



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**PUBLIC ATTORNEY'S OFFICE,**  
 Petitioner,

**G.R. No. 197613**

Present:

- versus -

CARPIO, J., *Chairperson,*  
 PERALTA,  
 PERLAS-BERNABE,  
 CAGUIOA, and  
 REYES, JR.,\* *JJ.*

**OFFICE OF THE OMBUDSMAN**  
**and ATTY. TERCENCIA S. ERNI-**  
**RIVERA,**

Promulgated:

Respondents.

22 NOV 2017

x

x

**DECISION**

**CAGUIOA, J.:**

*The Case*

This is a Petition for *Certiorari*<sup>1</sup> (Petition) filed under Rule 65 of the Rules of Court which seeks to annul the Resolution<sup>2</sup> (Assailed Resolution) dated September 1, 2010 and Order<sup>3</sup> (Assailed Order) dated November 30, 2010 issued by the Office of the Ombudsman (Ombudsman) in OMB: C-C-08-0419-I.

The Assailed Resolution and Order dismissed, for lack of probable cause, the separate criminal complaints (Criminal Complaints) filed against Atty. Terencia S. Erni-Rivera (Atty. Rivera) for violation of the following:

- (i) Section 7(b)(2) and (d)<sup>4</sup> of Republic Act No. (RA) 6713,<sup>5</sup> which prohibits public officers from engaging in the private practice of their profession while in the public service;

\* On leave.

<sup>1</sup> *Rollo*, pp. 2-36.

<sup>2</sup> *Id.* at 37-50.

<sup>3</sup> *Id.* at 80-90.

<sup>4</sup> RA 6713, Sec. 7(b)(2) and (d) provides:

*SEC. 7. Prohibited Acts and Transactions.* - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

- (ii) Section 3(e)<sup>6</sup> of RA 3019<sup>7</sup> as amended, which prohibits public officers from causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence; and
- (iii) Article 171(4)<sup>8</sup> of Act No. 3815, otherwise known as the Revised Penal Code (RPC), which treats the crime of falsification by a public officer.

### *The Facts*

Atty. Rivera is a Career Service Employee who joined the government service on July 18, 1978 as Trial Attorney II.<sup>9</sup> Since then, Atty. Rivera had been promoted to several permanent positions, until she was appointed to the position of Public Attorney V (PA5) for PAO Regional Office No. III by virtue of a presidential appointment dated March 8, 2004.<sup>10</sup>

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x x x x

(b) *Outside employment and other activities related thereto.* – Public officials and employees during their incumbency shall not:

x x x x

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions[.]

x x x x

(d) *Solicitation or acceptance of gifts.* – Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

<sup>5</sup> CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES.

<sup>6</sup> RA 3019, Sec. 3(e) provides:

SEC. 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

<sup>7</sup> ANTI-GRAFT AND CORRUPT PRACTICES ACT.

<sup>8</sup> RPC, ART. 171(4) provides:

ART. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* – The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

4. Making untruthful statements in a narration of facts[.]

<sup>9</sup> *Rollo*, p. 121.

<sup>10</sup> *Id.*

*Violation of RA 3019 (causing undue injury and/or giving unwarranted benefits/advantage to private parties) and RA 6713 (engaging in private practice)*

After Atty. Rivera assumed her duties as PA5, PAO received a Letter and Affidavit dated August 13, 2004 and August 17, 2004, respectively, both by a certain Hazel F. Magabo (Magabo).<sup>11</sup> Magabo alleged that **contrary to PAO's internal rules, Atty. Rivera agreed to handle the annulment case sought to be filed by her brother Isidro Fayloga (Fayloga), and received staggered payments therefor in the total amount of Ninety-Three Thousand Pesos (₱93,000.00).**<sup>12</sup> Such amount consists of money sent by Fayloga from abroad, as well as money personally advanced by Magabo upon Atty. Rivera's promise that these advances would expedite Fayloga's annulment.<sup>13</sup> However, Magabo later discovered that Atty. Rivera did not file any petition on Fayloga's behalf.<sup>14</sup>

To support her claims, Magabo presented copies of bank slips showing that she made several deposits in varying amounts to Atty. Rivera's account. Magabo also presented a summary of payments showing that Atty. Rivera and her secretary also received cash on different dates.<sup>15</sup>

In response, Atty. Rivera averred that while she did receive the amount of Ninety-Three Thousand Pesos (₱93,000.00) as alleged, such amount was merely entrusted to her. Atty. Rivera explained that Magabo, her longtime friend, asked for her help in finding a private practitioner to take on Fayloga's case, and that the money she received was meant to cover the professional fees and litigation expenses that would be incurred in this connection.<sup>16</sup> Atty. Rivera further averred that she returned the money entrusted to her as soon as it became apparent that Fayloga would no longer return to the Philippines to pursue the annulment case.<sup>17</sup>

As Atty. Rivera subsequently assumed the position of Regional Public Attorney, PAO referred the letter to the Department of Justice (DOJ) for proper disposition.<sup>18</sup>

Thereafter, the allegations in Magabo's Letter and Affidavit became subject of a formal administrative complaint filed on September 28, 2005

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<sup>11</sup> Id. at 40, 95.

<sup>12</sup> Id. at 38, 95 and 109.

<sup>13</sup> Id. at 43.

<sup>14</sup> See id. at 95.

<sup>15</sup> Id.

<sup>16</sup> See id. at 110.

<sup>17</sup> Id.

<sup>18</sup> Id. at 95.



against Atty. Rivera for Grave Misconduct and violation of Civil Service Rules and Regulations (DOJ Proceeding).<sup>19</sup>

After two (2) hearing dates, Magabo submitted an Affidavit of Desistance stating that she is no longer interested in pursuing the case, as it merely resulted from a misunderstanding between her and her siblings.<sup>20</sup>

Nevertheless, on March 27, 2007, the DOJ issued a Resolution<sup>21</sup> (DOJ Resolution) finding Atty. Rivera liable for conduct prejudicial to the best interest of the service, a lesser offense treated under Section 22(t) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292. She was meted with the penalty of suspension for a period of six (6) months and one (1) day without pay.<sup>22</sup>

### *Falsification*

On December 4, 2006 (during the pendency of the DOJ Proceeding), Atty. Rivera submitted a Certificate of Service anent her attendance for November 2006, which states in part:

I, TERENCIA S. ERNI-RIVERA, do hereby certify that I reported for work and performed my duties and functions as Regional Public Attorney for PAO, Region IV-B, **for the month of November 2006.**<sup>23</sup> (Emphasis supplied)

District Public Attorney Emilio G. Aclan (DPA Aclan) submitted a subsequent Certification dated December 19, 2006 which states:

This is to certify that ATTY. TERENCIA E. RIVERA, Regional Director, Region IV-B (MIMAROPA), reported for work in this Office from **November 13, 2006 up to November 24, 2006.** x x x<sup>24</sup> (Emphasis in the original; underscoring omitted.)

Thereafter, Deputy Chief Public Attorney Silvestre Mosing issued a Memorandum dated December 22, 2006 requiring Atty. Rivera to explain why she should not be held administratively and criminally liable for the “discrepancies” between her Certificate of Service and the Certification issued by DPA Aclan.<sup>25</sup>

On December 27, 2006, Atty. Rivera submitted her Comment/Explanation which states, in part:

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<sup>19</sup> Id. at 96.

<sup>20</sup> Id. at 111.

<sup>21</sup> Id. at 109-115.

<sup>22</sup> Id. at 114-115.

<sup>23</sup> Id. at 98.

<sup>24</sup> Id. at 97.

<sup>25</sup> Id. at 98.



With due respect, there is no irregularity in [my Certificate of Service], as shown hereunder:

November 1, 2006	All Saints Day
November 2 & 3, 2006	On leave
November 4 & 5, 2006	Saturday & Sunday
November 6-10, 2006	PAO-convention, Manila Hotel
November 13-24, 2006	PAO-District Office, Batangas City
November 25 & 26, 2006	Saturday & Sunday
November 27-30, 2006	On leave

I do not see any need to attach a Certificate of Appearance or approved Travel Order when I am on leave.<sup>26</sup>

After consideration, the PAO Legal Research Division issued its Report and Recommendation dated January 5, 2007 recommending that Atty. Rivera be held administratively liable for violation of: (i) Civil Service (CSC) Omnibus Rules on Leave; (ii) PAO Memorandum Circular No. 18, series of 2002 on reasonable office rules and regulations; (iii) Falsification of Official Documents treated under Section 52(A)(6), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (URACCS); and (iv) Dishonesty treated under Section 52(A)(1) of the URACCS.<sup>27</sup> The Report and Recommendation was forwarded to the Presidential Anti-Graft Commission (PAGC) for action, Atty. Rivera being a presidential appointee.<sup>28</sup>

Acting on the Report and Recommendation, Executive Secretary Eduardo Ermita issued an Order dated June 12, 2007, placing Atty. Rivera under preventive suspension for a period not exceeding ninety (90) days.<sup>29</sup>

*Report of the PAO Designated  
Resident Ombudsman*

Later, on August 31, 2007, Atty. Melita S. Recto (Atty. Recto), the PAO Designated Resident Ombudsman, issued a Report<sup>30</sup> recommending that Atty. Rivera be held administratively and criminally liable for the above-detailed acts committed during her incumbency as Public Attorney. In essence, the Report lent credence to the findings of the DOJ and PAO Legal Research Division. The penultimate portion of the Report states:

**RECOMMENDATION**

x x x In view of the above-stated disquisitions, the undersigned most respectfully recommends that [Atty. Rivera] be criminally charged for:

- a. Violation of [Section] 7 (D) of [RA 6713]

<sup>26</sup> Id.

<sup>27</sup> Id. at 99-100.

<sup>28</sup> Id. at 100.

<sup>29</sup> Id.

<sup>30</sup> Id. at 94-105.

b. Falsification of Official Document

Atty. Rivera should likewise be administratively charged for:

- c. Four (4) counts of Neglect of Duty [as] defined under Section 52 A (2), Rule IV of the [URACCS] in relation to Section 5 (B) of [RA 6713].

[d.] Simple Misconduct under Section 52 (B) (4) Rule IV of the [URACCS] in relation to violation of PAO Memorandum Circular No. 18, Series of 2002.<sup>31</sup>

On the basis of the findings in said Report, Atty. Recto (as PAO Designated Resident Ombudsman), together with the National Bureau of Investigation (NBI), filed the Criminal Complaints against Atty. Rivera.

On September 1, 2010, the Ombudsman issued the Assailed Resolution dismissing the Criminal Complaints, thus:

**PREMISES CONSIDERED**, the separate complaints for alleged violation of Section 7, paragraph (b), subparagraph (2), and paragraph (d) of [RA 6713]; Section 3, paragraph (e), of [RA 3019], as amended; and Article 171, paragraph (4) of [the RPC], as amended; filed by [Atty. Recto] and the [NBI] against respondent [Atty. Rivera] are hereby **DISMISSED** for lack of probable cause.

**SO ORDERED.**<sup>32</sup>

PAO filed a Motion for Reconsideration<sup>33</sup> and subsequent Supplemental Motion for Reconsideration<sup>34</sup> dated September 24, 2010 and October 26, 2010, respectively. Both motions were denied by the Ombudsman for lack of merit in the Assailed Order dated November 30, 2010.<sup>35</sup>

PAO received a copy of the Assailed Order on June 1, 2011.<sup>36</sup> Hence, PAO filed the present Petition on July 29, 2011.

*The Issue*

The sole issue for this Court's resolution is whether the Ombudsman acted in grave abuse of discretion when it directed the dismissal of the Criminal Complaints against Atty. Rivera for lack of probable cause.

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<sup>31</sup> Id. at 103-104.

<sup>32</sup> Id. at 50.

<sup>33</sup> Id. at 51-60.

<sup>34</sup> Id. at 61-67.

<sup>35</sup> Id. at 80-90.

<sup>36</sup> Id. at 3.



*The Court's Ruling*

Time and again, this Court has consistently stressed that a petition for *certiorari* is a special civil action that may be resorted to only for the limited purpose of correcting errors of jurisdiction, and not errors of judgment.<sup>37</sup> In turn, errors of jurisdiction proceed from grave abuse of discretion, or such capricious and whimsical exercise of judgment tantamount to lack of jurisdiction.<sup>38</sup> In this Petition, such grave abuse discretion is imputed to the Ombudsman.

Under the 1987 Constitution, the Ombudsman is mandated to investigate acts or omissions of public officials or employees which appear to be illegal, unjust, improper, or inefficient.<sup>39</sup> Accordingly, the Ombudsman is vested with investigatory and prosecutorial powers to fulfill its constitutional mandate.<sup>40</sup> The Ombudsman's powers are plenary in nature, designed to insulate it from outside pressure and influence.<sup>41</sup>

Nevertheless, the plenary nature of the Ombudsman's powers does not place it beyond the scope of the Court's power of review. Under its expanded jurisdiction, the Court may strike down the act of any branch or instrumentality of the government, including the Ombudsman, on the ground of grave abuse of discretion.<sup>42</sup> However, for the extraordinary writ of *certiorari* to issue against the actions of the Ombudsman, the petitioner must show that the latter's exercise of power had been done in an arbitrary or despotic manner. Such abuse of power must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.<sup>43</sup>

The allegations in the Petition failed to show that the Assailed Resolution and Order had been issued in the foregoing manner. Accordingly, the Court resolves to deny the instant Petition on this ground.

*The Assailed Resolution and Order were issued within the bounds of the Ombudsman's investigatory and prosecutorial powers.*

PAO asserts that the Ombudsman "overzealously exceeded its mandate by requiring more than the quantum of evidence needed to support a finding of probable cause." PAO claims that the Ombudsman effectively demanded it to present evidence sufficient to establish Atty. Rivera's guilt for the offenses charged, instead of merely requiring such evidence

<sup>37</sup> See *Angeles v. Gutierrez*, 685 Phil. 183, 193 (2012).

<sup>38</sup> *Presidential Commission on Good Government v. Desierto*, 563 Phil. 517, 526 (2007).

<sup>39</sup> 1987 CONSTITUTION, Art. XI, Sec. 13(1).

<sup>40</sup> See *Soriano v. Marcelo*, 597 Phil. 308, 316 (2009).

<sup>41</sup> See *Angeles v. Gutierrez*, supra note 37, at 195.

<sup>42</sup> 1987 CONSTITUTION, Art. VIII, Sec. 1(2).

<sup>43</sup> *Philippine Deposit Insurance Corp. v. Casimiro*, 768 Phil. 429, 436 (2015).

necessary to sustain a finding of probable cause to file a criminal information against her.<sup>44</sup>

These assertions lack basis.

Probable cause, for the purpose of filing a criminal information, has been defined to constitute such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof,<sup>45</sup> thus:

x x x [Probable cause] does not mean “actual or positive cause” nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. **It is enough that it is believed that the act or omission complained of constitutes the offense charged.**

x x x In determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. **He relies on common sense.** What is determined is whether there is sufficient ground to engender a well-founded belief that a crime has been committed, and that the accused is probably guilty thereof and should be held for trial. x x x<sup>46</sup> (Emphasis in the original omitted; emphasis and underscoring supplied.)

Indeed, the determination of probable cause does not require an inquiry as to whether there is sufficient evidence to secure a conviction.<sup>47</sup> However, there is nothing in the Assailed Resolution and Order which suggests that the Ombudsman dismissed the Criminal Complaints due to PAO’s failure to offer such higher quantum of evidence. The Court quotes the relevant portions of the Assailed Resolution, thus:

After a careful evaluation of the different pleadings of the parties herein, together with the various pieces of documentary evidence attached thereto, [the Ombudsman] finds that **there is no sufficient ground to engender a well-founded belief that the charged offenses have been committed and that public respondent is probably guilty thereof, and should be held for trial.** This is so for **the evidence on record failed to establish that Atty. Rivera indeed solicited, took, or accepted money from [Magabo] in the course of her official duties** as Chief of the Legal Research Division of the [PAO], or in connection with any operation being regulated by, or any transaction which may be affected by the functions of her office. x x x [I]nasmuch as the purported receipt of [the money] had no connection whatsoever to the official duties of Atty. Rivera at the [PAO] x x x no case for the supposed violation of [Section 7(d)] of [RA 6713] and [Section 3(e)] of [RA 3019] x x x could be maintained against her. x x x

<sup>44</sup> See *rollo*, p. 19.

<sup>45</sup> *Philippine Deposit Insurance Corp. v. Casimiro*, supra note 43, at 437.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

Similarly, it cannot be maintained that [Atty. Rivera] transgressed the provisions of [Section 7(b)(2)] of [RA 6713], considering that **no satisfactory proof was even adduced to the effect that Atty. Rivera has been habitually or customarily holding herself to the public as a lawyer.** Furthermore, the Affidavit of Desistance executed by [Magabo] x x x expressing x x x that [her administrative complaint] was merely **the result of a miscommunication between her and her siblings** Edna Villoria and [Fayloga] likewise made the finding of probable cause vis-à-vis (sic) [Atty. Rivera] for the abovementioned offenses difficult, considering that the [Criminal Complaints] against the latter for the supposed violation of [RA 3019], as amended, and [RA] 6713, are evidently based on the administrative suit previously filed by [Magabo] x x x.

Finally, the [Ombudsman] also finds **no sufficient evidence to indict [Atty. Rivera] for the supposed violation of [Article 171(4)] of [the RPC], as amended, since the latter never stated in her Certification x x x that she rendered full time service for the month of November 2006.** x x x<sup>48</sup> (Emphasis and underscoring supplied.)

Contrary to PAO's assertions, the Ombudsman did not impose a higher quantum of proof. The dismissal of the Criminal Complaints was not prompted by PAO's failure to present evidence to establish Atty. Rivera's criminal liability beyond reasonable doubt, but rather, on its failure to establish, by substantial evidence, that Atty. Rivera committed the acts subject of the Criminal Complaints. **Evidently, probable cause cannot exist where the acts which constitute the offenses charged are not proven to have been committed by the respondent.**

*The Ombudsman did not act in grave abuse of its discretion when it found no probable cause to charge Atty. Rivera with violation of RA 6713 and RA 3019. The Court's ruling in Ramos v. Imbang does not apply.*

Anent the charge of violation of Section 7(b)(2) and (d) of RA 6713 and Section 3(e) of RA 3019, PAO maintains that the Court's ruling in *Ramos v. Imbang*<sup>49</sup> (*Imbang*) precludes the dismissal of the Criminal Complaints, as the factual antecedents therein are similar to this case.<sup>50</sup>

Again, this is error.

In *Imbang*, the Court found respondent therein (a PAO lawyer) guilty of violating the lawyer's oath, as well as Canons 1 and 18 of the Code of Professional Responsibility for engaging in private practice and receiving the amount of Five Thousand Pesos (₱5,000.00) in attorney's and

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<sup>48</sup> *Rollo*, pp. 46-49.

<sup>49</sup> 557 Phil. 507 (2007).

<sup>50</sup> *Rollo*, pp. 25-26.

appearance fees. In said case, respondent led the private complainant to believe that he had been attending hearings in connection with the case respondent filed on the latter's behalf, only to discover later on that no such case had been filed.<sup>51</sup> Thus, the respondent was disbarred from the practice of law.

Thus, in *Imbang*, the evidence on record established that respondent received appearance fees for attending hearings that never took place. Hence, the acts which constitute the administrative offenses charged therein were proven to have been committed by the respondent. As stated at the outset, such is not the case here.

As correctly observed by the Ombudsman, the Criminal Complaints rest heavily on the findings of the DOJ and PAO Legal Division. These findings, are, in turn, based on Magabo's allegations which, as she admitted in her Affidavit of Desistance,<sup>52</sup> merely arose from a family misunderstanding. In fact, in the same affidavit, Magabo acknowledged that the entire amount she had entrusted to Atty. Rivera had already been returned.

*The Ombudsman did not act in grave abuse of its discretion when it found no probable cause to charge Atty. Rivera with Falsification under the RPC.*

Anent the charge of Falsification under the RPC, PAO insists, as it did before the Ombudsman, that Atty. Rivera untruthfully declared that she reported for work for the *entire* month of November 2006, contrary to DPA Aclan's findings that she only reported for work on November 13 to 24 of the same year.

A careful reading of the certifications in question belies PAO's allegation. Notably, Atty. Rivera's Certificate of Service states that "[she] reported for work and performed [her] duties as Regional Public Attorney x x x for the month of November 2006."<sup>53</sup> On the other hand, DPA Aclan's Certification states that Atty. Rivera "**reported for work in [the PAO Region IV-B office] from November 13, 2006 up to November 24, 2006.**"<sup>54</sup> Hence, while Atty. Rivera's Certificate of Service attests to the **performance of her duties** as Regional Public Attorney for the entire month of November, DPA Aclan's Certification merely certifies the dates when Atty. Rivera **physically** reported to the PAO Region IV-B office to perform said duties.

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<sup>51</sup> Supra note 49, at 510, 517.

<sup>52</sup> *Rollo*, pp. 226-227.

<sup>53</sup> Id. at 98.

<sup>54</sup> Id. at 97.

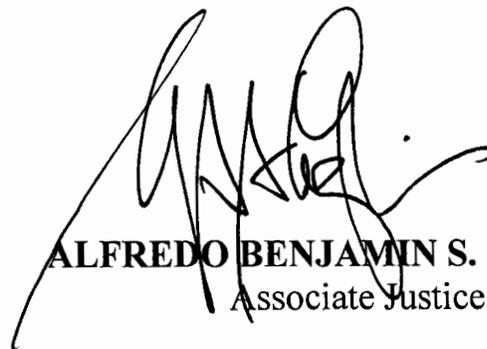
In fact, in her Comment/Explanation, Atty. Rivera was able to account for all the other days in November on which she allegedly did not report to work. Such days were either holidays, weekends, filed leave days, or days set aside for official business.<sup>55</sup> The supposed discrepancies between said certificates are thus more apparent than real.

Proceeding from the foregoing, PAO's imputation of grave abuse of discretion on the part of the Ombudsman fails. Consequently, the findings in the Assailed Resolution and Order must be respected, in accordance with the Court's pronouncement in *Presidential Commission on Good Government v. Desierto*:<sup>56</sup>

Case law has it that the determination of probable cause against those in public office during a preliminary investigation is a function that belongs to the Office of the Ombudsman. The Ombudsman has the discretion to determine whether a criminal case, given its attendant facts and circumstances, should be filed or not. It is basically his call. He may dismiss the complaint forthwith should he find it to be insufficient in form or substance, or he may proceed with the investigation if, in his view, the complaint is in due and proper form and substance. We have consistently refrained from interfering with the constitutionally mandated investigatory and prosecutorial powers of the Ombudsman. Thus, **if the Ombudsman, using professional judgment, finds the case dismissible, the Court shall respect such findings, unless the exercise of such discretionary powers is tainted by grave abuse of discretion.**<sup>57</sup> (Emphasis supplied)

**WHEREFORE**, premises considered, the Petition for *Certiorari* is **DISMISSED**. The Assailed Resolution dated September 1, 2010 and Order dated November 30, 2010 issued by the Ombudsman in OMB: C-C-08-0419-I are hereby **AFFIRMED**.

**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

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<sup>55</sup> See id. at 98-99.

<sup>56</sup> Supra note 38.

<sup>57</sup> Id. at 525-526.



**DIOSDADO M. PERALTA**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**(On leave)**  
**ANDRES B. REYES, JR.**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CAPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

