

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. RUBEN ENOC,
SUSANA B. ABAWAG, DOMINADOR D. DALA, CARLOS L. DENIA,
ELVIRA I. LIM, TEODORO YOS, DIOMEDES E. MIRAFUENTES,
JOSEFINA L. TUNGA...**

G.R. Nos. 145957-68. January 25, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the order,[1] dated October 7, 2000, of the Regional Trial Court, Branch 19 of Digos, Davao del Sur, dismissing Criminal Case Nos. 374(97) to 385(97) against respondents.

The antecedent facts are as follows:

Respondents were employed at the Office of the Southern Cultural Communities (OSCC), Davao del Sur, Provincial Office, Digos, Davao del Sur with salaries below grade 27, as follows:

1. Mr. Ruben Enoc, Provincial Officer
2. Ms. Susana B. Abawag, Special Disbursing Officer
3. Mr. Dominador D. Dala, Supply Officer
4. Mr. Teodoro Yos, Inspector
5. Ms. Leticia Lagunsay, Employee
6. Ms. Emma Ligason-Bernales, Public Health Nurse I
7. Ms. Elvira I. Lim, Development Management Officer (DMO) II
8. Dr. Carlos L. Denia, Medical Officer IV
9. Mr. Diomedes E. Mirafuentes, DMO II
10. Ms. Evangeline Gallito, Employee
11. Ms. Josefina Labo-Tungal, Officer-In-Charge, OSCC Bansalan Sub-Office[2]

They were charged with 11 counts of malversation through falsification, based on alleged purchases of medicine and food assistance for cultural community members, and one count of violation of R.A. No. 3019, §3(e), in connection with the purchases of supplies for the OSCC without bidding/canvass. As none of the respondents has the “rank” required under R.A. No. 8249[3] to be tried for the said crimes in the Sandiganbayan, the informations were filed by the Ombudsman in the Regional Trial Court of Digos, Davao del Sur, where they were docketed as Criminal Case Nos. 374(97) to 385(97), and assigned to Branch 19 of the court.

Respondents moved to quash the informations invoking the ruling in *Uy v. Sandiganbayan*[4] that the Ombudsman has no authority to prosecute graft cases falling within the jurisdiction of regular courts. This motion was granted by the RTC and the cases were dismissed without prejudice, however, to their refiling by the appropriate officer.

The Office of the Ombudsman filed the instant petition contending that—

THE TRIAL COURT ERRED WHEN IT HELD THAT THE OMBUDSMAN HAS NO JURISDICTION TO INVESTIGATE, FILE INFORMATION, AND PROSECUTE CASES BEFORE THE REGULAR COURTS.

- THE JURISDICTION OF THE HONORABLE SANDIGANBAYAN IS NOT PARALLEL TO, NOR TO BE EQUATED WITH, THE BROADER JURISDICTION OF THE OFFICE OF THE OMBUDSMAN;

- THE PHRASE “PRIMARY JURISDICTION OF THE OFFICE OF THE OMBUDSMAN OVER CASES COGNIZABLE BY THE SANDIGANBAYAN” AS USED IN SECTION 15 (1), R.A. No. 6770 IS NOT A DELIMITATION OF ITS JURISDICTION SOLELY TO SANDIGANBAYAN CASES; AND

- THE AUTHORITY OF THE OFFICE OF THE SPECIAL PROSECUTOR TO PROSECUTE CASES BEFORE THE SANDIGANBAYAN CANNOT BE CONFUSED WITH THE BROADER INVESTIGATORY AND PROSECUTORIAL POWERS OF THE OFFICE OF THE OMBUDSMAN.[5]

Respondents were required to comment but only respondent Carlos L. Denia did so. He acknowledges that:

In view of the [March 20, 2001] pronouncement of the Honorable Court in the case of *George Uy v. Sandiganbayan*, G.R. Nos. 105665-70 that the Office of the Ombudsman is authorized to investigate and prosecute all cases involving public officials and employees, without distinction as to their rank and the nature of their act or omission, the filing of the subject Informations by the said office were not defective.[6]

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

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

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

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

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

Moreover, the jurisdiction of the Office of the Ombudsman should not be equated with the limited authority of the Special Prosecutor under Section 11 of RA 6770. The Office of the Special Prosecutor is merely a component of the Office of the Ombudsman and may only act under the supervision and control and upon

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

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

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

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Per Judge Hilario I. Mapayo. Petition, Annex A; Rollo, pp. 36-37.

[2] Rollo, p. 38.

[3] "An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as amended, Providing Funds Therefor, and for Other Purposes."

[4] 312 SCRA 77 (1999).

[5] Petition, p. 6; Rollo, p. 16.

[6] Rollo, p. 190.

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