since the latter would be embarrassed if the Baliuag Branch accommodated petitioners with a P6.3 million loan after the Balagtas Branch had reduced the loan amount to P2 to 3 million.

The loan application of petitioner was formally denied by the Baliuag Branch in a letter dated 29 August 1996, prompting petitioners to file with the Office of the Provincial Prosecutor of Bulacan the following complaints: (1) slander and libel against Garcia (I.S. Nos. 96-3724 to 3725); (2) falsification of documents against Abella and use of falsified documents against Garcia (I.S. No. 96-4307); and (3) perjury against Garcia and Abella (I.S. No. 97-77).[1]

On the charge for slander against Garcia, petitioners claimed that when Messer went to Garcia's office in the Baliuag Branch on 19 July 1996, Garcia commented that she will recommend the denial of their loan because

Mamburao's management was establishing a "front for prostitution where the GROs are the main merchandise, [the] only attraction, where no decent ladies could go alone in a totally immoral area." Garcia allegedly made this statement in the presence of her employees, and of a certain Susan Esplana and Paul Nicolau. Petitioners submitted the affidavits of Esplana and Nicolau, who declared that they were with Messer at the time Garcia made the allegedly slanderous statement. In her counter-affidavit, Garcia denied having uttered the defamatory statement, claiming that the meeting with Messer was "cordial, official and interactive and ended on a professional and friendly manner." Garcia also declared that Paul Nicolau was not present during the 19 July 1996 meeting.

Meanwhile, the subject matter of the complaint for libel is a letter dated 15 August 1996, signed by Garcia in her capacity as head of the PLC of Landbank-Bulacan, and addressed to Guillermo Gutierrez, the president of Mamburao, informing the latter of the reasons for the denial of Mamburao's loan application. The letter is set out herein in its entirety:

Provincial Lending Center  
Baliuag, Bulacan

August 15, 1996

Mr. Guillermo Gutierrez  
President  
Mamburao Management Development Corp.  
415 San Jose, Tumana St., Baliuag, Bulacan

Sir:

This is to inform you that your proposed restaurant project was recommended for denial due to the following reasons:

- Not passing the risk analysis criteria which include assessment of management capabilities, ownership, quality, financial condition, collateral position and industry profile.
- Very weak collateral position. The waiver of rights signed by Mr. Mendoza does not supercede the par. 4 of the lease contract which states that default in payment for four consecutive months is a ground to cancel the contract.
- Adverse result of credit/background investigation. An updated credit/background investigation to supplement the previous investigation was conducted.

It was understood however at the onset that the Bank is not liable for time spent in filing your loan application and complying to [sic] basic requirements.

Thank you for considering Land Bank.

Very truly yours,

NANNY P. GARCIA  
Head, Bulacan PLC

Garcia admitted having written the abovequoted letter after she was informed that her recommendation for denial of Mamburao's loan application was approved. She maintained that the letter did not contain any malicious, derogatory, or insulting words. Moreover, Garcia asserted that the letter was sent by means of registered mail, not ordinary mail as claimed by petitioners.

Allegedly constituting the crime of falsification and use of falsified documents filed against Garcia and Abella, is a letter dated 20 February 1996 signed by Abella and addressed to the Northern and Central Banking Group, informing the latter about the previous denial of Mamburao's loan application. Petitioners claimed that such letter, which was submitted by Garcia in I.S. Nos. 96-3724 and 96-3725 together with her counter-affidavit, was fabricated by Abella.

With regard to the crime of perjury, petitioners alleged that Garcia and Abella made several false statements in their counter-affidavits filed with the Office of the Prosecutor of Malolos, Bulacan in I.S. Nos. 96-3724, 96-3725, and 96-4307. According to the allegations made in petitioners' affidavit-complaint, perjury was committed when -

- 1) Garcia and Abella claimed that the Balagtas Branch denied Mamburao's loan application;
- 2) Garcia claimed that the denial of the loan application of Mamburao was due to or happened per letter of denial dated 20 February 1996;
- 3) Garcia claimed that Mamburao is not qualified as a borrower;
- 4) Garcia created the false impression that she "collated and evaluated" other adverse / derogatory reports / informations about Mamburao;
- 5) Garcia claimed that she is not aware of a letter of Atty. Venustiano Roxas dated 22 July 1996 suggesting that Garcia be immediately relieved from the Mamburao, Inc. Project; and
- 6) Garcia and Abella stated that they are seeking the assistance of an "outside" lawyer for the criminal proceedings against them, when they were in fact represented by Atty. Dominador Reyes - an employee of Landbank.[2]

Except for the complaint for slander against Garcia, all the complaints were dismissed by Assistant Provincial Prosecutors Pelagia J. Joaquin and Victoria Fernandez Bernardo for want of probable cause (Resolutions dated 24 February 1997 and 25 April 1997).[3] The motions for reconsideration filed by petitioners were similarly denied (Resolutions dated 28 April 1997 and 4 June 1997).[4]

On 14 July 1997, petitioners filed three separate petitions for review with the Department of Justice (DOJ). In an indorsement dated 12 September 1997, the Assistant Chief State Prosecutor of the DOJ, Apolinario G. Exevea, referred to the Office of the Ombudsman the petition for review filed by petitioners from the Resolutions dated 25 April 1997 and 4 June 1997 of the Provincial Prosecutor of Bulacan dismissing the complaint against Garcia and Abella for perjury in I.S. No. 97-77. In a second indorsement dated 14 November 1997, the DOJ Regional State Prosecutor, Region III, referred to the Office of the Ombudsman the petitions for review filed by petitioners from the Resolutions of the Provincial Prosecutor dated 24 February 1997 and 28 April 1997 recommending the filing of an information for slander against Garcia in I.S. No. 96-3724; dismissing petitioners' complaints against Garcia for libel in I.S. No. 96-3725; and recommending the filing of an information against Garcia and Abella for falsification of documents and/or use of falsified documents in I.S. No. 96-4307.[5] The indorsements to the Office of the Ombudsman were made pursuant to OMB-DOJ Joint Circular No. 95-001,[6] which provides in part:

1. Preliminary investigation and prosecution of offenses committed by public officers and employees in relation to office whether cognizable by the Sandiganbayan or the regular courts, and whether filed with the Office of the Ombudsman or with the Office of the Provincial / City Prosecutor shall be under the control and supervision of the Office of the Ombudsman.

The three petitions for review were docketed singly as OMB-1-97-2413. This case was consolidated with OMB-1-97-1465 - a complaint filed originally with the Office of the Ombudsman by Mamburao, charging Abella,

Garcia, and Fernandez with slander, libel, perjury, falsification, use of falsified documents, and violation of section 3 (e) of Republic Act No. 3019 (RA 3019).[7]

On 24 August 1998, the Office of the Deputy Ombudsman for Luzon denied the petitions for review,[8] and on 16 February 1999, the motion for reconsideration of petitioners was also similarly denied.[9] The Ombudsman explained its decision in this wise:

Perusal of the case records will show that there is no evidence that would indicate that Respondents exercised partiality evident bad faith or gross inexcusable negligence in the discharge of their official function so that the loan application of Complainant would not materialize. As correctly pointed out by respondent Nanny Garcia in her counter-affidavit, "the giving of a loan is a consensual contract and banks cannot be dictated to give a loan when in its analysis the borrower is not qualified in its lending program." (p. 57, records). Complainant's claim that the consent and waiver document signed by the Mendoza spouses was the last requirement for its loan approval was not true because in the counter-affidavit of respondent Garcia he clarified that it was merely one of the requirements for the processing of the loan application (p. 103, records). Respondent Garcia further clarified that the letter of Elizabeth S. Olaviaga requesting for the submission of the consent and waiver does not necessarily mean that the loan will be approved because such document is merely one of the requirements for the processing of the loan at the PLC level and the same has to be approved by the Regional Head, Area Head, reviewed by the Branch Credit Management Department, approved by the Banking Sector Head as well as the President of the Bank.

Acting on the Petition for Review (OMB-1-97-2413) filed by Complainant, he pointed out three errors with respect to the dismissal of his criminal complaints by alleging the following:

1. In particular, the Prosecutor erred in law and in fact and/or gravely abused its discretion amounting to lack of jurisdiction in applying the presumption of "regularity of performance of official functions" by Respondents and disregarding the entire chain of Petitioner's evidence proving that Respondents were not acting in good faith (p. 17, records).
2. In particular, the Prosecutor erred in law and in fact and/or gravely abused its discretion amounting to lack of jurisdiction for failing to act upon Abella's failure/defiance to prove the authenticity of the letter/report in complete disregard of the rules of evidence and its jurisprudence (p. 28, records).
3. In particular, the Prosecutor erred in law and in fact and/or gravely [a]bused its discretion amounting to lack of jurisdiction in not trying to establish the truth, but only the winnability of the case in court (p. 30, records).
4. In particular, the Prosecutor erred in law and in fact and/or gravely abused its discretion amounting to lack of jurisdiction in virtually insisting the Petitioners had to prove their case beyond reasonable doubts already in the preliminary investigation.

As a backgrounder, it is to be recalled that in I.S. No. 96-3724 for Slander against respondent N. Garcia, the subject matter of this case was an incident on July 19, 1996 whereby respondent N. Garcia allegedly stated that she will recommend the denial of the loan applied for by Complainant because Mamburao, Inc.'s Management is establishing a "front for prostitution where the GRO's (girls) are the main merchandise/only attraction, where no decent ladies could go alone in a totally immoral area."

Re I.S. No. 96-3725 for Libel against respondent Nanny Garcia the subject matter is a letter signed by respondent Garcia and addressed to Mr. Guillermo Gutierrez informing him of the reasons why the loan was denied, thus:

1. Not passing the risk analysis criteria which include assessment of management capabilities, ownership, quality, financial condition, collateral position and industry profile.
2. Very weak collateral position. The waiver of rights signed by Mr. Mendoza does not supercede the par. 4 of

the lease contract which states that default in payment for four (4) consecutive months is a ground to cancel the contract.

3. Adverse result of credit/background investigation. An updated credit/background investigation to supplement the previous investigation was conducted.

Re: I.S. No. 96-4307 for Falsification and/or Use of Falsified Documents filed by Messer against respondents Garcia and Abella, the subject matter of the complaint is a letter/report dated 20 February 1996 signed by respondent Abella and addressed to the Northern and Central Luzon Banking Group, stating the reasons for the denial of the loan, thus:

To: Northern and Central Luzon Banking Group

Re: Loan Application of Mamburao, Inc.

Mamburao, Inc. represented by Mr. Peter H. Messer, a German national, applied for a loan of P6M sometime in 1994. The project is for restaurant business situated in Bocaue, Bulacan with a tradename Blue Diamond Restaurant. The building will be constructed on leased property to Mr. Messer which in turn subleased it to Mamburao, Incorporated, the borrower.

Offered collateral are various properties (real estate) including improvements located - Antipolo, Rizal, Brgy. Putotan, Muntinlupa, Rizal, and Brgy. Borol 2nd, Balagtas, Bulacan with an appraised value of P3,263,900.00 and loan value of P2,273,590.00.

Based on the evaluation of the project, the branch can not accept/recommend the loan proposal primarily because of collateral shortages and the project to be financed is construction of restaurant building on a leased land not part of the collateral offered.

The proponent wants us to adjust our appraisal on the property which we do not agree. Because of this situation, Mr. Peter M. Messer resent [sic] our actions. Letter of P. Messer attached.

Re: I.S. No. 97-77 for Perjury against respondents Garcia and Abella, the subject matter are the controversial statements under oath during the preliminary investigation of the Slander, Libel and Falsification complaints at the Office of the Provincial Prosecutor of Bulacan.

In response to the criminal complaint for Slander, respondent Nanny Garcia in his counter-affidavit denied ever having stated that she will recommend the restaurant project for denial and denied saying that the restaurant project is a "front for prostitution where GROs are the main merchandise, etc." Respondent Garcia clarified that the work of the Provincial Lending Center is merely recommendatory, and that she merely collates the data and analyzes the same so that [s]he could make the corresponding recommendation of the proper channels (p. 54, records). Respondent Garcia filed instead a counter-complaint for Libel and Perjury against Paul Nicolau and Susan Esplana for executing an affidavit corroborating complainant Messer's claim that [s]he (Garcia) stated those alleged libelous accusations.

In the case of Libel filed against respondent Garcia, perusal of the subject letter dated August 15, 1996 will show that the same is not libelous. Such letter appears to have been done under normal circumstances which is to inform the new manager of Mamburao the reasons why the loan application was denied under the circumstances. As clearly pointed out by respondent Garcia in his counter-affidavit the sending of the letter of denial of a loan application is not unusual as the same is necessary in order that the loan applicant will be properly informed of the status of his loan application (par. 12, p. 57, records). Respondent further added that when the bank denied the loan application, it was not questioning the management capabilities of the men behind the corporation. It was merely saying that the borrower did not meet the risk analysis criteria of the bank. The letter was never meant to

dishonor nor discredit the men behind the corporation. We agree, therefore, with the recommendation of the provincial fiscal to dismiss the said cases.

With respect to I.S. No. 96-4307 we likewise found no evidence to show that the letter dated February 20, 1996 signed by respondent Rodolfo Abella is a falsified document. In his counter-affidavit, respondent Abella admitted that he became aware of the re-application of Mamburao, Incorporated loan at the Baliuag branch and inconsistent with the established territorial jurisdiction of branches he sent an internal report to Northern and Central Luzon Banking Group dated February 20, 1996 informing of the previous denial of Mamburao loan with the LBP Balagtas Branch. Complainant opined that said letter dated February 20, 1996 is a falsified one which Nanny Garcia attached to her counter-affidavit.

The mere fact that respondent Abella, the letter-writer, admitted ever having written such letter, complainant can not claim that it is falsified.

If we are to follow the chain of events that lead to the filing of this complaint, it will definitely indicate that complainant harbored ill-feelings towards the officers of the LBP-Balagtas branch particularly when its loan application for P6M was downgraded by the bank to P2M to 3M. On that account, Complainant requested respondent Abella for a new appraiser preferably from the head office which request was turned down by respondent thus a shouting match ensued.

From the standpoint of Complainant, the denial of its subsequent loan application by the LBP-Baliuag branch was motivated by bad faith particularly by the LBP Officials who are respondents herein. In this regard, we see no reason of any abuse manifest partiality, evident bad faith or gross inexcusable negligence with respect to the actuations of Respondents. As bank officials they (Respondents) are in a better position to know whether or not Respondent [sic] is qualified for the loan being asked for. Complainant cannot force/dictate the bank to approve the initial amount of P6M loan being applied for. As pointed out by Respondent, the granting of the loan is a mere privilege and not a right, thus finding no reason that would hold Respondents guilty of the crime charge [sic], we agree with the dismissal of the cases being complained of.

WHEREFORE, PREMISES CONSIDERED, the undersigned respectfully recommends that the Resolution prepared by Asst. Provincial Prosecutor Pelagia J. D. Joaquin recommending the dismissal of the complaints for Slander, Libel, Perjury and Falsification and/or Use of Falsified Documents be affirmed. Likewise the complaint for violation of R.A. 3019 and the Petition for Review filed by Complainant are dismissed for lack of merit.

### **SO ORDERED.**

Hence, the present petition.

First of all, petitioners assert that the Ombudsman erred when it dismissed the case for slander (I.S. No. 96-3724) since the Provincial Prosecutor of Bulacan filed an information on 21 March 1997 with the Municipal Trial Court (MTC) of Baliuag, Bulacan, charging Garcia with the crime of slander, docketed as Criminal Case No. 13183. Garcia was arraigned on 21 October 1997. Thus, the MTC had already acquired jurisdiction over the case, pursuant to the ruling of this Court in *Crespo v. Mogul* [151 SCRA 462 (1987)].

Further, petitioners insist that the Ombudsman gravely abused his discretion when he refused to act upon petitioners' requests for the issuance of a subpoena duces tecum in order to obtain certain documents in the custody of the National Bureau of Investigation and respondents.

Finally, with the exception of libel - the dismissal of which petitioners do not dispute - it is contended by petitioners that OMB-1-97-1465 and OMB-1-97-2413 were erroneously dismissed by the Ombudsman as there

was sufficient evidence to support a finding that the crimes of slander, perjury, falsification and/or use of falsified documents, and a violation of RA 3019 were committed.[10]

Petitioners' arguments are not impressed with merit.

With regard to the slander case, the Ombudsman stated in his Comment that -

The dismissal by public respondent Office of the Ombudsman of petitioners' complaint for slander was made through plain oversight which can be explained, in part, by petitioners' own sad and reprehensible efforts at forum shopping. Petitioners filed before the Office of the Ombudsman a complaint for slander as well as libel, perjury and falsification and/or use of falsified document (OMB-1-97-1465) against respondent bank officers despite knowledge that the Office of the Provincial Prosecutor of Bulacan had already filed an information for slander against respondent Garcia before the Municipal Trial Court of Baliuag, Bulacan and after their complaints for libel, perjury and falsification and/or use of falsified document were dismissed by the same office. Be that as it may, the dismissal by the Office of the Ombudsman of the slander charge did not produce any effect since it has not moved for the withdrawal of the information for slander filed before the aforementioned court.[11]

Given the Ombudsman's position, it is apparent that this issue has become moot. The Ombudsman admits that the dismissal was due to a mere oversight which he attributes to petitioners' maneuverings. We agree. Based on petitioners' own admissions, the information charging Garcia with slander was filed with the MTC on 21 March 1997; yet, petitioner persisted in filing a complaint with the Ombudsman against Garcia for the same crime on 14 August 1997 (OMB-1-97-1465).[12] The Ombudsman cannot be faulted for an error occasioned by petitioners' actions. Besides, the dismissal of the slander charge by the Ombudsman, as ordered in its 24 August 1998 Joint Resolution, will not affect the criminal case pending with the MTC (Criminal Case No. 13183) unless the Ombudsman files a motion to dismiss with the trial court - a move which the Ombudsman has manifested it will not make - and the court orders the dismissal of the case. This is because once a complaint or information has been filed in court, any disposition of the case thereafter rests in the sound discretion of the court.[13]

The Ombudsman's decision not to issue the subpoena duces tecum requested for by petitioners was not made in grave abuse of its discretion. Section 1, Rule 112 of the Rules of Criminal Procedure defines preliminary investigation as "an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial. Under Republic Act No. 6770,[14] the Ombudsman has the power to investigate and conduct preliminary investigations.[15] Absent any grave abuse of discretion tainting it, the courts will not interfere with the Ombudsman's supervision and control over the preliminary investigation conducted by him.[16] In fact, the Ombudsman has the power to dismiss a complaint outright without going through a preliminary investigation.[17] Administrative Order No. 07 of the Office of the Ombudsman, otherwise known as the "Rules of Procedure of the Office of the Ombudsman" provides:

SEC. 2. Evaluation. - Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate officer or official for fact-finding investigation;
- e) referred for administrative adjudication; or

f) subjected to a preliminary investigation.

If the Ombudsman may dismiss a complaint outright for lack of merit, it necessarily follows that it is also within his discretion to determine whether the evidence before him is sufficient to establish probable cause. Thus, petitioners may not compel the Ombudsman to order the production of certain documents, if in the Ombudsman's judgment such documents are not necessary in order to establish the guilt, or innocence, of the accused.

It has been the consistent policy of the Supreme Court not to interfere with the Ombudsman's exercise of his investigatory powers.[18] Thus, in the case of *Alba v. Nitorreda*,[19] we held that -

...this Court has consistently refrained from interfering with the exercise by the Ombudsman of his constitutionally mandated investigatory and prosecutory powers. Otherwise stated, it is beyond the ambit of this Court to review the exercise of discretion of the Ombudsman in prosecuting or dismissing a complaint filed before it. Such initiative and independence are inherent in the Ombudsman who, beholden to no one, acts as the champion of the people and preserver of the integrity of the public service.

The rationale underlying the Court's policy of non-interference was laid down in *Ocampo v. Ombudsman*[20] and reiterated in the more recent case of *Venus v. Desierto*,[21] to wit:

The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they would be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.

This Court cannot uphold petitioners' contention that the Ombudsman acted in grave abuse of its discretion when it dismissed the charges levelled against private respondents herein. In his Comment filed with this Court, the Ombudsman elaborated upon his reasons for finding that there was no sufficient ground to engender a well founded belief that the crimes of libel, falsification, use of falsified documents, perjury, and violation of RA 3019 were committed. With regard to the charge of perjury, the Ombudsman concluded that Garcia and Abella did not make any false statements based upon an examination of their counter-affidavits and other pleadings filed during the preliminary investigation in OMB-1-97-1465. Meanwhile, the Ombudsman ruled that the charges for falsification and use of falsified documents against Garcia and Abella were defeated by Garcia's admission that he wrote the subject letter dated 20 February 1996. Finally, the Ombudsman declared that private respondents are not liable under Section 3(e) of RA 3019 since it was not established that they acted with manifest partiality, evident bad faith or gross inexcusable negligence in denying petitioners' loan application; and further, there is no showing that such denial has caused undue injury to petitioners.[22] After a thorough examination of the records of this case, we find no compelling reason to reverse the Ombudsman's decision to dismiss the criminal charges levelled against private respondents.

WHEREFORE, the instant petition is DISMISSED.

**SO ORDERED.**

Melo, (Chairman), Vitug, and Panganiban, JJ., concur.

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[1] Rollo, 5-7, 25-26.

[2] Ibid., 58-67.

[3] Ibid., 58-61, 65-66.

[4] Ibid., 62-64, 67.

[5] Ibid., 102.

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[6] Issued on October 5, 1995.

[7] Otherwise known as the "Anti-Graft and Corrupt Practices Act."

[8] Rollo, 24-32.

[9] Ibid., 34-36.

[10] Ibid., 9-19.

[11] Ibid., 116-117.

[12] Ibid., 9-10.

[13] *Crespo v. Mogul*, 151 SCRA 462 (1987).

[14] Otherwise known as "The Ombudsman Act of 1989."

[15] 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 any investigatory agency of Government, the investigation of such cases;

xxx xxx xxx

[16] *Velasco v. Casaclang*, 294 SCRA 394 (1998).

[17] *Knecht v. Desierto*, 291 SCRA 292 (1998).

[18] *Venus v. Desierto*, 298 SCRA 196 (1998); *Velasco v. Casaclang*, *supra*, citing *Republic v. Sandiganbayan*, 200 SCRA 667 (1991) and *Zaldivar v. Sandiganbayan*, 160 SCRA 843 (1988); *Knecht v. Desierto*, *surpa*, citing *Lastimosa v. Ombudsman*, 243 SCRA 497 (1995).

**[19] 254 SCRA 753 (1996).**

**[20] 225 SCRA 725 (1993).**

[21] *Supra*.

[22] Rollo, 111-116.

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