

FIRST DIVISION

[G.R. No. 124965, October 29, 1998]

**ROMEO C. NAMUHE, PETITIONER, VS. THE OMBUDSMAN AND
OMB TASK FORCE ON PUBLICWORKS AND HIGHWAYS,
RESPONDENTS.**

[G.R. NO. 124932. OCTOBER 29, 1998]

**JIMMIE F. TEL-EQUEN, ROLANDO D. RAMIREZ AND RUDY P.
ANTONIO, PETITIONERS, VS. HON. FRANCISCO A. VILLA, HON.
GREGORIO VIGILAR AND OMB TASK FORCE ON PUBLIC WORKS
AND HIGHWAYS, RESPONDENTS.**

[G.R.NO. 124913. OCTOBER 29, 1998]

**ROMULO H. MABUNGA, PETITIONER, VS. THE OMBUDSMAN AND
OMB TASK FORCE ON PUBLIC WORKS AND HIGHWAYS,
RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

In *Fabian v. Desierto et al.*,^[1] this Court declared that Section 27 of Republic Act 6770, otherwise known as the Ombudsman Act of 1989, was unconstitutional. Accordingly, this Court has no jurisdiction over petitions for review of decisions of the Office of the Ombudsman imposing administrative disciplinary sanctions.

The Case

Filed before us, under Rule 45 of the Rules of Court, are three Petitions for Review on Certiorari seeking the reversal of the March 28, 1994 Resolution^[2] of the Office of the Ombudsman (OMB), which dismissed petitioners from government service for "acts of dishonesty, falsification of public documents, misconduct and conduct prejudicial to the best interest of the service."^[3]

Likewise challenged is the OMB's Order dated December 11, 1995, which denied petitioners' Motions for Reconsideration.

The Facts

Petitioners Jimmie F. Tel-Equen, Rolando D. Ramirez and Rudy P. Antonio were employed at the Mountain Province Engineering District (MPED) of the Department of Public Works and Highways in Bontoc, Mountain Province. Tel-Equen was the district engineer, Ramirez the assistant district engineer, and Antonio the chief of the construction section. On the other hand, Petitioners Romulo H. Mabunga and Romeo

C. Namuhe were the district engineer and construction section chief, respectively, of the Ifugao Engineering District (IED) in Lagawe, Ifugao.

The petitioners were among the respondents in the Administrative Complaint, docketed as OMB-0-91-0430, filed by the OMB Task Force on Public Works and Highways. In connection with the purported public bidding held for the Bailey bridge components for use in Mainit, Mountain Province, they were charged with dishonesty, falsification of official documents, grave misconduct, gross neglect of duty, violation of office rules and regulations and conduct prejudicial to the best interest of the service.

As earlier stated, the OMB dismissed petitioners from the government service in the first assailed Resolution promulgated on March 28, 1994, and denied reconsideration in the second challenged Order dated December 11, 1995.

Hence, these three petitions^[4] were directly filed before this Court under Rule 45 of the Rules of Court.^[5] In its Resolution dated February 24, 1997, the Court ordered the consolidation of these cases.^[6]

Ruling of the Ombudsman

In ordering the dismissal of herein petitioners from the government service, the OMB ruled:

"x x x x x x x x

"After a circumspect evaluation of the record, it is crystal clear that there was conspiracy among the respondents, Jimmie F. Tel-Equen, Francisco Miranda, Rudy P. Antonio, Alfredo C. Apolinar, Rodolfo B. Camarillo and Felix Gasmena, Jr. to defraud the government considering the following circumstances, to wit: Firstly, there was no immediate need for the bridge components and yet, they made it appear that the same were needed; Secondly, they made it appear that on May 10, 1990, they conducted a public bidding for said materials when in truth and in fact, there was no actual bidding as shown in the investigation report of the NBI; and lastly, the individual acts of the respondents contributed to the defraudation of the government when it was made to pay for its own property. While there was nothing illegal in the acts of Mabunga and Namuhe in the lending of the bailey bridge components, it is obvious from their acts that they had knowledge of the transaction and cooperated with Jimmie F. Tel-Equen and other employees of the MPED in defrauding the government as shown by the following circumstances: Firstly, there is nothing in the records to show the necessity of lending the bridge components; secondly, it was the supplier, Dangayo, who handcarried the letter-request of Tel-Equen to Mabunga and Namuhe. Had they been more circumspect in their actuations, they would have questioned the authority of Dangayo to transact business with them for and in behalf of the MPED; and lastly, in their statement before the NBI, they denied that it was Dangayo who brought the letter of Tel-Equen. They also denied having anything to do with the lending of the bridge components and pointed to Manuel Aguana, (who was given immunity by

the Hon. Ombudsman) as the culprit who acted on his own without their prior consent and approval. The reason is they [were] privy to the transaction of Tel-Equen, otherwise they would have been more candid to the fact that it was Dangayo who went to their office to facilitate the release of the bridge components.

x x x x x x x x

"As shown by the evidence on record, the government was defrauded in the amount of P553,900.00 on account of the fictitious transaction engineered by the officials of the Mt. Province Engineering District (MPED) and the Ifugao Engineering District (IED) thru falsification of various official and public documents."

Issue

Petitioner Tel-Equen contends that the evidence against him is weak and inadmissible, Petitioners Ramirez and Antonio assert that there was a misappreciation of pertinent facts, while Petitioners Mabunga and Namuhe insist that the findings against them have no factual and legal basis. In sum, petitioners question the factual findings and conclusion reached by the OMB in the administrative cases against them.

Apart from the foregoing issues raised by petitioners, the overriding question before us is the jurisdiction of the Supreme Court over appeals of administrative disciplinary decisions of the OMB. It is well-settled that the issue of jurisdiction over the subject may, at any time, be raised by the parties or *motu proprio* considered by the Court.^[7]

The Court's Ruling

In light of the recent ruling in *Fabian v. Desierto et al.*,^[8] this Court has no jurisdiction over the present petitions. In the interest of justice, these petitions should be referred and transferred to the Court of Appeals.

Lack of Jurisdiction

In *Fabian*, the Court held that appeals from decisions of the Office of the Ombudsman in administrative disciplinary cases should be taken to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure.

In so holding, the Court *en banc*, through Mr. Justice Florenz D. Regalado, declared unconstitutional Section 27 of Republic Act 6770 or the Ombudsman Act of 1989, which provided that decisions of the Office of the Ombudsman may be appealed to the Supreme Court by way of a petition for review on certiorari under Rule 45 of the Rules of Court. Such provision was held violative of Section 30, Article VI of the Constitution,^[9] as it expanded the jurisdiction of the Supreme Court without its advice and consent.

The Court also took note of the regulatory philosophy adopted in appeals from quasi-judicial agencies in the 1997 Revised Rules of Civil Procedure. Thus, it held