

ERNESTO M. DE CHAVEZ, PORFIRIO C. LIGAYA, ROLANDO L. LONTOK, SR., ROLANDO M. LONTOK, JR. AND GLORIA G. MENDOZA, PETITIONERS, VS. OFFICE OF THE OMBUDSMAN AND NORA L. MAGNAYE, RES...

G.R. Nos. 168830-31. February 06, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari[1] under Rule 65 of the 1997 Rules of Civil Procedure which seeks the nullification of the Joint Resolution dated 14 February 2005[2] and the Supplemental Resolution dated 12 July 2005[3] in cases OMB-1-01-1036-K and OMB-1-01-1083-K, both issued by the public respondent Office of the Ombudsman. It also prays for the issuance of a Temporary Restraining Order commanding the public respondent to cease and desist from implementing the said Supplemental Resolution dated 12 July 2005 or from conducting further proceedings in cases OMB-1-01-1036-K and OMB-1-01-1083-K.

Culled from the records are the following facts:

On 7 November 2001, private respondent Nora L. Magnaye (Magnaye), Professor IV of the Batangas State University (BSU), filed with the public respondent an administrative complaint for Grave Misconduct, Oppression, Conduct Prejudicial to the Best Interests of the Service, Falsification of Official Documents, Dishonesty, Gross Neglect of Duty and Violation of Section 5(a) of Republic Act No. 6713 otherwise known as "CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES" against petitioners Ernesto M. de Chavez (de Chavez), BSU President; Porfirio C. Ligaya (Ligaya), BSU Vice-President for Extension Campus Operations; Rolando L. Lontok, Sr. (Lontok, Sr.), BSU Vice-President for Academic Affairs; Rolando M. Lontok, Jr. (Lontok, Jr.), BSU Associate Dean of the College of Computer Science and Information Technology; Gloria G. Mendoza (Mendoza), BSU Dean of the College of Liberal Arts; and other BSU officials namely, Virginia Baes, BSU Executive Vice-President; Amador M. Lualhati (Lualhati), BSU University Secretary; Victoria A. Zaraspe (Zaraspe), BSU Vice-President for Finance and Administration; and Jessie A. Montalbo (Montalbo), BSU Vice-President and Dean of the College of Computer Science and Information Technology.[4] The case was docketed as OMB-1-01-1036-K. The generative facts which gave rise to the filing of the complaint are summarized in the Comment dated 8 September 2005[5] of the public respondent, to wit:

- De Chavez, Lontok, Sr. and Mendoza caused to be collected, and received the proceeds of, graduation fees from the graduating class of SY 2000-2001 without issuing an official receipt and without remitting the same to BSU.
- De Chavez and Lontok, Sr., did not conduct any public bidding for the rental of caps and gowns which were used during the graduation for the SY 2000-2001 and gave the contract to rent caps and gowns to their relatives.

- De Chavez and Lontok, Sr. required and received from the graduating class of SY 2000-2001 the amount of P200.00 from each student as payment for said students' comprehensive examination. Said collection was not authorized by the BSU Board of Regents.
- Lontok, Jr. and Montalbo collected from BSU students internet fees without issuing an official receipt and despite the absence of internet facilities in BSU Lipa City Campus.
- Ligaya collected from BSU students the amount P200.00 each as payment for Related Learning Experience Fee (RLEF) without issuing any official receipt.
- De Chavez and Baes conspired in designating close relatives of De Chavez to key administrative positions in BSU.
- De Chavez made appointments of faculty members and transmitted said appointments to the CSC [Civil Service Commission] without the approval of the BSU Board of Regents.
- De Chavez prevented the elected President of the Federation of Supreme Student Assembly to sit as a member of the Board of Regents.
- De Chavez issued a Memorandum increasing the rates of fees for records and other documents issued by BSU without any approval of the governing Board of the BSU.
- De Chavez, Baes and Zaraspe designated and appointed faculty members to key positions in BSU without any authority under the law, rule or regulation.
- De Chavez and Lontok, Sr. failed to respond to the letter of officials of the PTA-BSU Lipa Campus in violation of R.A. 6713.
- De Chavez collected notarial fees from contractual employees without issuing official receipts.
- De Chavez and Lontok, Sr. did not renew the contract of two faculty members.[6]

Subsequently, on 13 November 2001, based on the above imputed acts plus an additional one,[7] private respondent also filed with the public respondent another Complaint imputing criminal liability to the BSU officials above-named for Violation of Section 3(a) and (e) of Republic Act No. 3019, otherwise known as the "ANTI-GRAFT AND CORRUPT PRACTICES ACT," Violation of Section 5(a) of Republic Act No. 6713, Falsification of Official Documents and Estafa.[8] The criminal complaint was docketed as OMB-1-01-1083-K.

Petitioners denied the allegations of private respondent. In their Joint Counter-Affidavit dated 30 January 2002,[9] which was summarized in the Joint Resolution dated 14 February 2005 of the public respondent, petitioners countered the following:

- The BSU management did not collect graduation fees for the commencement exercises of SY 2000-2001 like in the previous years. It was claimed that the members of the graduating class, with the guidance of their advisers, were the ones who fixed, collected and disbursed the contributions/fees for the commencement exercises.
- No public bidding was conducted for the rental of the caps and gowns because the BSU did not enter into contract with any supplier. The graduating students have the complete freedom to hire their caps and gowns from anyone. The receipts signed by Lontok, Sr. was merely in acknowledgment of the receipts of certain amounts from Magnaye which the latter requested to be given to Mr. Fralundio Sulit from whom the graduating class rented their caps and gowns.
- Whenever a collection of the internet fee is made, a receipt was issued by the BSU using Accountable Form No. 51. Further no collection of internet fees was made at BSU Lipa City Campus.

- The collection of the Related Learning Experience Fee was done by the Cashier's Office of the College. What was being collected in the past by the Office of Dr. Porfirio Ligaya was the Dual Training Fee for non-degree courses. However, effective the second week of December 2001, the collection of this fee was already turned over to the Cashier's Office of the BSU.
- De Chavez relied on the authority of the Resolution issued by the Office of the President declaring that the designation of the relatives of De Chavez to certain positions in the BSU is not violative of the rule against nepotism. The subject designations were all duly confirmed by the Board of Regents.
- The Board of Regents recognized the practice of De Chavez of submitting first the appointments he made to the CSC for attestation before submitting the same for confirmation of the Board. The appointments of professors/instructors which Magnaye claim is violative of existing law and rules has already been confirmed by the Board of Regents.
- No one has been elected as President of the Federation of Student Assembly. Said position is still non-existent in view of the failure of the student to draft and ratify their constitution and by-laws.
- The increase in miscellaneous fees was duly approved by the Board of Trustees of PBMIT through Board Resolution No. 6 series of 1997.
- The failure to respond to some letters query was brought about by the pre-occupation of petitioners to other pressing and more important matters.
- The BSU neither collects nor shares in the notarial fees charged by the notary public.
- The management can opt to renew or not to renew the contract for employment of some faculty members. They are not governed by the security of tenure as commonly enjoyed by the regular employees of the government.[10]

In her Reply dated 8 March 2002,[11] private respondent attached therewith a photocopy of the alleged Audit Report dated 7 February 2001 of State Auditor IV Milagros D. Masangkay, Office of the Auditor, Pablo Borbon Memorial Institute of Technology,[12] containing a finding and recommendation on the graduation fees collected by BSU, thus:

4. FINDING

Graduation fees were not yet issued official receipts and were not taken up in the books of the College despite prior years' audit recommendations and in violation of the provisions of Sections 63 and 68 of Presidential Decree (P.D.) No. 1445, and Section 4(d) of Republic Act (R.A.) No. 8292 resulting to an aggregate understatement of Cash and Trust Liability accounts by about P3,342,550.00.

Section 63 of Presidential Decree (P.D.) No. 1445 requires all moneys and property officially received by a public officer in any capacity or upon any occasion to be accounted for as government funds and government property, while Section 68 of the same presidential decree provides that no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof.

Under Section 4(d) of Republic Act (R.A.) No. 8292, the higher Education Modernization Act of 1997, state universities and colleges are authorized to deposit in any authorized government depository bank and treat as Special Trust Fund, income from tuition fees and other necessary school charges such as matriculation fees, graduation fees, and laboratory fees.

The existing practice of not issuing official receipts and not taking up in the books of accounts graduation fees paid by graduating students has been an audit finding since 1997.

Based on the Annual Audit Report for calendar year 1999, the graduation fees from 1997-1999 totaled

P2,057,600 with an expenses of P921,529.00.

The graduation fees collected and the expenses paid out of these fees during the calendar year 2000 could not be determined due to failure of the employee concerned to furnish this Office with certified statement of collections of graduation fees and the related disbursements together with the supporting papers despite our request to the College President in a letter dated January 17, 2001.

Likewise, in response to our Memorandum dated October 11, 2000 requesting information as to the status of the implementation of the 1999 audit recommendations, the College President informed this Office and I quote "the holding of graduation rites is a tradition of the PBMIT [Pablo Borbon Memorial Institute of Technology] academic community but it is never compulsory. Graduating students may not join the ceremonies but if majority of them decided to hold one, it is their prerogative to plan, execute and evaluate their ceremony. In the process, and through the senior council and/or its advisers, they may agree among themselves to contribute certain amount voluntarily to finance the program. After the rites and if there are cash balances, the graduating class usually donate something to their Alma Mater as their remembrance or legacy. This office, with all due respect to the COA, may not be able to follow the recommendation. This office is not yet ready to break this hallowed tradition.

The continuous refusal of management to implement prior years' audit recommendations and the letter of the Honorable Chairman of the Commission on Audit relative to the handling of graduation fees was already communicated to the Commission on Audit thrice, the latest was last November 8, 2000 when the General Counsel of the Commission on Audit asked for status report.

Since graduation fee is one of the items to be recorded under Special Trust Fund per R.A. No. 8292, failure to record the same in the books of accounts of the Institute understated the cash and trust liability accounts.

Since there were no records submitted to this Office pertaining to graduation fees collected from graduating students, understatement of Cash and Trust Liability Accounts amounting to P1,284,950.00 (Annex G) was based on the number graduating students and the graduation fee per student last school year 1999-2000. The 1999 Annual Audit Report of the previous COA Auditor reported a total collections from 1997 to 1999 of P2,057,600.00. These amounts when added will yield an aggregate understatement of Cash and Trust Liability accounts by about P3,342,550.00.

RECOMMENDATION

Require the accountable officer to issue official receipts (Accountable Form 51) for graduation fees collected and deposit the collections in an authorized government depository bank. Enjoin the Accountant to record in the books of accounts of the College all collections and disbursements conformably with generally accepted accounting principles and in accordance with pertinent laws and regulations.

Private respondent Magnaye also accused the petitioners of grave oppression and harassment for giving her two unsatisfactory performance ratings corresponding to the periods of June to 15 July 2001 and 16 July 2001 to 20 October 2001. She claimed that these ratings were given "as a way to get back at her and lay the basis for dropping her from the rolls of BSU." [13] Of course, petitioners refuted the said imputations.

After the conduct of a clarificatory hearing [14] and upon submission of both parties of their respective position papers, the public respondent, through Graft Investigation and Prosecution Officer II Joy N. Casihan-Dumlao with Director Joaquin F. Salazar and Deputy Ombudsman for Luzon Victor C. Fernandez concurring, issued its Joint Resolution dated 14 February 2005 in OMB-1-01-1036-K and OMB-1-01-1083-K recommending the indictment of petitioners De Chavez, Lontok, Sr., and Mendoza for violation of Section 3(a) of Republic Act No. 3019. It, however, proposed the dismissal of the complaints against petitioners Ligaya and Lontok, Jr., and other officials of BSU namely, Lualhati, Zaraspe, and Montalbo for lack of probable cause. [15] The fallo states:

WHEREFORE, premises considered, it is respectfully recommended that respondents ERNESTO M. DE CHAVEZ, ROLANDO L. LONTOK, SR., and GLORIA G. MENDOZA, be indicted for violation of Section 3(a) of Republic Act No. 3019.

With regard to the rest of respondents, namely: VIRGINIA BAES, AMADOR M. LUALHATI, PORFIRIO C. LIGAYA, VICTORIA A. ZARASPE, ROLANDO M. LONTOK, JR., and JESSIE A. MONTALBO, it is recommended that instant complaints against them be dismissed for lack of probable cause.

Upon review by Ombudsman Simeon V. Marcelo, he issued a Supplemental Resolution dated 12 July 2005 "partially approving" with modifications the Joint Resolution dated 14 February 2005. Among other findings, he found petitioners de Chavez, Lontok, Sr., Lontok, Jr., and Mendoza liable for violation of Section 3(e) and (h) of Republic Act No. 3019 and for violation of Article 315(2)(b) of the Revised Penal Code. He also found petitioners de Chavez, Lontok, Sr., Lontok, Jr., and Ligaya guilty of Dishonesty and Grave Misconduct, and, thus, imposed on them the penalty of Dismissal from the Service with the accessory penalties of forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service.[16] The decretal portion of the Supplemental Resolution reads:

WHEREFORE, the 14 February 2005 Joint Resolution of the Office of the Deputy Ombudsman for Luzon is partially approved subject to the following modifications:

- a) Respondents De Chavez, Lontok, Sr., and Mendoza are hereby found liable for violation of Section 3 (e) RA 3019, as amended, for unlawfully collecting graduation fees. In addition, they are also liable for Estafa under Art. 315 (2) (b) of the Revised Penal Code;
- b) Respondents De Chavez and respondent Lontok, Sr. are hereby found liable for violation of Section 3 (e) RA 3019, as amended, in relation to Section 3 (h) thereof, relative to their engaging in the business of rental of caps and gowns;
- c) Respondent De Chavez and respondent Lontok, Jr., are found liable for violation of Section 3 (e) RA 3019, as amended, for illegally collecting internet fees from students. In addition, they are also liable for Estafa under Art. 315 (2) (b) of the Revised Penal Code;
- d) The Field Investigation Office (FIO) is directed to conduct further fact-finding on respondent Ligaya for probable Malversation under Art. 217 of the Revised Penal Code, for collecting P200.00 each from BSU students as payment for Related Learning Experience Fee (RLEF) without issuing official receipts and misappropriating the same, and to establish with certainty the total amount collected;
- e) The Office of the Deputy Ombudsman for Luzon is hereby directed to refer to the Civil Service Commission the administrative aspect of the charges relating to nepotism, appointment, assignment/designation, transfer of personnel, and performance evaluation ratings;
- f) The Office of the Deputy Ombudsman for Luzon is also ordered to immediately conduct a fact-finding investigation with respect to the holding of comprehensive examination and the collection of fees therefore;
- g) The Field Investigation Office (FIO) is directed to immediately conduct an investigation to gather evidence relative to the students who rented caps and gowns for the school year 2000-2001 and prior to said school year; and
- h) Respondents De Chavez, Lontok, Sr., Ligaya and Lontok Jr., are hereby found guilty of Dishonesty and Grave Misconduct and are, thus, meted the penalty of Dismissal from the Service, pursuant to Section 52 (A), Rule IV, Uniform Rules on Administrative Cases in the Civil Service, with the accessory penalties of forfeiture of retirement benefits and perpetual disqualification from employment in government service pursuant to Section 58, Rule IV of the same Uniform Rules on Administrative Cases in the Civil Service.

Corollary thereto, the Civil Service Commission is hereby requested to implement this Order in accordance with law and to advise this Office of compliance thereon. Let a copy of this decision be furnished the Honorable Chairman, Civil Service Commission, Constitution Hills, Diliman, Quezon City.

Aggrieved, the petitioners filed this petition. Petitioner Mendoza filed a Petition in Intervention dated 12 December 2005 after her lawyer found out that she was not included in the instant petition.[17] Her intervention was allowed in the Court's First Division Resolution of 28 August 2006.[18] Both petitions raised the following issues for our consideration:

I.

RESPONDENT OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AND ACTED WITHOUT JURISDICTION IN FINDING PETITIONERS ALREADY LIABLE FOR CRIMINAL OFFENSES.

II.

RESPONDENT OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT DID NOT DISMISS THE TWO SEPARATE BUT IDENTICAL CRIMINAL COMPLAINTS OF PRIVATE RESPONDENT.[19]

Apropos the first issue, the petitioners alleged that the public respondent's Supplemental Resolution dated 12 July 2005 categorically stated that petitioners are liable for the criminal acts complained of; that the public respondent did not even discuss the matter of probable cause but instead immediately ruled on their guilt; that the said resolution did not state or instruct the filing of the appropriate criminal informations against them before the courts of justice. Hence, the public respondent's instantaneous finding of criminal liability on their part renders any trial against them an "exercise in futility" which "inevitably clashes with Section 14(2) of the 1987 Constitution which grants to the accused, inter alia, the right to have a speedy, impartial and public trial." Therefore, the public respondent had exceeded its jurisdiction under Republic Act No. 6770, otherwise known as the "Ombudsman Act of 1989," since there is nothing in the said statute which grants to it the power to determine the guilt or innocence of the accused.[20]

Further, they argued that "the public respondent's directive to the Field Investigation Office (FIO) to conduct further fact-finding on x x x [petitioner] Ligaya for probable Malversation under Art. 217 of the Revised Penal Code, is questionable as it had already arbitrarily decreed the guilt of petitioner Ligaya when it pilloried him for collecting P200.00 each from BSU Students as payment for Related Experience Fee (RLEF) without issuing official receipts and misappropriating the same x x x." [21]

We reject the foregoing asseverations.

Petitioners make mountain on the use of the words "liable for violation x x x" employed by the Ombudsman. A review of the specific powers of the Ombudsman under the Constitution, the laws and jurisprudential pronouncements is in order. Both the 1987 Constitution and the Ombudsman Act of 1989 (Republic Act No. 6770) empower the public respondent to investigate and prosecute on its own or on complaint by any person, any act or omission of any public official or employee, office or agency when such act or omission appears to be illegal, unjust, improper or inefficient.[22] By virtue of this power,[23] it may conduct a preliminary investigation for the mere purpose of determining whether there is a sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.[24]

A preliminary investigation is merely inquisitorial, and it is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the prosecutor to prepare his complaint or information. It is not

a trial of the case on the merits and has no objective except that of determining whether a crime has been committed and whether there is probable cause to believe that the respondent is guilty thereof.[25] In the conduct of preliminary investigation, the prosecutor does not decide whether there is evidence beyond reasonable doubt of the guilt of respondent. A prosecutor merely determines the existence of probable cause, and to file the corresponding information if he finds it to be so.[26]

At the threshold, we must accentuate that in the exercise of the powers and in the discharge of his functions and responsibilities, the Ombudsman, as in that of the other officials, enjoys the presumption of regularity in the performance of official functions. Rule 131, Section 3(m) of the Revised Rules of Evidence provides:

SEC. 3. Disputable presumptions. - The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(m) That official duty has been regularly performed; x x x.

This presumption of regularity includes the public officer's official actuations in all the phases of his work.[27]

With particular reference to the Ombudsman, it is well to state that his office is, indeed, one of the more powerful agencies of the government and wields vast powers, though limited to a certain extent. Concomitant to this stature, our laws have required more stringent qualifications, most especially to the intellectual quality and capacity, for the person who will run for the office.

In light of this observation, the presumption that the Ombudsman knows whereof he speaks forcefully applies. We must then presume that he is well aware of the extent and limitations of his powers. Thus, when Ombudsman Marcelo used the words "liable for" in his Supplemental Resolution of 12 July 2005, he is presumed to have used these within the sense of the limited power vested in him by our laws and jurisprudence - the finding of probable cause.

Further, the word "liable" is described as to mean "subject or exposed to some usually adverse contingency or action." [28] The word is now rather wide in its use and is considered synonymous to the words "susceptible," "prone," and "exposed," all indicating temporary or fluctuating situations.[29]

We, likewise, call special attention to the fact that nowhere in the challenged resolution is it stated that petitioners are found "guilty" beyond reasonable doubt of the crime charged, in stark contrast to the disposition of the administrative case[30] wherein petitioners "De (sic) Chavez, Lontok, Sr., Ligaya and Lontok, Jr., are hereby found guilty of x x x" and were meted the corresponding penalty.

We, then, conclude that the words "liable for" employed by the Ombudsman in the challenged resolution really alluded only to the probability of guilt. They simply imply that the Ombudsman had found probable cause to hold petitioners liable for the crimes imputed and, thus, should be held liable for trial in the courts of law. It is not a declaration of guilt.

Probable cause, as used in preliminary investigations, has been defined as the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted.[31] We reiterate this in the case of *Pimentel Jr. v. COMELEC*, [32] thus:

[a] finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed and was by the suspects. Probable cause need not be based on evidence establishing absolute certainty of guilt. As well put in *Brinegar vs. United States*, while probable cause demands more than "bare

suspicion," it requires "less than evidence which would justify x x x conviction." A finding of probable cause merely binds over the suspects to stand trial. It is not a pronouncement of guilt. (Emphasis ours.)

The public respondent's finding of probable cause to indict petitioners for the crime charged is based on and supported by the complaints under oath of the private respondent, sworn statements and notarized affidavits of her witnesses, and official and public documents submitted by the private respondent.[33] A clarificatory hearing[34] attended by private respondent and almost all of the petitioners was conducted by the public respondent on 13 May 2004. During the hearing, the public respondent asked the private respondent some clarificatory questions with regard to the latter's complaints.

The 24-paged Supplemental Resolution dated 12 July 2005, as well as the 24-paged Joint Resolution dated 14 February 2005, of the public respondent contains lengthy and substantial discussions on the bases of its finding of probable cause to indict the petitioners for the criminal offenses. The Resolutions took pains to determine the appropriate crimes to be imputed to petitioners and to analyze each charge vis-a-vis the elements of the crime. The evidences submitted by the private respondent for each charge were subjected to careful scrutiny.

As to petitioner Ligaya, it is asserted that "the public respondent's directive to the Field Investigation Office (FIO) to conduct further fact-finding on x x x [petitioner] Ligaya for probable Malversation under Art. 217 of the Revised Penal Code, is questionable as it had already arbitrarily decreed the guilt of petitioner Ligaya when it pilloried him for collecting P200.00 each from BSU Students as payment for Related Experience Fee (RLEF) without issuing official receipts and misappropriating the same x x x." The subject directive reads:

d) The Field Investigation Office (FIO) is directed to conduct further fact-finding on respondent Ligaya for probable Malversation under Art. 217 of the Revised Penal Code, for collecting P200.00 each from BSU students as payment for related Learning Experience Fee (RLEF) without issuing official receipts and misappropriating the same, and to establish with certainty the total amount collected;

As it is, the public respondent merely directed the FIO to conduct further investigation and gather more evidence on the liability of petitioner Ligaya for "probable" malversation. It did not in any way conclude that petitioner Ligaya is guilty beyond reasonable doubt of malversation. In fact, it saw the need to first gather more information and evidence before deciding on whether petitioner Ligaya may be indicted for malversation.

Coming now to the second issue, petitioners argued that the public respondent should have dismissed the "two separate but identical complaints" filed by private respondent on the ground of forum shopping.

The test in determining the presence of forum shopping is whether in the two or more cases pending, there is identity of (1) parties, (2) rights or causes of action, and (3) relief(s) sought.[35] In the instant case, although the parties, facts and circumstances are essentially the same, the rights or causes of action, as well as the relief(s) sought are different. The complaint filed on 7 November 2001 is for an administrative case. The causes of action are grave misconduct, oppression, conduct prejudicial to the best interest of the service, dishonesty, gross neglect of duty and violation of Section 5(a) of Republic Act No. 6713. The relief sought against petitioners is dismissal from the service with forfeiture of retirement benefits and leave credits. On the other hand, the complaint filed on 13 November 2001 is for a criminal case. The causes of action are violations of Section 3(a) and (e) of Republic Act No. 3019, falsification of official documents and estafa. The relief(s) sought against petitioners are, among other prayers, for imprisonment, perpetual disqualification from public office and confiscation or forfeiture in favor of the government of any prohibited interest and unexplained wealth manifestly out of proportion to their salary and other lawful income. Thus, petitioners' allegation of forum shopping is vacuous.

Relative to petitioners' rantings in the probative value of the affidavits presented during the preliminary investigation and on the conclusions of fact reached by the public respondent, suffice it to say that the technical

rules of evidence should not be applied in the conduct of preliminary investigation by the public respondent strictly. This is clear in the Administrative Order No. 08 entitled "CLARIFYING AND MODIFYING CERTAIN RULES OF PROCEDURE OF THE OMBUDSMAN"[36] The validity and the merits of a party's defense or accusations as well as the admissibility of testimonies and evidences are better ventilated during the trial stage than in the preliminary stage.

The factual and evidentiary issues can best be passed upon and threshed out during a full-blown court trial since it is the court's task to determine guilt beyond reasonable doubt based on the evidence presented by the parties at a trial on the merits.[37]

We have consistently refrained from interfering with the constitutionally-mandated investigatory and prosecutorial powers of the public respondent absent any compelling reason.[38] In the case of *Quiambao v. Desierto*,[39] citing *The Presidential Ad-Hoc Fact Finding Committee on Behest Loans v. Ombudsman Aniano Desierto*,[40] we ruled:

The prosecution of offenses committed by public officers is vested in the Office of the Ombudsman. To insulate the Office from outside pressure and improper influence, the Constitution as well as R.A. 6770 has endowed it with wide latitude of investigatory and prosecutory powers virtually free from legislative, executive, or judicial intervention. This Court consistently refrains from interfering with the exercise of its powers, and respect the initiative and independence inherent in the Ombudsman who, "beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service."

In *Maturan v. People*,[41] we held:

A policy of non-interference by the courts in the exercise of the Ombudsman's constitutionally mandated powers 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 Court 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 were 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 private complainant."

One final and significant observation. This Court noted that the present petition seeks the annulment of public respondent's Supplemental Resolution dated 12 July 2005 on the criminal (OMB-1-01-1083-K) and administrative (OMB-1-01-1036-K) complaints of private respondent. Procedurally, the remedy of an aggrieved party in criminal complaints before the public respondent where the latter found probable cause is to file with this Court a petition for certiorari under Rule 65.[42] Thus, we gave due course and resolved the issue of finding of probable cause in the criminal aspect of the instant petition.

This Court, however, cannot and will not pass judgment on the administrative liability of petitioners. In the leading case of *Fabian v. Desierto*,[43] we ruled that appeals from decisions of the public respondent in administrative liability cases should be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure. Consequently, the administrative aspect of the present petition should be referred to the Court of Appeals for proper disposition.

WHEREFORE, the instant petition as regards criminal case OMB-1-01-1083-K is hereby DISMISSED. Petitioners' appeal of the public respondent's Supplemental Resolution dated 12 July 2005 with regard to administrative case OMB-1-01-1036-K is hereby REFERRED to the Court of Appeals for proper disposition. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 2-33.

[2] Penned by Graft Investigation and Prosecution Officer II Joy N. Casihan-Dumlao with Director Joaquin F. Salazar and Deputy Ombudsman for Luzon Victor C. Fernandez concurring; id. at 34-58.

[3] Penned by Ombudsman Simeon V. Marcelo; id. at 59-82.

[4] Id. at 84-126.

[5] Id. at 1224-1266.

[6] Id. at 1226-1227.

[7] Alleged violation of Section 3(a) and (e) of Republic Act No. 3019 against respondents DE CHAVEZ, BAES, LUALHATI, and LIGAYA for conspiring with each other in designating LIGAYA as Campus Administrator for Lipa despite the competent performance of herein complainant as such; for narrowing the assignment of herein complainant to the Deanship of Liberal Arts and her transfer to the Balayan campus and then to Calaca campus.

[8] Rollo, pp. 256-297.

[9] Id. at 579-612.

[10] Id. at 1228-1229.

[11] Id. at 736-788.

[12] Id. at 794-795.

[13] Id. at 786.

[14] Office of the Ombudsman records, Folder 2, pp. 00691-00711.

[15] Rollo, pp. 56-57.

[16] Id. at 80-82.

[17] Id. at 1442-1458.

[18] Id. at 1459.

[19] Id. at 10.

[20] Id. at 1471-1474.

[21] Id. at 1474-1475.

[22] Article XI, Section 13(1) of the 1987 Constitution; Sections 11(4)(a) and 15(1) of Republic Act No. 6770.

[23] *Garcia-Rueda v. Pascasio*, G.R. No. 118141, 5 September 1997, 278 SCRA 769, 776; Section 11, (4)(a) of Republic Act No. 6770; Rule II, Section 3, Administrative Order No. 07, Re: Rules of Procedure of the Office of the Ombudsman.

[24] *Diamante v. Sandiganbayan*, G.R. No. 147911, 14 October 2005, 473 SCRA 95, 103.

[25] Cruz, Jr. v. People of the Philippines, G.R. No. 110436, 27 June 1994, 233 SCRA 439,458.

[26] Supra note 25.

[27] 31 Corpus Juris Secundum, Volume 31, pp. 802-803; American Jurisprudence 2d, Volume 29, p. 224; Philippine Consumers Foundation, Inc. v. Secretary of Education, Culture and Sports, G.R. No. L-78385, 31 August 1987, 153 SCRA 622, 628.

[28] Webster, Third New Int'l. Dictionary, 1993, p. 1302; Black's Law Dictionary, Eighth Edition, 2004, p. 934.

[29] Id.

[30] Paragraph (h) of the dispositive portion.

[31] Supra note 26 at 459.

[32] G.R. No. 126394, 24 April 1998, 289 SCRA 586, 600-601.

[33] Rollo, pp. 84-414.

[34] Supra note 16.

[35] Employees' Compensation Commission v. Court of Appeals, G.R. No. 115858, 28 June 1996, 257 SCRA 717, 723.

[36] 5. Procedure in preliminary investigation of Ombudsman cases. - The preliminary investigation of an Ombudsman case does not have to be conducted strictly in accordance with Section 3, Rule 112 of the Rules of Court. Said rule shall be applied as modified by Rule II of Administrative Order No. 07 of the Office of the Ombudsman. Particular attention is directed to the provisions thereof which are not exactly in conformity with Section 3, Rule 112 of the Rules of Court, such as those on the (1) issuance of an order in lieu of subpoena for the filing of counter-affidavits; (2) prohibition against a motion to dismiss, motion for bill of particulars, and second motion for reconsideration or reinvestigation; (3) manner of conducting clarificatory questioning; and the (4) form of affidavits and counter-affidavits. It is to be understood, however that the preliminary investigation of Ombudsman case in accordance with Rule 112 of the Rules of Court is perfectly valid. The changes in such procedure effected by Administrative Order No. 07 are designed merely to expedite the process of preliminary investigation and to conform with the provisions of Republic Act No. 6770. (Emphasis ours.)

[37] Cabrera v. Ombudsman, G.R. No. 157835, 27 July 2006, p. 8.

[38] Nava v. National Bureau of Investigation, Regional Office No. XI, Davao City, G.R. No. 134509, 12 April 2005, 455 SCRA 377, 393.

[39] G.R. No. 149069, 20 September 2004, 438 SCRA 495, 510.

[40] 418 Phil. 715, 721 (2001).

[41] G.R. Nos. 150353-54, 27 July 2004, 435 SCRA 323, 331.

[42] Acuna v. Deputy Ombudsman for Luzon, G.R. No. 144692, 31 January 2005, 450 SCRA 232, 241.

[43] G.R. No. 129742, 16 September 1998, 295 SCRA 470, 491.

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