

EN BANC

[G.R. No. 175573, September 11, 2008]

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. JOEL S.
SAMANIEGO,^[1] RESPONDENT.**

D E C I S I O N

CORONA, J.:

This is a petition for review under Rule 45 of the Rules of Court assailing the resolutions^[2] of the Court of Appeals (CA) dated September 11, 2006 and November 21, 2006 in CA-G.R. SP No. 89999 captioned *Joel S. Samaniego v. Commission on Audit, Provincial Auditor's Office of Albay, Legaspi City, Albay*.

The facts follow.

Respondent Joel S. Samaniego was the City Treasurer of Ligao City, Albay. On separate dates, the Commission on Audit (COA) through its Regional Cluster Director Atty. Francisco R. Velasco^[3] filed two administrative complaints against Samaniego, docketed as OMB-L-A-03-1060-K^[4] and OMB-L-A-03-1061-K,^[5] for dishonesty and grave misconduct.

In these administrative complaints, the COA alleged that respondent incurred shortages in his accountabilities for two separate periods.^[6] Respondent received letters of demand requiring him to explain his side and settle his accountabilities.

In his counter-affidavit, respondent averred, among others, that OMB-L-A-03-1060-K was bereft of factual basis. He likewise averred that the alleged amount of his accountability in OMB-L-A-03-1061-K was the same amount cited in OMB-L-A-03-1060-K. He also pleaded the defense of restitution of his alleged accountabilities.

In a joint decision dated April 11, 2005, the Office of the Deputy Ombudsman for Luzon found respondent liable for grave misconduct^[7] because he failed to explain his side and settle his accountabilities in OMB-L-A-03-1060-K. He was meted the penalty of one year suspension from office. In the same decision, however, OMB-L-A-03-1061-K was dismissed in view of respondent's restitution of his accountability.^[8]

Via a petition for review on certiorari under Rule 43 with a motion for the issuance of a writ of preliminary injunction in the CA, respondent assailed the April 11, 2005 joint decision of the Office of the Ombudsman insofar as it found him liable in OMB-L-A-03-1060-K. This petition was captioned *Joel Samaniego versus Commission on Audit, Provincial Auditor's Office, Legaspi City, Albay* and docketed as CA - G.R. SP No. 89999. His prayer for the issuance of a writ of preliminary injunction was granted.

Since it was not impleaded as a respondent in CA- G.R. SP No. 89999, the Office of the Ombudsman filed a motion for intervention and to admit the attached motion to recall the writ of preliminary injunction. The motions were denied.

The Office of the Ombudsman now claims that the CA erred in denying its right to intervene, considering that its joint decision was the subject of the appeal. It also asserts that the writ of preliminary injunction should be recalled.

We rule for the Office of the Ombudsman.^[9]

MANDATE OF THE OFFICE OF THE OMBUDSMAN

Section 27, Article II of the Constitution reads:

The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

To implement this, the Constitution established the Office of the Ombudsman, composed of the Ombudsman, one overall deputy and at least one Deputy each for Luzon, Visayas and Mindanao.^[10] It was the intention of the Constitution to make the Ombudsman independent.

The purpose of the Office of the Ombudsman is enunciated in Section 12, Article XI of the Constitution:

The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

The Office of the Ombudsman is a unique position in the 1987 Constitution.^[11] The Ombudsman and his deputies function essentially as a complaints and action bureau.^[12] Congress enacted Republic Act (RA) 6770^[13] providing broad powers,^[14] as well as a functional and structural organization, to the Office of the Ombudsman to enable it to perform its constitutionally-mandated functions.

RA 6770 states the mandate of the Ombudsman:

SEC. 13. Mandate. - The Ombudsman and his deputies, as protectors of the people, shall 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, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

To aid the Ombudsman in carrying out its tasks, it was vested with disciplinary authority over government officials.^[15] The scope of this authority was discussed in

[The Office of the Ombudsman] is vested with "full administrative disciplinary authority" including the power to "determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence, and necessarily, impose the said penalty." Thus, the provisions in [RA] 6770 taken together reveal the manifest intent of the lawmakers to bestow on the Office of the Ombudsman *full* administrative disciplinary authority. **These provisions cover the entire gamut of administrative adjudication which entails the authority to, *inter alia*, receive complaints, conduct investigations, hold hearings in accordance with its rules of procedure, summon witnesses and require the production of documents, place under preventive suspension public officers and employees pending an investigation, determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence and necessarily, impose the said penalty.**xxx (emphasis supplied)

Full disciplinary authority is one of the broad powers granted to it by the Constitution and RA 6770. These broad powers, functions and duties are generally categorized into: investigatory power, prosecutory power, public assistance functions, authority to inquire and obtain information, and the function to adopt, institute and implement preventive measures.[17]

Actions of the Ombudsman that do not fall squarely under any of these general headings are not to be construed outright as illegal. The avowed purpose of preserving public trust and accountability must be considered. So long as the Ombudsman's actions are reasonably in line with its official functions and are not contrary to law and the Constitution, they should be upheld. Defending its decisions in the CA is one such power.

The Ombudsman is expected to be an "activist watchman," not merely a passive onlooker.[18] A statute granting powers to an agency created by the Constitution • such as RA 6770 • should be liberally construed to advance the objectives for which it was created.[19] In *Buenaseda v. Flavier*, [20] we held that any interpretation of RA 6770 that hampers the work of the Ombudsman should be avoided.

Taking all this into consideration, the Ombudsman is in a league of its own. It is different from other investigatory and prosecutory agencies of the government because the people under its jurisdiction are public officials who, through pressure and influence, can quash, delay or dismiss investigations directed against them.[21] Its function is critical because public interest (in the accountability of public officers and employees) is at stake.

The Ombudsman concept originated in Sweden and other

Scandinavian countries.[22] Its original and classic notion was that of an independent and politically neutral office which merely received and processed the people's complaints against corrupt and abusive government personnel.[23] The Philippine Ombudsman deviated from the classic model. It retained the

characteristic independence and political neutrality but the range of its functions and powers was enlarged.

Given the foregoing premises, we cannot limit the powers of the Ombudsman if its acts are not contrary to law or the Constitution.

INTERVENTION BY THE OMBUDSMAN IN CASES IN WHICH ITS DECISION IS ASSAILED

Section 1, Rule 19 of the Rules of Court provides:

Section 1. Who may intervene. - A person who has a legal interest in the matter in litigation, or in the success of either parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the disposition of the court or of an officer thereof may, with leave of court be allowed to intervene in the action. xxx

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him to protect or preserve a right or interest which may be affected by such proceeding.^[24] Its purpose is to settle in one action and by a single judgment the whole controversy (among) the persons involved.^[25]

Intervention is not an absolute right^[26] as it can be secured only in accordance with the terms of the applicable statute or rule. In claiming the right to intervene, the intervenor must comply with the requirements laid down by Rule 19 of the Rules of Court which provides that the intervenor must have a legal interest in any of the following:

- (a) the matter in controversy;
- (b) the success of either of the parties;
- (c) against both parties or
- (d) be so situated as to be adversely affected by a distribution or other disposition of property in the disposition of the court or of an officer thereof.^[27]

Intervention must not unduly delay or prejudice the adjudication of rights of the original parties.^[28] Moreover, it must be shown that the intervenor's rights may not be fully protected in a separate proceeding.^[29]

The legal interest must be actual and material, direct and immediate.^[30] In *Magsaysay-Labrador v. CA*,^[31] the interest which entitles a person to intervene in a suit:

[m]ust be on the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. The words "an interest in the subject" mean a direct interest in the cause of action as pleaded and which would put the intervenor in a legal position to litigate a fact alleged in the complaint, without the establishment of which plaintiff could not recover.

The CA denied petitioner's motion for intervention for lack of basis, reasoning that:

In the instant case, the Ombudsman's intervention is not proper considering that, other than its objection to the issuance of the injunctive writ, no legal interest in the matter subject of litigation has been alleged by the Ombudsman in the motion for intervention. xxx

We disagree.

The Office of the Ombudsman sufficiently alleged its legal interest in the subject matter of litigation. Paragraph 2 of its motion for intervention and to admit the attached motion to recall writ of preliminary injunction averred:

2. As a competent disciplining body, the Ombudsman has the right to seek redress on the apparently erroneous issuance by this Honorable Court of the Writ of Preliminary Injunction enjoining the implementation of the Ombudsman's Joint Decision imposing upon petitioner the penalty of suspension for one (1) year, consistent with the doctrine laid down by the Supreme Court in **PNB [vs]. Garcia**, xxx and **CSC [vs]. Dacoycoy**, xxx; (citations omitted; emphasis in the original)

In asserting that it was a "competent disciplining body," the Office of the Ombudsman correctly summed up its legal interest in the matter in controversy. In support of its claim, it invoked its role as a constitutionally mandated "protector of the people," a disciplinary authority vested with quasi-judicial function to resolve administrative disciplinary cases against public officials.^[32] To hold otherwise would have been tantamount to abdicating its salutary functions as the guardian of public trust and accountability.^[33]

Moreover, the Office of the Ombudsman had a clear legal interest in the inquiry into whether respondent committed acts constituting grave misconduct,^[34] an offense punishable under the Uniform Rules in Administrative Cases in the Civil Service.^[35] It was in keeping with its duty to act as a champion of the people and preserve the integrity of public service^[36] that petitioner had to be given the opportunity to act fully within the parameters of its authority.

It is true that under our rule on intervention, the allowance or disallowance of a motion to intervene is left to the sound discretion of the court^[37] after a consideration of the appropriate circumstances.^[38] However, such discretion is not without limitations.^[39] One of the limits in the exercise of such discretion is that it must not be exercised in disregard of law and the Constitution. The CA should have considered the nature of the Ombudsman's powers as provided in the Constitution and RA 6770.

Moreover, the rule on intervention is a rule of procedure whose object is to make the powers of the court fully and completely available for justice, not to hinder or delay it.^[40]

Both the CA^[41] and respondent likened the Office of the Ombudsman to a judge whose decision was in question.^[42] This was a tad too simplistic (or perhaps even rather disdainful) of the power, duties and functions of the Office of the