

### Title: **DOJ and NBI vs. Hon. Hermogenes R. Liwag, Panfilo M. Lacson, and Michael Ray B. Aquino**

### Facts:

1. **January 8, 2001:** Mary Ong, a former undercover agent, filed a complaint-affidavit before the Ombudsman against PNP General Panfilo M. Lacson, PNP Colonel Michael Ray B. Aquino, and others.
2. **Subsequent Action:** Separate cases were docketed as OMB Case Nos. 4-01-00-76, 77, 80, 81, 82, and 84.
3. **February 28, 2001:** Lacson and Aquino submitted their counter-affidavits and moved for dismissal.
4. **March 9, 2001:** Mary Ong and other witnesses executed sworn statements before the NBI alleging similar facts as in the earlier complaint.
5. **May 4, 2001:** NBI Director Reynaldo Wycoco recommended to DOJ Secretary Hernando Perez the investigation for various crimes including kidnapping and murder.
6. **May 7, 2001:** DOJ issued a subpoena to Lacson and Aquino.
7. **May 18, 2001:** Lacson and Aquino requested the DOJ to dismiss the complaint citing primary jurisdiction of the Ombudsman.
8. **May 28, 2001:** DOJ denied the dismissal and proceeded with a preliminary investigation.
9. **Trial Court Action:** Lacson and Aquino filed a petition for prohibition at the Manila RTC.
10. **June 22, 2001 & June 25, 2001:** Judge Liwag issued an order and a Writ of Preliminary Injunction prohibiting the DOJ's action until the Ombudsman disclaims jurisdiction.
11. **Subsequent Action:** DOJ, NBI, and the DOJ prosecutors filed a petition before the Supreme Court challenging the RTC's orders.

### Issues:

1. **Whether the DOJ has jurisdiction to conduct a preliminary investigation despite pending complaints before the Ombudsman.**
2. **Whether the failure to file a motion to reconsider the RTC's order constitutes waiver or affects the proceedings.**
3. **Whether the DOJ's and NBI's investigation, despite the Ombudsman's prior cognizance, leads to multiplicity and disorder.**

### Court's Decision:

1. **Jurisdiction of DOJ:**

- The Court held that while DOJ has general jurisdiction to conduct preliminary investigations under the 1987 Administrative Code and P.D. No. 1275, the Ombudsman has primary jurisdiction in cases cognizable by the Sandiganbayan.
- The Ombudsman's primary authority cannot be diminished by DOJ authority. The Office of the Ombudsman, being a constitutional body, takes precedence over the DOJ, an executive department extension.

2. **Motions for Reconsideration:**

- The procedural requirement to file for a motion for reconsideration before elevating the matter to higher courts was discussed. However, considering the urgency and public interest encapsulated in this case, the Supreme Court reached the merits directly.

3. **Ombudsman's Primary Jurisdiction:**

- Where complaints are first lodged with the Ombudsman, it retains superior jurisdiction over the same subject matter.
- The latter filing of a substantially similar complaint before the DOJ does not grant the DOJ parallel authority to conduct its own preliminary investigation, thereby avoiding multiplicity, conflicting resolutions, and wastage of resources.

### Doctrine:

- **Primary Jurisdiction Doctrine:**

- The Supreme Court emphasized the Ombudsman's primary jurisdiction over cases involving public officials that are cognizable by the Sandiganbayan. If a similar case is already being investigated by the Ombudsman, other investigatory bodies, including the DOJ, must defer.

- **Exclusive and Primary vs. Shared Jurisdiction:**

- While DOJ and other agencies can conduct preliminary investigation, this authority is not absolute and must yield to Ombudsman's prior and primary jurisdiction when such cases are initially brought to its attention.

### Class Notes:

- **Key Elements and Concepts:**

- **Primary Jurisdiction vs. Concurrent Jurisdiction:** The agency first seized with the complaint generally retains exclusive jurisdiction.

- **Ombudsman's Constitutional Mandate:** Any preliminary investigation dealing with

public officers, especially those cognizable by the Sandiganbayan, fall under the Ombudsman's exclusive purview upon initial filing with it.

- **\*\*Procedural Posture:\*\*** Filing a motion for reconsideration before appealing to a higher court, though generally required, can be set aside by the Supreme Court in the interest of justice and urgency of the matter.

**### Historical Background:**

- The case occurred against the backdrop of heightened scrutiny of high-ranking police officials and organized crime in the Philippines. The distinction between investigatory powers designated to executive agencies like the DOJ, and constitutionally created bodies like the Ombudsman, is critically underscored within this context, balancing executive function and judicial oversight provisions for effective criminal justice administration.