

EN BANC

[G.R. No. 193459, February 15, 2011]

MA. MERCEDITAS N. GUTIERREZ PETITIONER, VS. THE HOUSE OF REPRESENTATIVES COMMITTEE ON JUSTICE, RISA HONTIVEROS-BARAQUEL, DANILO D. LIM, FELIPE PESTAÑO, EVELYN PESTAÑO, RENATO M. REYES, JR., SECRETARY GENERAL OF BAGONG ALYANSANG MAKABAYAN (BAYAN); MOTHER MARY JOHN MANANZAN, CO-CHAIRPERSON OF PAGBABAGO; DANILO RAMOS, SECRETARY-GENERAL OF KILUSANG MAGBUBUKID NG PILIPINAS (KMP); ATTY. EDRE OLALIA, ACTING SECRETARY GENERAL OF THE NATIONAL UNION OF PEOPLE'S LAWYERS (NUPL); FERDINAND R. GAITE, CHAIRPERSON, CONFEDERATION FOR UNITY, RECOGNITION AND ADVANCEMENT OF GOVERNMENT EMPLOYEES (COURAGE); AND JAMES TERRY RIDON OF THE LEAGUE OF FILIPINO STUDENTS (LFS), RESPONDENTS.

FELICIANO BELMONTE, JR., RESPONDENT-INTERVENOR.

DECISION

CARPIO MORALES, J.:

The Ombudsman, Ma. Merceditas Gutierrez (petitioner), challenges via petition for certiorari and prohibition the Resolutions of September 1 and 7, 2010 of the House of Representatives Committee on Justice (public respondent).

Before the 15th Congress opened its first session on July 26, 2010 (the fourth Monday of July, in accordance with Section 15, Article VI of the Constitution) or on **July 22, 2010**, private respondents Risa Hontiveros-Baraquel, Danilo Lim, and spouses Felipe and Evelyn Pestaño (Baraquel group) filed an impeachment complaint^[1] against petitioner, upon the endorsement of Party-List Representatives Arlene Bag-ao and Walden Bello.^[2]

A day after the opening of the 15th Congress or on July 27, 2010, Atty. Marilyn Barua-Yap, Secretary General of the House of Representatives, transmitted the impeachment complaint to House Speaker Feliciano Belmonte, Jr.^[3] who, by Memorandum of August 2, 2010, directed the Committee on Rules to include it in the Order of Business.^[4]

On **August 3, 2010**, private respondents Renato Reyes, Jr., Mother Mary John Mananzan, Danilo Ramos, Edre Olalia, Ferdinand Gaité and James Terry Ridon (Reyes group) filed another impeachment complaint^[5] against petitioner with a resolution of endorsement by Party-List Representatives Neri Javier Colmenares, Teodoro Casiño, Rafael Mariano, Luzviminda Ilagan, Antonio Tinio and Emerenciana de Jesus.^[6] On even date, the House of Representatives *provisionally* adopted the Rules of Procedure in Impeachment Proceedings of the 14th Congress. By letter still of even date,^[7] the Secretary General transmitted the Reyes group's complaint to Speaker Belmonte who, by Memorandum of August 9, 2010,^[8] also directed the Committee on Rules to include it in the Order of Business.

On August 10, 2010, House Majority Leader Neptali Gonzales II, as chairperson of the

Committee on Rules,^[9] instructed Atty. Artemio Adasa, Jr., Deputy Secretary General for Operations, through Atty. Cesar Pareja, Executive Director of the Plenary Affairs Department, to include the two complaints in the Order of Business,^[10] which was complied with by their inclusion in the Order of Business for the following day, August 11, 2010.

On **August 11, 2010** at 4:47 p.m., during its plenary session, the House of Representatives simultaneously referred both complaints to public respondent.^[11]

After hearing, public respondent, by Resolution of September 1, 2010, found both complaints sufficient in *form*, which complaints it considered to have been referred to it at exactly the same time.

Meanwhile, the Rules of Procedure in Impeachment Proceedings of the 15th Congress was published on September 2, 2010.

On September 6, 2010, petitioner tried to file a motion to reconsider the September 1, 2010 Resolution of public respondent. Public respondent refused to accept the motion, however, for prematurity; instead, it advised petitioner to await the notice for her to file an answer to the complaints, drawing petitioner to furnish copies of her motion to each of the 55 members of public respondent.

After hearing, public respondent, by Resolution of September 7, 2010, found the two complaints, which both allege culpable violation of the Constitution and betrayal of public trust,^[12] sufficient in *substance*. The determination of the sufficiency of substance of the complaints by public respondent, which assumed hypothetically the truth of their allegations, hinged on the issue of whether valid judgment to impeach could be rendered thereon. Petitioner was served also on September 7, 2010 a notice directing her to file an answer to the complaints within 10 days.^[13]

Six days following her receipt of the notice to file answer or on September 13, 2010, petitioner filed with this Court the present petition with application for injunctive reliefs. The following day or on September 14, 2010, the Court *En Banc* RESOLVED to direct the issuance of a *status quo ante* order^[14] and to require respondents to comment on the petition in 10 days. The Court subsequently, by Resolution of September 21, 2010, directed the Office of the Solicitor General (OSG) to file in 10 days its Comment on the petition

The Baraquel group which filed the first complaint, the Reyes group which filed the second complaint, and public respondent (through the OSG and private counsel) filed their respective Comments on September 27, 29 and 30, 2010.

Speaker Belmonte filed a Motion for Leave to Intervene dated October 4, 2010 which the Court granted by Resolution of October 5, 2010.

Under an Advisory^[15] issued by the Court, oral arguments were conducted on October 5 and 12, 2010, followed by petitioner's filing of a Consolidated Reply of October 15, 2010 and the filing by the parties of Memoranda within the given 15-day period.

The petition is harangued by **procedural** objections which the Court shall first resolve.

Respondents raise the impropriety of the remedies of certiorari and prohibition. They argue that public respondent was not exercising any judicial, quasi-judicial or ministerial function in taking cognizance of the two impeachment complaints as it was exercising a political act that is discretionary in nature,^[16] and that its function is inquisitorial that is akin to a preliminary investigation.^[17]

These same arguments were raised in *Francisco, Jr. v. House of Representatives*.^[18] The argument that impeachment proceedings are beyond the reach of judicial review was debunked in this wise:

The major difference between the judicial power of the Philippine Supreme Court and that of the U.S. Supreme Court is that while the power of judicial review is only *impliedly* granted to the U.S. Supreme Court and is discretionary in nature, that granted to the Philippine Supreme Court and lower courts, *as expressly provided for in the Constitution*, is not just a power but also a *duty*, and it was *given an expanded definition* to include the power to correct any grave abuse of discretion on the part of any government branch or instrumentality.

There are also glaring distinctions between the U.S. Constitution and the Philippine Constitution with respect to the power of the House of Representatives over impeachment proceedings. While the U.S. Constitution bestows sole power of impeachment to the House of Representatives without limitation, our Constitution, though vesting in the House of Representatives the exclusive power to initiate impeachment cases, provides for several limitations to the exercise of such power as embodied in Section 3(2), (3), (4) and (5), Article XI thereof. These limitations include the manner of filing, required vote to impeach, and the one year bar on the impeachment of one and the same official.

Respondents are also of the view that judicial review of impeachments undermines their finality and may also lead to conflicts between Congress and the judiciary. Thus, they call upon this Court to exercise judicial statesmanship on the principle that "whenever possible, the Court should defer to the judgment of the people expressed legislatively, recognizing full well the perils of judicial willfulness and pride."

But did not the people also express their will when they instituted the above-mentioned safeguards in the Constitution? This shows that the Constitution did not intend to leave the matter of impeachment to the sole discretion of Congress. Instead, it provided for certain well-defined limits, or in the language of *Baker v. Carr*, "judicially discoverable standards" for determining the validity of the exercise of such discretion, through the power of judicial review.

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There is indeed a plethora of cases in which this Court exercised the power of judicial review over congressional action. Thus, in *Santiago v. Guingona, Jr.*, this Court ruled that it is well within the power and jurisdiction of the Court to inquire whether the Senate or its officials committed a violation of the Constitution or grave abuse of discretion in the exercise of their functions and prerogatives. In *Tañada v. Angara*, in seeking to nullify an act of the Philippine Senate on the ground that it contravened the Constitution, it held that the petition raises a justiciable controversy and that when an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. In *Bondoc v. Pineda*, this Court declared null and void a resolution of the House of Representatives withdrawing the nomination, and rescinding the election, of a congressman as a member of the House Electoral Tribunal for being violative of Section 17, Article VI of the Constitution. In *Coseteng v. Mitra*, it held that the resolution of whether the House representation in the Commission on Appointments was based on proportional representation of the political parties as provided in

Section 18, Article VI of the Constitution is subject to judicial review. In *Daza v. Singson*, it held that the act of the House of Representatives in removing the petitioner from the Commission on Appointments is subject to judicial review. In *Tañada v. Cuenco*, it held that although under the Constitution, the legislative power is vested exclusively in Congress, this does not detract from the power of the courts to pass upon the constitutionality of acts of Congress. In *Angara v. Electoral Commission*, it ruled that confirmation by the National Assembly of the election of any member, irrespective of whether his election is contested, is not essential before such member-elect may discharge the duties and enjoy the privileges of a member of the National Assembly.

Finally, there exists no constitutional basis for the contention that the exercise of judicial review over impeachment proceedings would upset the system of checks and balances. Verily, the Constitution is to be interpreted as a whole and "one section is not to be allowed to defeat another." Both are integral components of the calibrated system of independence and interdependence that insures that no branch of government act beyond the powers assigned to it by the Constitution.

[19] (citations omitted; italics in the original; underscoring supplied)

Francisco characterizes the power of judicial review as a duty which, as the expanded certiorari jurisdiction^[20] of this Court reflects, includes the power to "determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."^[21]

In the present case, petitioner invokes the Court's expanded certiorari jurisdiction, using the special civil actions of certiorari and prohibition as procedural vehicles. The Court finds it well-within its power to determine whether public respondent committed a violation of the Constitution or gravely abused its discretion in the exercise of its functions and prerogatives that could translate as lack or excess of jurisdiction, which would require corrective measures from the Court.

Indubitably, the Court is not asserting its ascendancy over the Legislature in this instance, but simply upholding the supremacy of the Constitution as the repository of the sovereign will.^[22]

Respondents do not seriously contest all the essential requisites for the exercise of judicial review, as they only assert that the petition is premature and not yet ripe for adjudication since petitioner has at her disposal a plain, speedy and adequate remedy in the course of the proceedings before public respondent. Public respondent argues that when petitioner filed the present petition^[23] on September 13, 2010, it had not gone beyond the determination of the sufficiency of form and substance of the two complaints.

An aspect of the "case-or-controversy" requirement is the requisite of ripeness.^[24] The question of ripeness is especially relevant in light of the direct, adverse effect on an individual by the challenged conduct.^[25] In the present petition, there is no doubt that questions on, *inter alia*, the validity of the simultaneous referral of the two complaints and on the need to publish as a mode of promulgating the Rules of Procedure in Impeachment Proceedings of the House (Impeachment Rules) present constitutional vagaries which call for immediate interpretation.

The unusual act of *simultaneously* referring to public respondent two impeachment complaints presents a novel situation to invoke judicial power. Petitioner cannot thus be considered to have acted prematurely when she took the cue from the constitutional limitation that only one impeachment proceeding should be initiated against an impeachable

officer within a period of one year.

And so the Court proceeds to resolve the **substantive issue** – whether public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its two assailed Resolutions. Petitioner basically anchors her claim on alleged violation of the due process clause (Art. III, Sec. 1) and of the one-year bar provision (Art. XI, Sec 3, par. 5) of the Constitution.

Due process of law

Petitioner alleges that public respondent's chairperson, Representative Niel Tupas, Jr. (Rep. Tupas), is the subject of an investigation she is conducting, while his father, former Iloilo Governor Niel Tupas, Sr., had been charged by her with violation of the Anti-Graft and Corrupt Practices Act before the Sandiganbayan. To petitioner, the actions taken by her office against Rep. Tupas and his father influenced the proceedings taken by public respondent in such a way that bias and vindictiveness played a big part in arriving at the finding of sufficiency of form and substance of the complaints against her.

The Court finds petitioner's allegations of bias and vindictiveness bereft of merit, there being hardly any indication thereof. Mere suspicion of partiality does not suffice.^[26]

The act of the head of a collegial body cannot be considered as that of the entire body itself. So *GMCR, Inc. v. Bell Telecommunications Phils.*^[27] teaches:

First. We hereby declare that the NTC is a collegial body requiring a majority vote out of the three members of the commission in order to validly decide a case or any incident therein. Corollarily, the vote alone of the chairman of the commission, as in this case, the vote of Commissioner Kintanar, absent the required concurring vote coming from the rest of the membership of the commission to at least arrive at a majority decision, is not sufficient to legally render an NTC order, resolution or decision.

Simply put, Commissioner Kintanar is not the National Telecommunications Commission. He alone does not speak and in behalf of the NTC. The NTC acts through a three-man body x x x.^[28]

In the present case, Rep. Tupas, public respondent informs, did not, in fact, vote and merely presided over the proceedings when it decided on the sufficiency of form and substance of the complaints.^[29]

Even petitioner's counsel conceded during the oral arguments that there are no grounds to compel the inhibition of Rep. Tupas.

JUSTICE CUEVAS:

Well, the Committee is headed by a gentleman who happened to be a respondent in the charges that the Ombudsman filed. In addition to that[,] his father was likewise a respondent in another case. How can he be expected to act with impartiality, in fairness and in accordance with law under that matter, he is only human we grant him that benefit.

JUSTICE MORALES: