

JUDGE ADORACION G. ANGELES, PETITIONER, VS. HON. MA. MERCEDITAS N. GUTIERREZ, OMBUDSMAN; HON. ORLANDO C. CASIMIRO, OVERALL DEPUTY OMBUDSMAN; HON. SYLVIA A. SEVERO, GRAFT INVESTI...

G.R. Nos. 189161 & 189173. March 21, 2012

Ponente: SERENO, J.

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SERENO, J.:

The Case

This is a special civil action for certiorari under Rule 65 of the 1997 Rules of Court. The Court is once again asked to determine whether the Office of the Ombudsman (Ombudsman) committed grave abuse of discretion in the exercise of its discretionary powers to investigate and prosecute criminal complaints.

This Petition dated 01 September 2009 seeks to set aside the Joint Order[1] dated 21 March 2007 of the Ombudsman (the questioned Joint Order) exonerating respondent Senior State Prosecutor Emmanuel Y. Velasco (respondent Velasco or respondent) from the charges filed by petitioner Judge Adoracion G. Angeles (petitioner Judge Angeles or petitioner).

The Facts

The Complaint filed with the Ombudsman

Petitioner Judge Angeles was, at the time this Petition was filed, the Presiding Judge of Branch 121 of the Caloocan City Regional Trial Court (RTC); while private respondent Velasco was a senior state prosecutor at the Department of Justice (DOJ).

On 20 February 2007, petitioner Judge Angeles filed a criminal Complaint against respondent Velasco with the Ombudsman[2] and sought his indictment before the Sandiganbayan for the following acts allegedly committed in his capacity as a prosecutor:

1. Giving an unwarranted benefit, advantage or preference to the accused in a criminal case for smuggling by failing to present a material witness;
2. Engaging in private practice by insisting on the reopening of child abuse cases against petitioner;
3. Falsifying a public document to make it appear that a clarificatory hearing on the child abuse Complaint was conducted.[3]

Failure to present a material witness

According to the Complaint, respondent Velasco, who was the trial prosecutor in a criminal case involving the smuggling of jewelry,[4] failed to present a material witness in the aforesaid case.[5] The witness, a gemmologist of the Bureau of Customs, was to testify on the type of substance making up the pieces of smuggled jewelry.[6]

According to petitioner, considering the materiality of the gemmologist's testimony, which respondent must have known of, since he was the handling trial prosecutor of the case, his failure to offer the said testimony in court shows that he tried to suppress the evidence in favor of the accused in the said case. This act was alleged to be in violation of Section 3(e) of the Anti Graft and Corrupt Practices Act,[7] which considers as a corrupt practice the acts of public officers that give unwarranted benefits to any private party through either manifest partiality, evident bad faith, or gross inexcusable negligence in the discharge of their official functions.[8]

The gemmologist, however, was eventually presented as a witness after respondent Velasco had filed a Motion to adduce additional evidence in the said case.[9]

Insistence on the reopening of child abuse cases

The second act complained of refers to respondent Velasco's filing of two Petitions to reopen the child abuse cases filed against petitioner Judge Angeles. Petitioner was previously charged with inflicting physical and psychological abuse on Maria Mercedes Vistan, her 13-year-old grandniece.[10] Respondent was the one who conducted the preliminary investigation of the Complaint for child abuse and later indicted petitioner for 21 counts thereof.[11] However, the DOJ later on reversed respondent Velasco's recommendation[12] upon a Petition for Review filed by respondent. Consequently, the Informations, which had been filed in the meantime, were ordered withdrawn by the trial court.[13] Petitioner later filed an administrative Complaint against respondent for gross misconduct, gross ignorance of the law, incompetence, and manifest bad faith arising from the alleged malicious indictment.

According to petitioner, the move of respondent to reopen the child abuse cases was allegedly meant to exact vengeance for petitioner's filing of the above-mentioned administrative Complaint.[14] Meanwhile, the two Petitions to reopen the child abuse cases, which were filed by respondent in the DOJ and the Office of the President, were denied for having been filed in the wrong venues.

Petitioner alleges in her Complaint that since respondent Velasco was not the trial prosecutor in the said case, his unauthorized act of filing two Petitions to reopen the child abuse cases constituted a violation of Section 7(b)(2) of the Code of Conduct and Ethical Standards for Public Officials and Employees.[15] This code considers as unlawful the acts of public officials and employees engaging in the private practice of their profession, unless authorized by the Constitution or by law.[16] This single act of moving to reopen the child abuse cases was the only instance of private practice imputed to respondent Velasco. No other act constituting private practice was cited by petitioner.

Falsification of Public Document

The alleged falsification of public document arose from the same preliminary investigation conducted by respondent in the child abuse cases mentioned above. According to petitioner Judge Angeles, respondent Velasco made it appear that he had conducted a clarificatory hearing on the Complaint for child abuse on 22 June 1999 as shown in the Minutes[17] of the said hearing.[18] Petitioner alleges that Leonila Vistan, the witness who supposedly attended the hearing, was seriously sick and could not have appeared at the alleged clarificatory hearing.[19] Moreover, respondent had, in fact, resolved the cases two days earlier, on 20 June 1999, as shown by the date on the Resolution indicting petitioner. Thus, the latter alleges, the Minutes of the hearing on 22 June 1999 must have been falsified by respondent by making it appear that Leonila Vistan had participated in an inexistent proceeding. This act is in violation of Article 171 of the Revised Penal Code,[20] which criminalizes it as a falsification of a public document.[21]

The Decision of the Ombudsman

In the questioned Joint Order, the Ombudsman dismissed the charges against respondent Velasco. It found that after evaluation of the facts and evidence presented by complainant, there was no cause to conduct a preliminary investigation or an administrative adjudication with regard to the charges.

On the first charge of suppression of testimonial evidence in connection with the smuggling case, the Ombudsman dismissed the charge on the ground that petitioner had no sufficient personal interest in the subject matter of the grievance.[22] The Ombudsman explained that petitioner was neither one of the parties nor the presiding judge in the said criminal case and, therefore, had no personal interest in it.

Moreover, granting that the personal interest of petitioner was not in issue, respondent Velasco acted based on his discretion as prosecutor and his appreciation of the evidence in the case, and any lapse in his judgment cannot be a source of criminal liability. The Ombudsman said that it had no authority to investigate the prosecutor's exercise of discretion, unless there was sufficient evidence that the exercise was tainted with malice and bad faith.[23]

The Ombudsman likewise dismissed the second charge of private practice of profession on the ground of failure to exhaust administrative remedies.[24] It pointed out that petitioner should have first elevated her concern to the DOJ, which had primary jurisdiction over respondent's actions and conduct as public prosecutor.[25] Moreover, the Ombudsman found that respondent Velasco was not engaged in private practice when he filed the two Petitions for the reopening of the child abuse cases against petitioner, since he was the investigating prosecutor of the said cases.[26]

Finally, on the falsification of a public document, which was also dismissed, the Ombudsman said that the issue should have been raised earlier, when petitioner Judge Angeles filed her Petition for Review of the Resolution of respondent Velasco. Moreover, petitioner should have substantiated the allegation of falsification, because the mere presentation of the alleged falsified document did not in itself establish falsification. The Ombudsman also ruled that with the belated filing of the charge and the reversal by the DOJ of respondent Velasco's Resolution indicting petitioner, the materiality of the alleged falsified document is no longer in issue.[27]

Petitioner filed a Motion for Reconsideration[28] of the questioned Joint Order, which was denied by the Ombudsman for lack of merit.[29]

Hence, the present Rule 65 Petition.

Issue

Whether the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the Complaint against respondent Velasco.

The Court's Ruling

We dismiss the Petition.

I

Power of the Court over the Ombudsman's Exercise
of its Investigative and Prosecutorial Powers

As a general rule, the Court does not interfere with the Ombudsman's exercise of its investigative and prosecutorial powers without good and compelling reasons. Such reasons are clearly absent in the instant Petition.

At the outset, we emphasize that certiorari is an extraordinary prerogative writ that is never demandable as a matter of right. Also, it is meant to correct only errors of jurisdiction and not errors of judgment committed in the

exercise of the discretion of a tribunal or an officer. This is especially true in the case of the exercise by the Ombudsman of its constitutionally mandated powers. That is why this Court has consistently maintained its well-entrenched policy of non-interference in the Ombudsman's exercise of its investigatory and prosecutorial powers.[30]

General Rule of Non-Interference with the Plenary Powers of the Ombudsman

The general rule has always been non-interference by the courts in the exercise by the office of the prosecutor or the Ombudsman of its plenary investigative and prosecutorial powers. In *Esquivel v. Ombudsman*,[31] we explained thus:

The Ombudsman is empowered to determine whether there exists reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof and, thereafter, to file the corresponding information with the appropriate courts. Settled is the rule that the Supreme Court will not ordinarily interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise. Said exercise of powers is based upon the constitutional mandate and the court will not interfere in its exercise. 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, innumerable petitions seeking dismissal of investigatory proceedings conducted by the Ombudsman will grievously hamper the functions of the office and the courts, in much the same way that courts will be swamped if they had to review the exercise of discretion on the part of public prosecutors each time they decided to file an information or dismiss a complaint by a private complainant. (Emphasis supplied; citations omitted.)

In *Presidential Commission on Good Government v. Desierto*,[32] we further clarified the plenary powers of the Ombudsman. We emphasized that if the latter, using professional judgment, finds a case dismissible, the Court shall respect that finding, unless the exercise of such discretionary power was tainted with grave abuse of discretion.

The Presidential Ad Hoc Fact-Finding Committee on *Behest Loans v. Desierto*[33] explained the rationale for the plenary powers of the Ombudsman, which is virtually free from legislative, executive or judicial intervention. Its plenary powers were constitutionally designed to insulate it from outside pressure and improper influence. Accordingly, the Court has consistently respected and recognized, as we do now in this case, the independence and competence of the Ombudsman, as it acts as "the champion of the people and the preserver of the integrity of public service."

The Discretionary Nature of Preliminary Investigation

The determination by the Ombudsman of probable cause or of whether there exists a reasonable ground to believe that a crime has been committed, and that the accused is probably guilty thereof, is usually done after the conduct of a preliminary investigation. However, a preliminary investigation is by no means mandatory.

The Rules of Procedure of the Office of the Ombudsman (*Ombudsman Rules of Procedure*),[34] specifically Section 2 of Rule II, states:

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.

Thus, the Ombudsman need not conduct a preliminary investigation upon receipt of a complaint. Indeed, we have said in *Knecht v. Desierto*[35] and later in *Mamburao, Inc. v. Office of the Ombudsman*[36] and *Karaan v. Office of the Ombudsman*[37] that should investigating officers find a complaint utterly devoid of merit, they may recommend its outright dismissal. Moreover, it is also within their discretion to determine whether or not preliminary investigation should be conducted.

The Court has undoubtedly acknowledged the powers of the Ombudsman to dismiss a complaint outright without a preliminary investigation in *The Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*. [38]

We reiterate that the Ombudsman has full discretion to determine whether a criminal case should be filed, including whether a preliminary investigation is warranted. The Court therefore gives due deference to the Ombudsman's decision to no longer conduct a preliminary investigation in this case on the criminal charges levelled against respondent Velasco.

II

No Grave Abuse of Discretion in the Ombudsman's Evaluation of Evidence

This Court acknowledges exceptional cases calling for a review of the Ombudsman's action when there is a charge and sufficient proof to show grave abuse of discretion.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction; or the exercise of power in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility. The abuse must be in a manner so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[39]

The determination of grave abuse of discretion as the exception to the general rule of non-interference in the Ombudsman's exercise of its powers is precisely the province of the extraordinary writ of certiorari. However, we highlight the exceptional nature of that determination.

In this Petition, we do not find any grave abuse of discretion that calls for the Court's exceptional divergence from the general rule.

Notably, the burden of proof to show grave abuse of discretion is on petitioner, and she has failed to discharge this burden. She merely states why she does not agree with the findings of the Ombudsman, instead of demonstrating and proving grave abuse of discretion. In her arguments, petitioner would also have us pass upon the factual findings of the Ombudsman. That we cannot do, for this Court is not a trier of facts.

Even if we were to extend liberally the exception to the general rule against the review of the findings of the Ombudsman, an examination of the records would show that no grave abuse of discretion was demonstrated to warrant a reversal of the Joint Order dismissing the Complaint against respondent Velasco.

A. On the first charge of suppression of evidence

On the charge of suppression of evidence arising from the failure of respondent Velasco to present the testimony of a material witness, the Ombudsman found – and we defer to its findings – that he acted based on his discretion as prosecutor and on his appreciation of the evidence in the case, and any lapse in his judgment cannot be a source of criminal liability. The Ombudsman also found that there was no sufficient evidence that the failure of respondent to present the witness was tainted with malice; or that the failure of respondent to do so gave any

private party unwarranted benefit, advantage or preference in the discharge of the former's official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.

Moreover, in G.R. No. 187596,[40] a case involving the same incidents and parties as the present Petition, this Court affirmed the factual findings of the Court of Appeals (CA). We take judicial notice of the CA's factual finding that the charge of suppression of evidence by respondent in the smuggling case was dispelled by the Chief State Prosecutor himself in a Certification dated 17 October 2002.[41] The Certification vouching for the integrity and competence of respondent in his handling of the smuggling case states:

This is to certify that I had never called the attention nor even had castigated State Prosecutor EMMANUEL Y. VELASCO with regard to the way he handled the case of People of the Philippines versus Lintag, et al. (Pasay Regional Trial Court, Criminal Case Number 99-0129, for violation of the Tariff and Customs Code of the Philippines) specifically with regard to the aspect of the presentation of one of the prosecution's witnesses, a gemologist (sic). In fact, SP Velasco successfully prosecuted said case.[42]

Thus, we find no grave abuse of discretion in the Ombudsman's dismissal of the first charge.

However, we need to clarify that we cannot subscribe to the other reason for the Ombudsman's dismissal of the charge pursuant to paragraph 4, Section 20 of the Ombudsman Act. The provision allows the Ombudsman to decide not to conduct the necessary investigation of any administrative act or omission complained of, if it believes that the complainant has no sufficient personal interest in the subject matter of the grievance. It is clear that, in relation to Section 19, Section 20 of the Ombudsman Act applies only to administrative cases. As for Section 19, its subject heading is "Administrative Complaints." It lists acts or omissions that may be the subject of a complaint on which the Ombudsman shall act. On the other hand, the subject heading of Section 20 is "Exceptions." It lists the exceptional situations in which the Ombudsman has the option not to investigate an administrative complaint even when its subject is an act or omission listed in Section 19. That both Sections 19 and 20 of the Ombudsman Act apply only to administrative complaints is made even clearer in the Ombudsman Rules of Procedure. Their counterpart provisions appear in the Ombudsman Rules of Procedure under Rule III which outlines the procedure for administrative cases.[43] Clearly, then, paragraph 4, Section 20 of the Ombudsman Act applies only to administrative complaints. It should not have been used by the Ombudsman as a ground to dismiss the first charge, since the Complaint filed by petitioner before the Ombudsman was criminal in nature. The criminal nature of petitioner's Complaint is clear from its prayer seeking the indictment of respondent before the Ombudsman.[44] This lapse notwithstanding, we do not find any arbitrariness or whim in the manner that the Ombudsman disposed of the charge. If there was any abuse of discretion at all, it was not grave.

B. On the second charge of private practice

The Ombudsman found that respondent Velasco was not engaged in private practice when he filed two Petitions for the reopening of the child abuse cases against petitioner on the ground that respondent was acting in his capacity as the investigating prosecutor of the said cases. Again, this Court takes judicial notice of the CA's finding in G.R. No. 187596, adverted to earlier, that respondent's isolated act of filing a pleading did not necessarily constitute private practice of law.[45] We have, in fact, said so in *Maderada v. Mediodea*,[46] citing *People v. Villanueva*: [47]

Private practice has been defined by this Court as follows:

"Practice is more than an isolated appearance, for it consists in frequent or customary action, a succession of acts of the same kind. In other words, it is frequent habitual exercise. Practice of law to fall within the prohibition of statute [referring to the prohibition for judges and other officials or employees of the superior courts or of the Office of the Solicitor General from engaging in private practice] has been interpreted as

customarily or habitually holding one's self out to the public, as a lawyer and demanding payment for such services. x x x."

Clearly, by no stretch of the imagination can the act of respondent Velasco be considered private practice, since he was not customarily or habitually holding himself out to the public as a lawyer and demanding payment for those services. The appellate court also noted that, on the contrary, he filed the motion in good faith and in the honest belief that he was performing his duty as a public servant.[48]

Thus, the Ombudsman did not commit any grave abuse of discretion when it dismissed the second charge against respondent Velasco.

However, we again need to point out that we do not share the Ombudsman's finding that the charge is dismissible on the ground of failure to exhaust administrative remedies pursuant to paragraph 1, Section 20 of the Ombudsman Act. As already explained earlier, the said provision applies only to administrative cases, while the Complaint before the Ombudsman was not administrative, but criminal, in nature. Still, we do not find any abuse of discretion when the Ombudsman proffered this ground for dismissing the second charge.

C. On the third charge of falsification of public document

Finally, the Ombudsman correctly found that the charge of falsification had not been substantiated, and that the mere presentation of the alleged manufactured document alone would not in itself establish falsification. To recall, petitioner Angeles claimed that Leonila Vistan could not have appeared before respondent Velasco because she was sick, but offered no supporting evidence. Also, it does not follow that a clarificatory hearing could not have been conducted, just because respondent Velasco had prepared a Resolution on 20 June 1999, two days before that hearing.

Moreover, as found by the CA in G.R. No. 187596 adverted to earlier, a clarificatory hearing was in fact conducted. The appellate court found that the declarations of petitioner could not prevail over the positive assertion of Percival Abril and Jesusa Hernandez, who testified that they had seen Leonila Vistan before Velasco at the clarificatory hearing on 22 June 1999.[49]

However, the Court differs with the Ombudsman on the latter's pronouncement that the issue of falsification of public document should have been raised by petitioner earlier, when she filed her Petition for Review of the Resolution of respondent Velasco; and that, consequently, the charge of falsification of a public document was no longer in issue because of its belated filing. We draw attention to the fact that the Petition for Review of respondent's Resolution indicting petitioner Judge Angeles was under an entirely different proceeding. The purpose of the Petition was to reverse the aforesaid Resolution, and not to exact criminal liability on respondent for the crime of falsification of a public document, as in the Complaint before the Ombudsman. Thus, it cannot be said that the issue of falsification of a public document in the criminal Complaint was raised belatedly, because the Complaint was not a continuation of the previous Petition for Review of respondent's Resolution. The two proceedings were completely independent of each other. This lapse, however, did not constitute grave abuse of discretion.

In sum, this Court finds no compelling reason to depart from its long-standing policy of non-interference in the exercise by the Ombudsman of its investigatory and prosecutorial powers which, as we have emphasized, are plenary.

Although the Court diverges from some of the conclusions reached by the Ombudsman, we find that its dismissal of the charges against respondent Velasco was arrived at after a rational deliberation. Such deliberation was shown by its reasoned disposition of the case in the exercise of its constitutionally mandated discretionary powers.

The Ombudsman did not overstep the boundaries of its plenary powers and acted within the permissible limits. We do not find any arbitrariness or abuse that was so gross and patent in the manner it exercised its discretion as would warrant this Court's reversal.

Absent a clear showing of grave abuse of discretion, we uphold the findings of the Ombudsman.

Final Note

Finally, the Court notes with strong disapproval both parties' resort to abuse of the judicial processes of this Court. This is the third case we know of that the parties have filed against each other, and that has reached the Supreme Court.[50]

This fact is especially regrettable, considering that petitioner as judge and respondent as prosecutor should have been well-cognizant of our clogged court dockets and should have thus exercised more restraint in filing cases against each other. Canon 12 of the Code of Professional Responsibility enjoins a lawyer from filing multiple actions arising from the same cause and from misusing court process.[51] Judging from the number of cases and the vengeful tone of the charges that the parties have hurled against each other in their pleadings, they seem more bent on settling what has become a personal score between them, rather than on achieving the ends of justice.[52]

The parties are warned against trifling with court process. This case shall, hopefully, serve as a reminder of their ethical and professional duties and put an immediate end to their recriminations.

WHEREFORE, we DISMISS the Petition for Certiorari filed by Judge Adoracion G. Angeles. We AFFIRM the two Joint Orders of the Ombudsman in Case Nos. OMB-C-C-07-0103-C and OMB-C-A-07-0117-C dated 21 March 2007 and 30 June 2008, respectively.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Annex "B" of the Petition for Certiorari; rollo, pp.33-42.

[2] Docketed as Case Nos. OMB-C-C-07-0103-C and OMB-C-A-07-0117-C.

[3] Complaint (Annex "C" of the Petition for Certiorari), rollo, pp. 43-50.

[4] People of the Philippines v. Daniel Lintag, docketed as Criminal Case No. 99-0-129 and raffled off to Branch 108 of the Pasay City Regional Trial Court, presided by Judge Priscilla Mijares.

[5] Supra note 3, at 6-7; rollo, pp. 48-49.

[6] Motion to Present Additional Witness (Annex "I" of Complaint), rollo, p. 134.

[7] "Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx xxx xxx

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions." (Republic Act No. 3019, Section 3)

[8] Supra note 3, at 6; rollo, p. 48.

[9] Id.

[10] Supra note 3, at 4-6; rollo, pp. 46-48.

[11] Resolution dated 20 June 1999 (Annex “A” of Complaint), rollo, pp. 51-58.

[12] Resolution dated 4 April 2000 (Annex “B” of Complaint), rollo, pp. 59-70.

[13] Order of the RTC dated 3 May 2000 (Annex “C” of Complaint), rollo, p. 71.

[14] Supra note 3, at 4; rollo, p. 46.

[15] “Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

xxx xxx xxx

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

xxx xxx xxx

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions;

xxx xxx xxx”

(Republic Act No. 6173, Section 7)

[16] Supra note 3, at 4-5; rollo, pp. 46-47.

[17] Minutes of the Clarificatory Hearing dated 22 June 1999 (Annex “D” of Complaint), rollo, p. 72.

[18] Supra note 3, at 2-3; rollo, pp. 44-45.

[19] Id. at 3, rollo, p. 45.

[20] Falsification by public officer, employee or notary or ecclesiastic minister. – The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

xxx xxx xxx

2. causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate; (Revised Penal Code, Article 171)

[21] Supra note 3, at 3; rollo, p. 45.

[22] Pursuant to paragraph 4, Section 20 of R.A. 6770 (The Ombudsman Act), which states:

Section 20. Exceptions. — The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:

xxx xxx xxx

(4) The complainant has no sufficient personal interest in the subject matter of the grievance; xxx

[23] Joint Order of the Ombudsman (Annex “B” of the Petition for Certiorari), pp. 8-9; rollo, pp. 40-41.

[24] Pursuant to The Ombudsman Act, Sec. 20, par. 1, which states:

Section 20. Exceptions. — The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:

(1) The complainant has an adequate remedy in another judicial or quasi-judicial body;xxx

[25] Supra note 23, at 6-7; rollo, pp. 38-39.

[26] Id. at 7-8; rollo, pp. 39-40.

[27] Id. at 5-6; rollo, pp. 37-38.

[28] Motion for Reconsideration dated 14 January 2008 (Annex “D” of the Petition for Certiorari), rollo, pp. 135-157.

[29] Ombudsman Joint Order dated 30 June 2008 (Annex “A” of the Petition for Certiorari), rollo, pp. 29-32.

[30] *Kalalo v. Office of the Ombudsman*, G.R. No. 158189, 23 April 2010, 619 SCRA 141; *ABS-CBN Broadcasting Corporation v. Office of the Ombudsman*, G.R. No. 133347, 23 April 2010, 619 SCRA 130; *De Guzman v. Gonzalez*, G.R. No. 158104, 26 March 2010, 616 SCRA 546; *People of the Philippines v. Castillo*, G.R. No. 171188, 19 June 2009, 590 SCRA 95; *Presidential Commission on Good Government v. Desierto*, G.R. No. 139296, 23 November 2007, 538 SCRA 207; *Acuña v. Deputy Ombudsman for Luzon*, 490 Phil. 640 (2005); *Andres v. Cuevas*, 499 Phil. 36 (2005); *Reyes v. Hon. Atienza*, 507 Phil. 653 (2005); *Jimenez v. Tolentino*, 490 Phil. 367 (2005); *Nava v. Commission on Audit*, 419 Phil. 544 (2001); *Baylon v. Office of the Ombudsman*, 423 Phil. 705 (2001); *Cabahug v. People of the Philippines*, 426 Phil.490 (2002); *Esquivel v. Ombudsman*, 437 Phil. 702 (2002); *Flores v. Office of the Ombudsman*, 437 Phil. 684 (2002); *Roxas v. Hon. Vasquez*, 411 Phil. 276 (2001); *Layus v. Sandiganbayan*, 377 Phil. 1067 (1999), *Rodrigo v. Sandiganbayan*, 362 Phil. 646 (1999); *Camanag v. Hon. Guerrero*, 335 Phil. 945 (1997); *Ocampo v. Ombudsman*, G.R. No. 103446-47, 30 August 1993, 225 SCRA 725; *Young v. Office of the Ombudsman*, G.R. No. 110736, 27 December 1993, 228 SCRA 718.

[31] 437 Phil. 702 (2002).

[32] G.R. No. 139296, 23 November 2007, 538 SCRA 207.

[33] 415 Phil. 135 (2001).

[34] Administrative Order No. 07 of the Ombudsman.

[35] 353 Phil. 494 (1998).

[36] 398 Phil. 762 (2000).

[37] 476 Phil. 536 (2004).

[38] Supra note 31.

[39] *Roquero v. The Chancellor of UP-Manila*, G.R. No. 181851, 9 March 2010, 614 SCRA 723.

[40] Judge Adoracion G. Angeles v. SSP Emmanuel Y. Velasco, G.R. No. 187596, 29 June 2009 (Unpublished).

[41] In the said case, petitioner Judge Adoracion Angeles filed on 25 April 2003, an administrative case against respondent Velasco before the DOJ for gross misconduct, gross ignorance of the law, incompetence and manifest bad faith on the basis of six charges. The charges include the very same three charges in the Complaint before the Ombudsman, which dismissed the same, a dismissal that is now the subject of the present Petition for Review on

Certiorari. The administrative case was dismissed by the DOJ on 9 February 2004. Her Motion for Reconsideration was denied on 11 June 2004. She then elevated her case to the Office of the President, which dismissed her Petition for Review on 4 July 2005 and denied her Motion for Reconsideration on 13 September 2006. She then filed a Petition for Review under Rule 43 of the 1997 Rules of Court before the CA, which dismissed her Petition in a Decision dated 30 June 2008 and denied her Motion for Reconsideration in a Resolution dated 24 April 2009. Thus, petitioner filed a Petition for Review on Certiorari under Rule 45 of the Rules of Court before the Supreme Court, which on 29 June 2009 denied her Petition for failure to comply with procedural rules, as well as for failure to sufficiently show that the CA committed any reversible error in its assailed Decision and Resolution.

[42] Decision of the CA in CA-GR SP No. 96353 (Annex “B” of respondent’s Comment on the Petition for Certiorari), pp. 24-25; rollo, pp. 244-245.

[43] Rule III, Procedure in Administrative Cases

Section 1. Grounds for administrative complaint. – An administrative complaint may be filed for acts or omissions which are:

- a) contrary to law or regulations;
- b) unreasonable, unfair, oppressive or discriminatory;
- c) inconsistent with the general course of an agency’s functions though in accordance with law;
- d) based on a mistake of law or an arbitrary ascertainment of facts;
- e) in the exercise of discretionary powers but for an improper purpose;
- f) otherwise irregular, immoral or devoid of justification;
- g) due to any delay or refusal to comply with the referral or directive of the Ombudsman or any of his deputies against the officer or employee to whom it was addressed; and
- h) such other grounds provided for under E.O. 292 and other applicable laws.

xxx xxx xxx

Section 4. Evaluation. – Upon receipt of the complaint, the same shall be evaluated to determine whether the same may be:

- a) dismissed outright for any of the grounds stated under Section 20 of RA 6770, provided, however, that the dismissal thereof is not mandatory and shall be discretionary on the part of the Ombudsman or the Deputy Ombudsman concerned;

[44] Supra note 3, at 7; rollo, p. 49.

[45] Supra note 40, at 21; rollo, p. 241.

[46] 459 Phil. 701 (2003).

[47] 121 Phil. 894 (1965).

[48] Supra note 40, at 22; rollo, p. 242.

[49] Supra note 40, at 21; rollo, p. 241.

[50] The two other cases are Judge Adoracion Angeles v. Hon. Manuel E. Gaite, G.R. No. 176596, 23 March 2011, and Judge Adoracion Angeles v. Emmanuel Y. Velasco, G.R. No. 187596, 29 June 2009 (Unpublished).

[51] The pertinent Rules implementing Canon 12 state:

Rule 12.02 – A lawyer shall not file multiple actions arising from the same cause.

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Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

[52] In this Petition, petitioner Judge Angeles claims that respondent insisted on reopening the child abuse cases against her to “avenge himself” for petitioner’s filing of an administrative Complaint against him. Respondent Velasco, for his part, claims that petitioner is merely “continuously seeking revenge” against him for recommending that she be indicted for 21 counts of child abuse. This has been the theme of their recriminations in this Petition and in the other cases involving them.

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