

SECOND DIVISION

[G.R. No. 173277, February 25, 2015]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. PRUDENCIO C. QUIMBO, COURT OF APPEALS, 20TH DIVISION, CEBU CITY, RESPONDENTS.

DECISION

MENDOZA, J.:

This petition for *certiorari* under Rule 65 of the Rules of Court assails the May 2, 2006 Resolution^[1] of the Court of Appeals (CA), in CA-G.R. SP No. 54737, which denied the motion for intervention and reconsideration of its January 21, 2005 Decision,^[2] filed by petitioner Office of the Ombudsman (*Ombudsman*).

The Antecedents

The present controversy stemmed from the administrative complaint lodged by Gilda D. Daradal (*Daradal*), a clerk in the Provincial Engineering Office of Catbalogan, Samar, against private respondent Engr. Prudencio C. Quimbo (*Quimbo*), Provincial Engineer of Samar, with the Office of the Ombudsman-Visayas (*Ombudsman-Visayas*) for Sexual Harassment and Oppression, docketed as OMB-VIS-ADM-96-04846.

In her complaint, Daradal alleged that on July 19, 1996, at about 10:00 o'clock in the morning at the Motor Pool Division of the Provincial Engineering Department, Catbalogan, Samar, Quimbo asked her to massage his forehead and nape. In the course thereof, he said, "*You had been lying to me you have already seen my manhood. When shall I have to see yours?*" She was appalled as the utterance was made in the presence of her co-employees. She added that by virtue of a Memorandum,^[3] dated August 6, 1996, Quimbo ordered her detail to the Civil Service Commission in Catbalogan, Samar, to perform the tasks of a male utility personnel. Her name was removed from the payroll of the personnel of the Provincial Engineering Office from August 16-31, 1996 because of her refusal to submit to his sexual advances.

In his defense, Quimbo retorted that the charge instituted against him was fictitious. He claimed that Daradal enjoyed a "very important person" (VIP) treatment for a long period of time and, when required to work, rebelled against him. He asserted that the charge of sexual harassment and oppression was intended to embarrass and ridicule him and that the discretion to order her detail was validly exercised.

On March 26, 1996, Daradal filed a motion for withdrawal of the complaint. The motion, however, was denied by the Ombudsman-Visayas in its Order, dated August 11, 1998.

The Ombudsman-Visayas' Ruling

On December 9, 1998, after due proceedings, the Ombudsman-Visayas issued a resolution^[4] dismissing the case of sexual harassment against Quimbo but finding him guilty of oppression. The Ombudsman-Visayas imposed the penalty of suspension for six (6) months without pay. The dispositive portion of the said resolution reads:

WHEREFORE, in the light of all the foregoing, this Office finds Prudencio C. Quimbo, guilty of Oppression, thus mete upon him, the penalty of SUSPENSION for SIX (6) MONTHS without pay, in accordance with Memorandum Circular No. 30, Series of 1989 of the Civil Service Commission.

SO RESOLVED.^[5]

Engr. Quimbo moved for reconsideration but his motion was denied by the Ombudsman-Visayas in its Order,^[6] dated April 15, 1999.

The CA Ruling

Aggrieved, Quimbo elevated the case before the CA by way of a petition for review under Rule 43 of the Rules of Court. The case, entitled "*Prudencio C. Quimbo vs. Gilda D. Daradal*," was docketed as CA-G.R. SP No. 54737.

On January 21, 2005, the CA *reversed* the December 9, 1998 Resolution and the April 15, 1999 Order of the Ombudsman-Visayas. In reversing the said ruling, the CA ratiocinated:

The Office of the Ombudsman has no power to directly impose sanctions against government officials and employees who are subject of its investigation as its power is only limited to recommend the appropriate sanctions but not directly to impose the same.

In *Tapiador vs. Office of the Ombudsman*, the Supreme Court pronounced:

"x x x

Besides, assuming *arguendo*, that petitioner were (*sic*) administratively liable, the Ombudsman has no authority to directly dismiss the petitioner from the government service, more particularly from his position in the BID. Under Section 13, subparagraph (3) of Article XI of the 1987 Constitution, the Ombudsman can only "recommend" the removal of the public official or employee found to be at fault, to the public official concerned.

There is no gainsaying the fact that the Office of the Ombudsman is vested with the jurisdiction to take cognizance of cases for the purpose of ascertaining whether or not public servants have committed administrative offenses. However, their power is only to recommend to the disciplining authority the appropriate penalty to be meted out and it is best left to the proper disciplining authority to impose such penalty, which in this case is the Office of the Governor of the Province of Samar.

[7]

Accordingly, the *fallo* of the January 21, 2005 Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **GRANTING** the petition filed in this case and **SETTING ASIDE** the Resolution dated December 9, 1998 and the Order dated April 15, 1999 issued by the Office of the Ombudsman in OMB-VIS-ADM-96-0486 in so far as it directly imposes upon the petitioner the penalty of suspension from the service.

IT IS SO ORDERED.[8]

On February 14, 2005, the Ombudsman filed an omnibus motion for intervention and reconsideration of the CA decision, dated January 21, 2005.

In its Resolution,[9] dated May 2, 2006, the CA denied the said motion. In so doing, the CA explained:

For one, we have noted that the person adversely affected by our ruling in SP No. 54737 is respondent Gilda D. Daradal who opted not to file a motion for reconsideration thereof. Basic is the rule that "every action must be prosecuted or defended in the name of the real party in interest."

x x x x.

For another, as a quasi-judicial body, the office of the Ombudsman can be likened to a judge who should 'detach himself from cases where his decision is appealed to a higher court for review.

In filing a motion for intervention and reconsideration, the Ombudsman dangerously departed from its role as adjudicator and became an advocate. Its mandated function is to hear, investigate and decide administrative and appropriate criminal cases against public official[s] or employee[s] instituted by or brought before it directly, and not to litigate. Therefore, we rule that the Office of the Ombudsman has no legal standing to intervene in the case at bench.

x x x x

Not in conformity with the pronouncement of the CA, the Ombudsman instituted a petition for *certiorari* under Rule 65 of the Rules of Court alleging grave abuse of discretion amounting to lack of or in excess of jurisdiction on the part of the CA. It posited that there was no appeal or any plain, speedy and adequate remedy in the ordinary course of law to challenge the validity of the assailed CA Resolution, dated May 2, 2005. Thus, it was constrained to resort to the filing of the said petition.

The Ombudsman's Position

In its Memorandum,^[10] the Ombudsman stressed that, as the champion of the people, it had the right and legal interest to seek redress on the apparent erroneous reversal by the CA of its decision in an administrative disciplinary case. It insisted that, as the disciplining authority, it has the power and prerogative to directly impose any administrative penalty. It asserted that the obiter dictum in the case of *Tapiador v. Office of the Ombudsma (Tapiador)*^[11] heavily relied upon by the CA, to declare its disciplinary powers as merely recommendatory had been rejected by the Court in numerous cases.

Respondent Quimbo's Position

In his Memorandum,^[12] Quimbo contended that the Ombudsman had no legal standing to intervene or to seek reconsideration of the assailed CA decision because the real party in interest was Daradal. He further stated that the assailed CA decision was based on prevailing jurisprudence at the time the said decision was rendered.

ISSUES

Based on the parties' respective contentions, the issues for this Court's resolution are as follows:

- i. Whether the CA gravely abused its discretion in declaring that the Ombudsman lacks the power to directly impose administrative penalties against erring public officials or employees.
- ii. Whether the CA gravely abused its discretion in denying the Ombudsman's plea to validly intervene in its proceedings for lack of legal interest.

The Court's Ruling

The Court grants the Ombudsman's petition.

Preliminary matters

The Ombudsman has the power to directly impose administrative penalties against public officials or employees.

In the case of *Ombudsman v. Apolonio*,^[13] the Court categorically delineated the

Ombudsman's power to directly impose, not merely recommend, administrative sanctions against erring public officials or employees, viz:

The Ombudsman has the power to impose the penalty of removal, suspension, demotion, fine, censure, or prosecution of a public officer or employee, in the exercise of its administrative disciplinary authority. The challenge to the Ombudsman's power to impose these penalties, on the allegation that the Constitution only grants it recommendatory powers, had already been rejected by this Court.

The Court first rejected this interpretation in *Ledesma v. Court of Appeals*, where the Court, speaking through Mme. Justice Ynares-Santiago, held:

The creation of the Office of the Ombudsman is a unique feature of the 1987 Constitution. The Ombudsman and his deputies, as protectors of the people, are mandated to act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. Foremost among its powers is the authority to investigate and prosecute cases involving public officers and employees, thus:

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

Republic Act No. 6770, otherwise known as The Ombudsman Act of 1989, was passed into law on November 17, 1989 and provided for the structural and functional organization of the Office of the Ombudsman. RA 6770 mandated the Ombudsman and his deputies not only to act promptly on complaints but also to enforce the administrative, civil and criminal liability of government officers and employees in every case where the evidence warrants to promote efficient service by the Government to the people.

The authority of the Ombudsman to conduct administrative investigations as in the present case is settled. Section 19 of RA 6770 provides:

SEC. 19. *Administrative Complaints.* – The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

(1) Are contrary to law or regulation;