

EMMANUEL T. PONTEJOS, PETITIONER, VS. OFFICE OF THE OMBUDSMAN AND RESTITUTO AQUINO, RESPONDENTS.

G.R. NOS. 158613-14. February 22, 2006

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PANGANIBAN, CJ:

The Constitution and the Ombudsman Act of 1989 have endowed the Office of the Ombudsman (OMB) with a wide latitude of investigatory and prosecutorial powers -- virtually free from legislative, executive or judicial intervention -- in order to insulate it from outside pressure and improper influence. Unless tainted with grave abuse of discretion, the judgments and orders of the OMB shall not be reversed, modified or otherwise interfered with by this Court.

The Case

Before us is a Petition for Certiorari[1] under Rule 65 of the Rules of Court, assailing the February 19, 1999 Joint Resolution,[2] May 21, 2002 Review and Recommendation[3] and March 14, 2003 Order[4] of the Evaluation and Preliminary Investigation Bureau of the OMB. The challenged Resolution disposed as follows:

"WHEREFORE, premises considered, the following are respectfully recommended, thus:

'1. That an Information for Estafa (one count) be filed against respondent EMMANUEL T. PONTEJOS before the Regional Trial Court of Quezon City; '2. That an Information for Direct Bribery be filed against respondent Atty. EMMANUEL T. PONTEJOS before the Regional Trial Court of Quezon City; '3. That an Information for Unauthorized Practice of Profession in violation of R.A. 6713 be filed against Atty. EMMANUEL T. PONTEJOS before the Metropolitan Trial Court of Quezon City; and '4. That the complaint against Director WILFREDO I. IMPERIAL and RODERICK NGO be dismissed for insufficiency of evidence; and '5. That respondent CARMENCITA ATOS Y. RUIZ be extended immunity from criminal prosecution in accordance with Section 17 of R.A. 6770 and be utilized as a state witness.'"[5]

The Review and Recommendation disapproved Assistant City Prosecutor De Guzman's recommendation to amend the Information for estafa by including Atos as a co-accused; while the Order denied reconsideration.

The Facts

Sometime in 1998, Restituto P. Aquino filed an Affidavit/Complaint before the Ombudsman against Emmanuel T. Pontejos (arbiter), Wilfredo I. Imperial (regional director) and Carmencita R. Atos (legal staff), all of them officials of the Housing and Land Use Regulatory Board (HLURB), and Roderick Ngo, a private individual.[6]

Aquino accused Pontejos and Atos of conspiring to exact money in exchange for a favorable decision of a case against Roderick Ngo then pending in the HLURB. He further averred that Pontejos acted as his counsel during the time when the latter was the hearing officer of the case.[7] Moreover, Atos allegedly received P10,000 in check, which was part of the consideration for a favorable decision. Imperial was implicated as an alleged accomplice.[8]

During preliminary investigation, the following documents were adduced:

"a. Affidavit-complaint of Restituto P. Aquino, dated 14 August 1998 whereby the complainant narrated at length the charges against respondents;

"b. Affidavit of Ruth Adel in corroboration of Mr. Aquino's affidavit;

"c. Another affidavit of Mr. Restituto P. Aquino wherein he revealed the months and dates where he had meetings with Atty. Pontejos and Carmen Atos at Alps Restaurant, Racks Restaurant, Little Quiapo (Q.C.) and Chowking Restaurant;

"d. Another affidavit of Ruth Adel, wherein the affiant revealed that Ms. Carmen Atos received P10,000.00 in check and had it encashed;

"e. Affidavit of Rowena Alcovindas corroborating Adel's affidavit;

"f. A copy of the encashed check showing Ms. Atos signature at the back of the check;

"g. Copies of several drafts of decision and petitions either prepared in handwriting of Atty. Pontejos or in typewritten form with corrections from Atty. Pontejos in his handwriting;

"h. NBI Examination Report revealing that the samples and questioned documents were authored by one person (Atty. Pontejos) x x x.

"i. Another affidavit dated 15 February 1999, of [C]omplainant Aquino, wherein he mentioned the places and dates of supposed meetings with Pontejos and Atos as well as the amounts received by them in exchange of legal services and/or favor promised."[9]

The respondents filed separate Counter-Affidavits to refute the charges.[10] They claimed that the meetings mentioned by Aquino did not take place. Neither did they receive any money from him.[11]

Pontejos added that there were three cases involving Aquino. The first one, REM-8652 was filed in 1995 against Aquino by buyers of lots in a subdivision which he allegedly failed to develop. The second one, REM-9526 was filed by Aquino against Hammercon Inc. (allegedly owned by Roderick Ngo) for revocation of registration and license. The third case, REM-9817 was filed by Aquino against Hammercon for specific performance or rescission of contract.[12] Pontejos decided the first and third cases against Aquino. The second case, handled by Imperial, was also decided against Aquino. It was allegedly implausible to side with Aquino, who lost all of the cases.[13]

Imperial denied all links to the extortion allegedly perpetrated by Pontejos and Atos. Moreover, he could not have shared with the alleged pay-off money given in January 1998, because he decided the case as far back as September 1997.[14]

Atos justified receipt of the P10,000 from Aquino, claiming that it was payment for hams and cold cuts ordered in December 1996 and January 1997 by Ruth Adel, one of the affiants.[15] In support of this defense, she submitted Joint-Affidavits of her officemates and neighbors confirming her business activities.[16]

Subsequently, Atos issued two Affidavits where she retracted her original defense.[17] She encashed the check allegedly to accommodate Pontejos, who was her boss. She also recounted attending at least four meetings with Pontejos, Aquino and Adel during which Pontejos offered legal services to Aquino and discussed Aquino's pending cases.[18]

Ruling of the Overall Deputy Ombudsman

The Overall Deputy Ombudsman found probable cause against Pontejos for the crimes of estafa, direct bribery and illegal practice of profession in violation of RA 6713.

There was estafa because Pontejos allegedly made false pretenses to Aquino in order to receive P25,000.[19] He supposedly assured the cancellation of Hammercon's license to sell and registration certificate, notwithstanding the contrary decision issued by Imperial.[20]

Pontejos was guilty of direct bribery for demanding and receiving P100,000 from Aquino in exchange for a favorable decision.[21] Further, Pontejos should be charged with unauthorized practice of law for providing legal services to Aquino and receiving litigation expenses.[22] He purportedly prepared the pleadings that Aquino submitted; these pleadings were confirmed by the NBI to have been authored by him.[23]

The Overall Deputy Ombudsman ruled that Atos should be extended immunity from criminal prosecution and discharged as state witness.[24] According to him, Atos was merely a subordinate who could have acted only upon the prodding of Pontejos. Also, her testimony was necessary to build a case against Pontejos.[25]

On June 21, 1999, then Ombudsman Aniano A. Desierto issued a Resolution extending immunity to Atos on the condition that she would appear and testify against Pontejos in accordance with the Affidavits she submitted during the preliminary investigation.[26] The Resolution noted that Atos' testimony was extremely necessary to prove the offenses charged against Pontejos and that the available evidence showed that, being a mere clerk, she did not appear to be the most guilty.[27]

The criminal cases for estafa and direct bribery against Pontejos were filed before the Regional Trial Court of Quezon City.[28] On May 13, 1999, Pontejos filed a Motion for Reinvestigation[29] to be conducted by the City Prosecutor without remanding the case to the Ombudsman. The prosecution had no objection. Thus, hearing of the case was held in abeyance pending the outcome of the reinvestigation.[30]

Assistant City Prosecutor Ma. Teresa E. De Guzman conducted the reinvestigation and thereafter recommended to amend the Information for estafa to include Atos as co-accused. According to her, the power to grant immunity pertains solely to the courts, not to the prosecution which can only recommend.[31] The Overall Deputy Ombudsman disapproved De Guzman's report in the May 21, 2002 Review and Recommendation.

The March 14, 2003 Order denied reconsideration. Thereafter, Pontejos filed this Petition.[32]

The Issues

Petitioner raises the following issues:

- "1. Whether or not the Ombudsman erred in not declaring that petitioner was denied due process when to this date he was never officially furnished a copy of the Affidavit dated 18 February 1999 of Ms. Atos amounting to lack of or excess of jurisdiction;
- "2. Whether or not proceedings before the Ombudsman was tainted with ill motives amounting to lack of or excess of jurisdiction;
- "3. Whether or not the Ombudsman committed grave abuse of discretion amounting to lack of or excess of jurisdiction when it granted an immunity to Ms. Atos to become a state witness on almost the same date the Affidavit was executed and submitted;
- "4. Whether or not the Ombudsman erred in singling out petitioner for criminal prosecution amounting to lack of or excess of jurisdiction;
- "5. Whether or not the Ombudsman erred in giving weight to the Affidavit dated 18 February 1999 of Ms. Atos despite an earlier affidavit which totally contradicts her averments therein." [33]

The Court's Ruling

The Petition is unmeritorious.

First Issue: Finding of Probable Cause

Probable cause is defined as such facts and circumstances that would engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof and should be held for trial.[34] Its determination during a preliminary investigation is a function left to the government prosecutor, which in this case is the OMB.[35] As a rule, the courts do not interfere with the OMB's exercise of discretion in determining probable cause unless there are compelling reasons.[36] This policy is based on constitutional, statutory and practical considerations. The Constitution and RA 6770 (the Ombudsman Act of 1989) grants the OMB with a wide latitude of investigatory and prosecutorial powers that is virtually free from executive, legislative or judicial intervention, in order to insulate it from outside pressure and improper influence.[37]

However, there are certain instances when this Court may intervene in the prosecution of cases. *Brocka v. Enrile*[38] cited some of these exceptions, as follows: (1) when necessary to afford adequate protection to the constitutional rights of the accused; (2) when necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions; (3) when there is a prejudicial question which is sub judice; (4) when the acts of the officer are without or in excess of authority; (5) where the prosecution is under an invalid law, ordinance or regulation; (6) when double jeopardy is clearly apparent; (7) where the court has no jurisdiction over the offense; (8) where it is a case of persecution rather than prosecution; (9) where the charges are manifestly false and motivated by the lust for vengeance; and (10) when there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied.[39]

The remedy to challenge the OMB's orders or resolutions in criminal cases is through a petition for certiorari under Rule 65 to this Court.[40]

Grave Abuse of Discretion

A petition for certiorari is the remedy when a government officer has acted with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no other plain, speedy, and adequate remedy in the ordinary course of law.[41]

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction.[42] The exercise of power must have been done in an arbitrary or despotic manner by reason of passion or personal hostility. It must be so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[43]

Petitioner theorizes that the OMB resolved the Complaint against him for reasons other than the merits of the case. He specifically charges HLURB Commissioner Teresita Desierto, the spouse of Ombudsman Desierto, as the "unseen hand" behind the filing of the criminal cases.[44] Commissioner Desierto allegedly harbored resentment against him for signing a Manifesto[45] issued by some lawyers in the HLURB.[46] He also recalls Commissioner Desierto threatening him if he did not resign from the HLURB. Thus, he concludes that the proceedings before the OMB were tainted with ill motives.[47]

We cannot accept petitioner's arguments. The Court observes that his arguments are merely conjectures bereft of any proof. He presented absolutely no evidence of any irregularity in the proceedings before the OMB. There was no showing that Commissioner Desierto interfered in any manner in the proceedings before the OMB. Other than petitioner's bare assertions, there was also no proof that Commissioner Desierto bore a grudge against Pontejos.

Petitioner failed to substantiate his allegation of grave abuse of discretion. On the other hand, there was sufficient

evidence to support the finding of probable cause. Evidence presented during the preliminary investigation engender a well-founded belief that crimes have been committed and that Pontejos is probably guilty thereof for which he should be held for trial. The Court is therefore precluded from interfering in the OMB's discretion to file the criminal cases against petitioner. To be sure, great respect must be accorded to the OMB's exercise of its constitutionally mandated functions. Unless clearly shown to have been issued with grave abuse of discretion, these judgments are not interfered with.

Second Issue:

Immunity from Prosecution

The decision on whether to prosecute and whom to indict is executive in character.[48] It is the prosecution that could essentially determine the strength of pursuing a case against an accused. The prosecutorial powers include the discretion of granting immunity to an accused in exchange for testimony against another. Thus, *Mapa v. Sandiganbayan*[49] explained:

"The decision to grant immunity from prosecution forms a constituent part of the prosecution process. It is essentially a tactical decision to forego prosecution of a person for government to achieve a higher objective. It is a deliberate renunciation of the right of the State to prosecute all who appear to be guilty of having committed a crime. Its justification lies in the particular need of the State to obtain the conviction of the more guilty criminals who, otherwise, will probably elude the long arm of the law. Whether or not the delicate power should be exercised, who should be extended the privilege, the timing of its grant, are questions addressed solely to the sound judgment of the prosecution. The power to prosecute includes the right to determine who shall be prosecuted and the corollary right to decide whom not to prosecute." [50]

It is constitutionally permissible for Congress to vest the prosecutor with the power to determine who can qualify as a witness and be granted immunity from prosecution.[51] Noteworthy, there are many laws that allow government investigators and prosecutors to grant immunity.[52] In relation to this, the Court has previously upheld the discretion of the Department of Justice (DOJ),[53] Commission on Elections (Comelec),[54] and the Presidential Commission on Good Government (PCGG)[55] to grant immunity from prosecution on the basis of the respective laws that vested them with such power.

The OMB was also vested with the power to grant immunity from prosecution, thus:

"SEC. 17. x x x.

"Under such terms and conditions as it may determine, taking into account the pertinent provisions of the Rules of Court, the Ombudsman may grant immunity from criminal prosecution to any person whose testimony or whose possession and production of documents or other evidence may be necessary to determine the truth in any hearing, inquiry or proceeding being conducted by the Ombudsman or under its authority, in the performance or in the furtherance of its constitutional functions and statutory objectives. x x x." [56]

According to Pontejos, the OMB's authority to grant immunity is subject to the "pertinent provisions of the Rules of Court." He claims that the procedural rules allow the discharge of an accused as state witness only upon conformity of the trial court.[57] An information against the accused must first be filed in court prior to the discharge. Moreover, the prosecution could only recommend and propose, but not grant immunity.[58]

The pertinent provision of the Rules of Court reads:

"Sec. 17. Discharge of accused to be state witness. – When two or more persons are jointly charged with the commission of any offense, upon motion of the prosecution before resting its case, the court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state when after

requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge, the court is satisfied that:

'(a) There is absolute necessity for the testimony of the accused whose discharge is requested;

'(b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;

'(c) The testimony of said accused can be substantially corroborated in its material points;

'(d) Said accused does not appear to be the most guilty; and

'(e) Said accused has not at any time been convicted of any offense involving moral turpitude.

'Evidence adduced in support of the discharge shall automatically form part of the trial. If the court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence.'"[59]

The Court has already held that this provision is applicable only to cases already filed in court.[60] The trial court is given the power to discharge an accused as a state witness only because it has already acquired jurisdiction over the crime and the accused.[61]

As stated earlier, the power to choose who to discharge as state witness is an executive function. Essentially, it is not a judicial prerogative.[62] The fact that an individual had not been previously charged or included in an information does not prevent the prosecution from utilizing said person as a witness.[63]

Section 17 of the Ombudsman Act requires conformity with the Rules of Court. Accordingly, this should be read as requiring the following circumstances prior to the discharge: (1) absolute necessity for the testimony of the accused sought to be discharged; (2) no direct evidence available for the proper prosecution of the offense committed except the testimony of the said accused; (3) the testimony of the said accused can be substantially corroborated in its material points; (4) said accused does not appear to be most guilty; and (5) said accused has not any time been convicted of any offense involving moral turpitude.

Indeed, there must be a standard to follow in the exercise of the prosecutor's discretion. The decision to grant immunity cannot be made capriciously. Should there be unjust favoritism, the Court may exercise its certiorari power.

In the present case, certiorari is not proper. Pontejos' allegations do not show, much less allege, grave abuse of discretion in the granting of immunity to Atos.[64] The OMB considered Atos' position, record and involvement in the case prior to the discharge.[65]

Pontejos also claims that he was not furnished a copy of Atos' Affidavit that connected him to the crimes.[66] Since he was not afforded the opportunity to challenge the assertions in said Affidavit, his right to due process had allegedly been violated.

The alleged denial of due process is controverted by the facts. It appears from the records that Pontejos eventually received a copy of the aforementioned Affidavit.[67] More importantly, he had challenged the Affidavit in his Motion for Reinvestigation[68] and request for reconsideration of the Review and Recommendation of the Overall Deputy Ombudsman.[69] Pontejos' contention must necessarily fail because -- as shown -- he had the opportunity to be heard and in fact, availed of it.

As a final note, Pontejos has made it appear that the criminal cases filed against him were based on ill motives. His arguments challenge the evidence gathered. It is readily apparent that these arguments should be raised as defenses during the trial, not in the present Petition.

WHEREFORE, the Petition is DENIED. Costs against petitioner.

SO ORDERED.

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

[1]Rollo, pp. 3-29.

[2] Id., pp. 33-49. Prepared by Graft Investigation Officer II Rogelio A. Ringpis, recommended by Director Angel C. Mayoralgo Jr., reviewed by Assistant Ombudsman Abelardo L. Aportadera Jr. and approved by Overall Deputy Ombudsman Francisco A. Villa.

[3] Id., pp. 58-64. Prepared by Graft Investigation Officer 1 Francisca A. Maullon-Serfino, reviewed by Director Pelagio S. Apostol, recommended by Deputy Special Prosecutor Robert E. Kallos and approved by Overall Deputy Ombudsman Margarito P. Gervacio Jr.

[4]Id., pp. 69-73. Prepared by Graft Investigation Officer 1 Myrna A. Corral, reviewed by Director Jose T. de Jesus Jr., recommended by Assistant Ombudsman Pelagio S. Apostol and approved by Overall Deputy Ombudsman Margarito P. Gervacio Jr.

[5]Id., pp. 48-49.

[6]Assailed Joint Resolution dated February 19, 1999, pp. 1-2; rollo, pp. 33-34; Assailed Review and Recommendation, pp. 1-2; rollo, pp. 58-59. See also Affidavit/Complaint; rollo, pp. 75-79.

[7] Ibid.

[8]Ibid.

[9]Assailed Joint Resolution, pp. 3-4; rollo, pp. 35-36.

[10]Id., p. 4; id., p. 36.

[11] Id., pp. 4-5; id., pp. 36-37.

[12] Ibid. See also Petitioner's Memorandum, p. 3; rollo, p. 174.

[13]Assailed Joint Resolution, p. 4; rollo, p. 36.

[14] Id., p. 5; rollo, p. 37.

[15] Ibid.

[16]Ibid.

[17]Id., pp. 5-7; id., pp. 37-39.

[18] Ibid.

[19] Id., pp. 11-12; id., pp. 43-44.

[20] Ibid.

[21] Id., p. 14; id., p. 47.

[22] Id., pp. 11 & 14; id., pp. 43 & 46.

[23] Ibid.

[24] Id., p. 16; id., p. 49.

[25]Id., p. 14; id., p. 47.

[26] Resolution No. 99-001; rollo, p. 94.

[27]Ibid.

[28] Docketed as Criminal Case Nos. Q-99-83123-24 and raffled to Branch 224.

[29] Rollo, pp. 51-56.

[30]Order dated June 7, 1999; rollo, p. 57.

[31] Assailed Review and Recommendation, p. 4; rollo, p. 61.

[32] The case was deemed submitted for resolution on October 10, 2005, upon this Court's receipt of respondent Aquino's Memorandum, signed by him. In our November 23, 2005 Resolution, this Court accepted Aquino's explanation why his memorandum was belatedly filed.

The Memorandum of the Ombudsman, signed by Assistant Solicitor General Karl B. Miranda and Solicitor Ma. Ana C. Rivera, was received by this Court on May 26, 2005. Petitioner's Memorandum, signed by him, was received by this Court on May 5, 2005.

[33]Petitioner's Memorandum, p. 10; rollo, p. 181; original in upper case.

[34]§1 of Rule 112 of the Rules of Court, which defines the purpose of a preliminary investigation. Villanueva v. Ople, GR No. 165125, November 18, 2005; Mendoza-Arce v. Office of the Ombudsman, 380 SCRA 325, April 5, 2002.

[35]Paredes v. Sandiganbayan, 252 SCRA 641, January 31, 1996.

[36] Peralta v. Desierto, GR No. 153152, October 19, 2005.

[37] Perez v. Office of the Ombudsman, 429 SCRA 357, 363, May 27, 2004. See also Alba v. Nitorreda, 254 SCRA 753, March 13, 1996.

[38] 192 SCRA 183, December 10, 1990.

[39] Id., pp. 188-189 citing Regalado, Remedial Law Compendium, p. 188 (1988 ed.). Also cited in Villanueva v. Ople, supra at note 34; Mendoza-Arce v. Office of the Ombudsman, supra at note 34.

[40] Villanueva v. Ople, supra; Kuizon v. Desierto 354 SCRA 158, March 9, 2001. See also Tirol v. Commission on Audit, 391 Phil. 897, August 3, 2000.

[41] §1 of Rule 65 of the Rules of Court.

[42] Soria v. Desierto, GR Nos. 153524-25, January 31, 2005; Perez v. Office of the Ombudsman, supra at note 37.

[43] Ibid.

[44] Petitioner's Memorandum, pp. 12, 15-19 & 25; rollo, pp. 183, 186-190 & 196.

[45] The Manifesto reads:

"On 28 September 1998, after the flag raising ceremony, the Honorable Commissioner Teresita A. Desierto made unfounded accusations and sweeping statements branding the lawyers and staff of the Appeals and Review Group, the Expanded National Capital Region, the Legal Services Group, and Regional Field Office 4

as corrupt. She alleged that lawyers, legal assistants and para-legal assistants receive bribes and ask party litigants to treat them to lunch.

"The Honorable Commissioner may not have foreseen the possible repercus[s]ions of her words. She may not have known that the accusations made by her tend to bring not only the legal staff into disrepute but the whole Board.

"The statements of the Honorable Commissioner tend to destroy public confidence in the Board. Hence, they degrade not only the lawyers, legal assistants and para-legal assistants but all employees of the Board.

"The Honorable Commissioner may not have realized it, but once public confidence in the Board is destroyed, the Board loses its usefulness.

"It is regrettable that such irresponsible act was committed by a high ranking official of the Board, a person who should be the first to protect the Board and its dignity.

"We have been subjected to snide remarks and slanderous statements before, but we took them in stride, because they are unsubstantiated and utterly false. However, when the same unproven accusations are made by a responsible superior, who is also a lawyer, we believe that we have to react. We have suffered in silence for too long.

"It appears that our continued silence is being interpreted as an admission of guilt. To correct such misinterpretation, we now speak out and ask that instead of humiliating all lawyers in public, cases against erring officials and employees be instituted before the proper forum.

"We fervently hope that there will be no repetition of the sorry incident. We hope that the architects, the engineers, the planners and the rest of the technical staff will not suffer the same fate. We pray that the rest of the employees won't have to endure the same indignity." (Rollo, p. 32)

[46] Petitioner's Memorandum, p. 1; rollo, p. 172.

[47] *Id.*, pp. 17-19; *id.*, pp. 188-190.

[48] *Guingona v. Court of Appeals*, 354 Phil. 415, July 10, 1998.

[49] 231 SCRA 783, 785, April 26, 1994.

[50] *Id.*, p. 802, per Puno, J.

[51] See *Webb v. De Leon*, 317 Phil. 758, 800, August 23, 1995.

[52] Some of the laws can be found in Section 8 of Republic Act 9287 or the "Act Increasing the Penalties for Illegal Numbers Games Amending Certain Provisions of Presidential Decree No. 1602, and for Other Purposes," approved April 2, 2004; Section 33 of Republic Act 9165 or the "Comprehensive Dangerous Drugs Act of 2002," approved June 7, 2002; Section 12 of Republic Act 6981 or the "Witness Protection, Security and Benefit Act," approved April 24, 1991; Section 26 of Republic Act 6646 or the "Electoral Reforms Law of 1987," approved January 5, 1988; Section 5 of Executive Order No. 14 (which empowered the PCGG to file and prosecute cases investigated by it), dated May 7, 1986; and Sections 3 and 4 of Presidential Decree 1732 or "Providing Immunity from Criminal Prosecution to Government Witnesses and for Other Purposes," approved October 8, 1980.

[53] *People v. Peralta*, 435 Phil. 743, 765, August 8, 2002; *Webb v. De Leon*, *supra*.

[54] *Comelec v. Español*, 417 SCRA 554, December 10, 2003.

[55] See *Mapa v. Sandiganbayan*, *supra* at note 49.

[56] Republic Act 6770 or the Ombudsman Act, approved on November 17, 1989. (Emphasis supplied).

[57] Petitioner's Memorandum, p. 20; rollo, p. 191.

[58] Ibid.

[59] §17 of Rule 119 of the Rules of Court.

[60] Guingona v. Court of Appeals, supra at note 48. See also People v. Peralta, supra at note 53.

[61] Webb v. De Leon, supra at note 51.

[62] People v. Peralta, supra; Guingona v. Court of Appeals, supra; Webb v. De Leon, supra.

[63] People v. Binsol, 100 Phil. 713, 726, January 22, 1957.

[64] See Petitioner's Memorandum, pp. 21-22; rollo, pp. 192-193.

[65] See Assailed Joint Resolution, pp. 14-15; rollo, pp. 47-48; Resolution No. 99-001, supra at note 26.

[66] Petitioner's Memorandum, p. 12; rollo, p. 183.

[67] The affidavit was attached as Annex "J" of the Petition; rollo, pp. 85-86.

[68] Motion for Reinvestigation dated May 13, 1999, p. 2; rollo, p. 52.

[69] Letter addressed to Overall Deputy Ombudsman Margarito O. Gervacio Jr.; rollo, pp. 66-68.

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