



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

OFFICE OF THE
OMBUDSMAN,

G.R. No. 226405

Petitioner,

Present:

- versus -

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

EFREN BONGAIS,
HOUSING AND
HOMESITE REGULATION
OFFICER IV, CITY
HOUSING AND
SETTLEMENTS OFFICE,
CALAMBA CITY,
Respondent.

Promulgated:

23 JUL 2018

Handwritten signature

x-----x

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ assailing the Decision² dated April 7, 2016 and the Resolution³ dated July 26, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 139835, which modified the Decision⁴ dated September 16, 2014 and the Order⁵ dated January 12, 2015 of the Office of the Ombudsman (Ombudsman), and found respondent Efre Bongais (Bongais) guilty of Simple Neglect of Duty.

¹ *Rollo*, pp. 16-33.

² Id. at 40-48. Penned by Associate Justice Agnes Reyes-Carpio with Associate Justices Romeo F. Barza and Amy C. Lazaro-Javier concurring.

³ Id. at 50-52.

⁴ Id. at 75-83. Penned by Graft Investigation and Prosecution Officer II Christine Carol A. Casela-Doctor and approved by Deputy Ombudsman for Luzon Gerard A. Mosquera.

⁵ Id. at 84-87.

The Facts

The present case stemmed from a Letter-Complaint⁶ dated September 30, 2010 filed before the Ombudsman by the National Bureau of Investigation (NBI) charging Bongais, among others,⁷ in his capacity as Housing and Homesite Regulation Officer IV of the City Housing and Settlements Office, City of Calamba, Laguna, for grave misconduct and dishonesty by conniving and confederating with other known public officers and private individuals in defrauding the Bank of the Philippine Islands Family Bank (BPI Family). The complaint alleged that sometime in 2002, the local government of Calamba expropriated a parcel of land covered by Transfer Certificate of Title (TCT) No. T-44387⁸ (subject title) issued in the name of Ferdinand Noguera (Noguera). Thereafter, the owner's duplicate copy of the subject title was surrendered to the local government and placed under the custody of Bongais. In May 2005, however, the said duplicate copy was lost. Thus, on May 3, 2005, Bongais executed an Affidavit of Loss⁹ stating that he discovered that the owner's duplicate copy of the subject title was missing and that despite diligent efforts on his part to locate the said title, the same remains missing and thus presumed lost. The following day, or on May 4, 2005, Bongais submitted the Affidavit of Loss to the Register of Deeds (RD) for annotation.¹⁰

On August 25, 2005, however, records show that an Affidavit of Recovery¹¹ was allegedly executed by Bongais, albeit the same was filed with the RD and annotated at the back of the original title only on August 6, 2007.¹²

On January 4, 2008, the City of Calamba filed a petition¹³ praying for the nullification of the lost owner's duplicate copy of the subject title and

⁶ Records, pp. 1-10.

⁷ The other respondents were: Ronaldo Dela Cruz, Head, City Housing and Settlements Department, Calamba, Laguna; Edgar Santos, Register of Deeds, Sta. Cruz, Laguna; Spouses Reuel Rene L. and Elizabeth Sta. Maria Miravite; Ma. Victoria "Marivic" E. Ponce; Edilberto P. Camaisa; Ann Marie R. Capati; Conrado C. Gappi, Jr.; and Josefina "Jessie" Velecina (id. at 1-2).

⁸ *Rollo*, pp. 110-113.

⁹ Dated May 3, 2005. Id. at 71. The pertinent portions read:

3. That one of those properties I am currently processing covers a parcel of land previously owned by Ferdinand Noguera, covered by TCT No. 44387, known as Lot 1557, with an area of 7,604 square meters, and which was expropriated by the City Government of Calamba;
4. That sometime this month, I discovered that the owner's copy of the said Title, which was under my custody, was missing;
5. That despite diligent effort on my part to locate the said title, the same could no longer be located, thus presumed lost;

x x x x

¹⁰ See id. at 40-41. See also id. at 19.

¹¹ Id. at 114. Annotated under Entry No. 82070 (see id. at 111 and CA *rollo*, p. 33).

¹² See id. at 41. See also id. at 19.

¹³ See Petition for Issuance of New Owner's Duplicate Copy of TCT No. T-44387 dated December 10, 2007; id. at 115-117.

✓

issuance of a new title in its place.¹⁴ During the pendency of the said petition, it was discovered that the subject title was already cancelled by the RD and replaced with TCT No. T-708861¹⁵ issued in the name of Technoasia Airconditioning Refrigeration, Inc. (Technoasia) by virtue of a Deed of Absolute Sale,¹⁶ which was executed on June 4, 2008 by the attorney-in-fact of Noguera's heirs in favor of Technoasia. Subsequently, Technoasia sold the property to spouses Reuel Rene and Elizabeth Miravite¹⁷ (Spouses Miravite) who, in order to pay for the purchase price, obtained a loan from the BPI Family with the property as collateral. As a result, TCT No. T-708861 was cancelled and TCT T-730139¹⁸ was issued in the name of Spouses Miravite. Not long after, the BPI Family received information that its transaction with Spouses Miravite was irregular; thus, it requested the latter to put up another collateral, but to no avail.¹⁹

In his Counter-Affidavit,²⁰ Bongais denied the allegations against him and maintained that he was not privy to the transaction between the bank and the other parties thereto. He claimed that his participation was limited to the physical custody of the duplicate copy of the subject title, which was part of his duties as personnel of the City Planning and Development Office, and that he observed due diligence in handling said title by securing it in a file cabinet which is beyond the access of other persons. Further, he denied having executed an Affidavit of Recovery after he caused annotation of the Affidavit of Loss on the copy of the said title in the RD's custody, pointing out that the signatures appearing in both affidavits were different.²¹

The Ombudsman Ruling

In a Decision²² dated September 16, 2014, the Ombudsman dismissed the administrative case against the other public officers, but found Bongais guilty of Grave Misconduct, and accordingly, meted out the penalty of dismissal from the service and its accessory penalties.²³ While the Ombudsman did not find any conspiracy among Bongais and his co-respondents in the resulting fraudulent transaction, it found sufficient reason to hold Bongais liable for the loss of the subject title, maintaining that while he claimed that its loss might have been due to thievery – considering that it was securely kept inside the office file cabinet over which no other person had access – Bongais did not state nor show that the cabinet or its lock was destroyed or damaged due to its forcible opening. Neither did he offer any

¹⁴ The case was docketed as RTC SLRC Case No. 2913-2008-C; see *id.* at 20.

¹⁵ Records, pp. 110-111.

¹⁶ *Id.* at 117-118.

¹⁷ Spelled as "Miravete" in the CA Decision. See *rollo*, p. 41.

¹⁸ Records, pp. 57-58.

¹⁹ See *rollo*, pp. 41-42. See also *id.* at 77-78.

²⁰ See Joint Counter-Affidavit with his co-respondent Ronaldo Dela Cruz dated May 18, 2011; *id.* at 72-74.

²¹ See *id.* at 72-73.

²² *Id.* at 75-83.

²³ *Id.* at 82.

explanation as to how the alleged thievery was done. In this regard, the Ombudsman noted that in August 2005, Bongais also lost another title in his custody covering a property likewise expropriated by the City of Calamba. To the Ombudsman, notwithstanding the importance of these documents, Bongais did not report the incidents to the proper authorities, thus, giving the impression that he had a hand in their loss. Accordingly, the Ombudsman concluded that the loss of these titles, which were under Bongais's official custody on two different occasions, showed "gross neglect of duty amounting to grave misconduct"²⁴ on his part.

Aggrieved, Bongais sought reconsideration,²⁵ which the Ombudsman denied in an Order²⁶ dated January 12, 2015. Thus, he elevated the case to the CA via Petition for Review²⁷ under Rule 43 of the Rules of Court.

The CA Ruling

In a Decision²⁸ dated April 7, 2016, the CA granted the petition, and accordingly, modified the Ombudsman Decision, finding Bongais guilty of Simple Neglect of Duty only and imposing on him the penalty of suspension for a period of six (6) months.²⁹ According to the CA, there is nothing in the records that supports the Ombudsman's conclusion that Bongais intentionally or flagrantly disregarded established rules or laws in order to hold him liable for grave misconduct. In this regard, it pointed out that there is no evidence that Bongais participated in or had any direct connection with those who perpetuated the fraud. On the contrary, records show that as soon as he discovered that the owner's duplicate copy of the subject title was missing, Bongais immediately executed an Affidavit of Loss and caused its annotation on the title in the custody of the RD. While an Affidavit of Recovery was subsequently recorded in the RD, causing the cancellation of the subject title and issuance of a new one in Technoasia's name, the CA observed that the same does not bear Bongais's signature, and thus, could not be attributed to him. Additionally, the CA pointed out that while he is the only person who had access to the storage facility where the said title was kept and the same lacked any sign of forcible opening, it could not be concluded that he deliberately lost the copy of the title or that he was consciously indifferent to the consequences of the act. To the CA, Bongais was, at most, careless as he failed to give proper attention to how he had stored the lost owner's duplicate copy of the subject title, which careless act can be categorized as Simple Neglect of Duty.³⁰

²⁴ See *id.* at 82.

²⁵ See motion for reconsideration dated November 12, 2014; *CA rollo*, pp. 40-44.

²⁶ *Rollo*, pp. 84-87.

²⁷ Dated April 7, 2015. *CA rollo*, pp. 3-17.

²⁸ *Rollo*, pp. 40-48.

²⁹ *Id.* at 47-48.

³⁰ See *id.* at 46-47.

Dissatisfied with the CA ruling, the Ombudsman filed an Omnibus Motion to Intervene and to Admit Attached Motion for Reconsideration,³¹ arguing that it “was not expressly impleaded as a party-respondent in the case,” and thus, prayed for leave to intervene.³²

In a Resolution³³ dated July 26, 2016, the CA denied the Ombudsman’s Omnibus Motion for lack of interest to intervene in the proceeding; hence, this petition.

The Issue Before the Court

The issue for the Court’s resolution is whether or not the CA erred in denying the Ombudsman’s Omnibus Motion to Intervene.

The Court’s Ruling

The Ombudsman argues, in the main, that the CA erred in denying its Omnibus Motion to Intervene, reasoning out that as the protector of the people against errant government employees, it has the legal interest to intervene and defend its decision before the CA.³⁴ In support, it cites *Ombudsman v. Quimbo*³⁵ (*Quimbo*), which in turn cited *Ombudsman v. De Chavez*³⁶ (*De Chavez*) and *Ombudsman v. CA and Macabulos*³⁷ (*Macabulos*). In this light, the Ombudsman reiterates that the evidence warrant the finding of administrative liability on Bongais’s part for Gross Neglect of Duty tantamount to Gross Misconduct.³⁸

For his part, Bongais asserts that the Ombudsman has no legal interest to intervene in the proceeding, citing *Ombudsman v. Sison*³⁹ (*Sison*) and *Republic v. Namboku Peak, Inc.*⁴⁰ and that, in any case, the CA did not err in downgrading the offense to Simple Neglect of Duty as there is no sufficient evidence to prove the charge of Grave Misconduct.⁴¹

Jurisprudence defines intervention as 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

³¹ Dated May 2, 2016. Id. at 53-58.

³² Id. at 54.

³³ Id. at 50-52.

³⁴ See id. at 23-25.

³⁵ 755 Phil. 41 (2015).

³⁶ 713 Phil. 211 (2013).

³⁷ 576 Phil. 784 (2008).

³⁸ See *rollo*, pp. 29-31.

³⁹ 626 Phil. 598 (2010).

⁴⁰ 759 Phil. 58 (2014).

⁴¹ See *rollo*, pp. 96-100 and 101-106.

by such proceedings.⁴² It is, however, settled that intervention is not a matter of right, but is instead addressed to the sound discretion of the courts⁴³ and can be secured only in accordance with the terms of the applicable statute or rule.⁴⁴ Rule 19 of the Rules of Court prescribes the manner by which intervention may be sought, thus:

Section 1. *Who may intervene.* – **A person who has a legal interest in the matter in litigation**, or in the success of either of the 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 custody of the court or of an officer thereof **may, with leave of court, be allowed to intervene in the action.** The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Section 2. *Time to intervene.* – **The motion to intervene may be filed at any time before rendition of judgment by the trial court.** A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (Emphases supplied)

To warrant intervention under Rule 19 of the Rules of Court, the intervenor must possess legal interest in the matter in controversy. Legal interest is defined as such interest that is actual and material, direct and immediate such that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.⁴⁵ In addition to legal interest, the intervenor must file the motion to intervene before rendition of the judgment, the intervention being ancillary and supplemental to an existing litigation, not an independent action.⁴⁶ Corollarily, when the case is resolved or is otherwise terminated, the right to intervene likewise expires.⁴⁷

The Court agrees that the Ombudsman has legal standing to intervene on appeal in administrative cases resolved by it. In the 2008 case of *Ombudsman v. Samaniego*⁴⁸ (*Samaniego*), the Court categorically ruled that, even if not impleaded as a party in the proceedings, the Office of the Ombudsman has legal interest to intervene and defend its ruling in administrative cases before the CA, its interest proceeding, as it is, from its

⁴² See *Ombudsman v. Samaniego*, 586 Phil. 497, 509 (2008), citing *Manalo v. CA*, 419 Phil. 215, 233 (2001). See also *Ombudsman v. Gutierrez*, G.R. No. 189100, June 21, 2017.

⁴³ See *Ombudsman v. Gutierrez*, *id.*

⁴⁴ See *Ombudsman v. Samaniego*, *supra* note 42.

⁴⁵ *Id.* at 510; citing *Magsaysay-Labrador v. CA*, 259 Phil. 748, 753-754 (1989).

⁴⁶ See *Ombudsman v. Gutierrez*, *supra* note 42, citing *Manalo v. CA*, *supra* note 42, at 234.

⁴⁷ See *id.*

⁴⁸ *Supra* note 42. See also *Ombudsman v. CA and Macabulos*, (*supra* note 37), where, albeit an obiter, the Court held that the CA “should have granted the motion for intervention filed by the Ombudsman. In its decision, the appellate court not only reversed the order of the Ombudsman but also delved into the investigatory power of the Ombudsman. Since the Ombudsman was not impleaded as a party when the case was appealed to the Court of Appeals in accordance with Section 6, Rule 43 of the Rules of Court, the Ombudsman had no other recourse but to move for intervention and reconsideration of the decision in order to prevent the undue restriction of its constitutionally mandated investigatory power.” (*Id.* at 793-794.)

duty to act as a champion of the people and to preserve the integrity of the public service. Thus, the Court explained:

[T]he 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. Its function is critical because public interest (in the accountability of public officers and employees) is at stake.

x x x x

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. To hold otherwise would have been tantamount to abdicating its salutary functions as the guardian of public trust and accountability.

Moreover, the Office of the Ombudsman had a clear legal interest in the inquiry into whether respondent committed acts constituting grave misconduct, an offense punishable under the Uniform Rules in Administrative Cases in the Civil Service. **It was in keeping with its duty to act as a champion of the people and preserve the integrity of public service 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 after a consideration of the appropriate circumstances. However, such discretion is not without limitations. 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.

x x x x

Both the CA and respondent likened the Office of the Ombudsman to a judge whose decision was in question. This was a tad too simplistic (or perhaps even rather disdainful) of the power, duties and functions of the Office of the Ombudsman. **The Office of the Ombudsman cannot be detached, disinterested and neutral specially when defending its decisions. Moreover, in administrative cases against government personnel, the offense is committed against the government and public interest.** What further proof of a direct constitutional and legal interest in the accountability of public officers is necessary?⁴⁹ (Emphases supplied)

The Court reiterated *Samaniego* and upheld the Ombudsman’s standing to intervene in *De Chavez, Quimbo* – cited by the Ombudsman – and recently, in *Ombudsman v. Gutierrez*⁵⁰ (*Gutierrez*). It appears, therefore,

⁴⁹ Id. at 508-512.

⁵⁰ Supra note 42.

that as matters stand, *Samaniego* remains to be the prevailing doctrine, and thus, the Court upholds the Ombudsman's personality to intervene in appeals from its rulings in administrative cases. In asserting that "there is a need for [it] to uphold the existence and exercise" of its "administrative disciplinary power x x x endowed by no less than the Constitution and [Republic Act] No. 6770",⁵¹ the Ombudsman, in this case, had indubitably shown such legal interest sufficient to clothe it with personality to intervene in the proceeding. Since its power to ensure enforcement of its Decision and Order was in danger of being impaired, the Ombudsman had a clear legal interest in defending its right to have its judgment carried out.

The Court is likewise aware of the 2010 case of *Sison*,⁵² cited by Bongais, where it disallowed the Ombudsman's intervention despite the ruling in *Samaniego*. The Court held in *Sison* that, as the disciplining authority or tribunal which previously heard the case and imposed the penalty of dismissal from the service, the Ombudsman is not an appropriate party to intervene in the appeal of its decision. This is because in acting as the adjudicator, the Ombudsman is not an active combatant in such proceeding, and thus, must remain detached and impartial, leaving the opposing parties to contend their individual positions and the appellate court to decide the issues without its active participation. The Court concluded then that the government party with the standing to appeal is the one prosecuting the administrative case against the respondent. The Court took a similar stance in the earlier case of *Ombudsman v. Magno*⁵³ (*Magno*), as well as in the 2012 case of *Ombudsman v. Liggayu*⁵⁴ (*Liggayu*).

It should be pointed out, however, that in these cases, the Ombudsman moved to intervene after the CA had already rendered judgment on the appeal of its administrative ruling. Thus, it would appear that the Court was impelled to deny the Ombudsman's intervention in these cases because it was already filed beyond the allowable period. In the 2017 case of *Gutierrez*, the Court clarified this apparent conflict between *Sison*, *Magno*, and *Liggayu*, on the one hand, and *Samaniego*, *De Chavez*, and *Quimbo* on the other hand, as it held that:

[A]s things currently stand, *Samaniego* remains to be the prevailing doctrine. The Ombudsman has legal interest in appeals from its rulings in

⁵¹ *Rollo*, p. 55. See also Republic Act No. 6770 entitled "AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES," approved on November 17, 1989.

⁵² *Supra* note 39. *Ombudsman v. Sison* cited the following cases: *Mathay, Jr. v. CA*, 378 Phil. 466 (1999); *National Appellate Board of the National Police Commission v. Mamauag*, 504 Phil. 186 (2005); and *Pleyto v. Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG)*, 563 Phil. 842 (2007).

⁵³ 592 Phil. 636 (2008). *Ombudsman v. Magno* cited the following cases: *Mathay, Jr. v. CA*, *id.*; *National Appellate Board of the National Police Commission v. Mamauag*, *id.*; and *Pleyto v. PNP-CIDG*, *id.*

⁵⁴ 688 Phil. 443 (2012). *Ombudsman v. Liggayu* cited the following cases: *Mathay, Jr. v. CA*, *id.*; *National Appellate Board of the National Police Commission v. Mamauag*, *id.*; *Ombudsman v. Sison*, *supra* note 39, citing *Pleyto v. PNP-CIDG*, *id.*; and *Ombudsman v. Magno*, *id.*

administrative cases. Petitioner could not then be faulted for filing its Omnibus Motion before the appellate court x x x.

x x x x

It is [the] requirement of timeliness that petitioner failed to satisfy, prompting the appellate court to issue the July 23, 2009 Resolution denying the Omnibus Motion. This course of action by the CA finds jurisprudential basis in *Magno*, *Sison*, and *Liggayu*. x x x **A review of these cases would show that the Ombudsman prayed for the admission of its pleading-in-intervention after the CA has already rendered judgment, and despite the Ombudsman's knowledge of the pendency of the case, in clear contravention of Sec. 2, Rule 19. This substantial distinction from the cases earlier discussed justifies the denial of the motions to intervene in *Magno*, *Sison*, and *Liggayu*.** x x x

x x x x

Thus, in the three cases that seemingly strayed from *Samaniego*, it can be said that under the circumstances obtaining therein, the appellate court had a valid reason for disallowing the Ombudsman to participate in those cases because the latter only moved for intervention after the CA already rendered judgment. By that time, intervention is no longer warranted.⁵⁵ (Emphases supplied)

In the face of the clarification made in *Gutierrez*, it should now be considered as settled doctrine that the Ombudsman has legal standing to intervene in appeals from its rulings in administrative cases, **provided, that the Ombudsman moves for intervention before rendition of judgment**, pursuant to Rule 19 of the Rules Court, lest its motion be denied as the Court did in *Sison*, *Magno*, and *Liggayu*.

The rule requiring intervention before rendition of judgment, however, is not inflexible. As jurisprudence has shown, interventions have been allowed even beyond the period prescribed in the Rule when demanded by the higher interest of justice; to afford indispensable parties, who have not been impleaded, the right to be heard; to avoid grave injustice and injury and to settle once and for all the substantive issues raised by the parties;⁵⁶ or, because of the grave legal issues raised,⁵⁷ as will be shown below. Stated otherwise, the rule may be relaxed and intervention may be allowed subject to the court's discretion after consideration of the appropriate circumstances.⁵⁸ After all, Rule 19 of the Rules of Court is a rule of

⁵⁵ See *Ombudsman v. Gutierrez*, supra note 42.

⁵⁶ See *Quinto v. Commission on Elections*, 627 Phil. 193, 218-219 (2010), citing *Lim v. Pacquing*, 310 Phil. 722, 771 (1995). See also *Tahanan Development Corporation v. CA*, 203 Phil. 652 (1982); *Director of Lands v. CA*, 190 Phil. 311 (1981); and *Mago v. CA*, 363 Phil. 225 (1999).

⁵⁷ See *Ombudsman v. Quimbo*, supra note 35; *Ombudsman v. CA and Macabulos*, supra note 37; *Ombudsman v. CA and Santos*, 537 Phil. 751 (2006); and *Ombudsman v. Beltran*, 606 Phil. 573 (2009).

⁵⁸ See *Quinto v. Commission on Elections*, supra note 56, at 219, citing *Heirs of Restrivera v. De Guzman*, 478 Phil. 592, 602 (2004). See also *Ombudsman v. Miedes, Sr.*, 570 Phil. 464, 472 (2008); and *Mago v. CA*, supra note 56, at 233.

N

procedure whose object is to make the powers of the court fully and completely available for justice; its purpose is not to hinder or delay, but to facilitate and promote the administration of justice.⁵⁹

Concrete examples of the exception to the period rule in intervention are the cases of *Quimbo* and *Macabulos*, cited by the Ombudsman, where the Court allowed the Ombudsman to intervene despite the fact that the CA had already rendered its decision. Other examples are *Ombudsman v. Santos*⁶⁰ (*Santos*) and *Ombudsman v. Beltran*⁶¹ (*Beltran*). Notably, the Court's action allowing the Ombudsman's belated intervention in these cases present a contrary argument to the conclusion reached in *Gutierrez* as regards *Sison*, *Magno*, and *Liggayu's* deviation from *Samaniego*, as discussed above.

In *Quimbo* and *Macabulos*, as well as *Santos* and *Beltran*, it may be observed that apart from the sufficiency of the Ombudsman's findings of administrative liability, the validity or constitutionality of the Ombudsman's powers and mandate was put in issue. For example, the issue of whether or not the Ombudsman has the power to directly impose sanctions on the public official or employee it found to be at fault was raised and addressed by the Court in *Quimbo*, *Santos*, and *Beltran*. For this reason, the Court considered the Ombudsman as the real party-in-interest, considering the "essence of the Ombudsman's constitutionally and statutorily conferred powers establishing its clear legal interest in ensuring that its directive be implemented."⁶² *Macabulos*, on the other hand, presented the questions of whether or not the Ombudsman is barred by prescription from investigating a complaint filed more than one (1) year from the occurrence of the act complained of, and whether or not the penalty of dismissal pending appeal is immediately executory. The Court, in *Macabulos*, allowed the intervention, as it declared that "x x x the appellate court not only reversed the order of the Ombudsman but also delved into the investigatory power of the Ombudsman. Since the Ombudsman was not impleaded as a party when the case was appealed to the [CA] in accordance with Section 6, Rule 43 of the Rules of Court, the Ombudsman had no other recourse but to move for intervention and reconsideration of the decision in order to prevent the undue restriction of its constitutionally mandated investigatory power."⁶³ Thus, it would appear that the Court allowed the Ombudsman's belated intervention in *Quimbo*, *Macabulos*, *Santos*, and *Beltran* because of the grave legal issues raised that affected the Ombudsman's mandate and power, which, as mentioned, may be considered as an exception to the general rule reinforced in *Gutierrez* that

⁵⁹ See *Quinto v. Commission on Elections*, id.

⁶⁰ Supra note 57.

⁶¹ Id.

⁶² See *Ombudsman v. Quimbo*, supra note 35. See also *Ombudsman v. Beltran* (id.), where the Court held that "[i]t is the Office of the Ombudsman that stands to suffer if the decision would attain finality. As the 'protector of the people' against erring officers or employees of the Government, to deprive the Office of the Ombudsman of its administrative disciplinary authority would certainly derail the effective implementation of its mandated function and duties." (Id. at 587-588.)

⁶³ Supra note 37, at 793-794.

the intervention must be timely made by the Ombudsman before rendition of judgment.

Translating these principles to the current petition, the status of the Ombudsman as a party adversely affected by – and therefore with the legal standing to assail – the CA Decision did not automatically warrant the grant of its motion to intervene. Since the Court does not find any of the excepting circumstances laid down in jurisprudence, including those laid down in *Santos*, *Beltran*, *Macabulos*, and *Quimbo*, obtaining in this case, the general rule provided under Section 2 of Rule 19, as reinforced in *Gutierrez*, squarely applies. Hence, while the Ombudsman had legal interest to intervene in the proceeding in CA-G.R. SP No. 139835, the period for the filing of its motion to intervene had already lapsed as it was filed after the CA had promulgated its Decision.

Additionally, it is well to point out that prior to the filing of the Omnibus Motion to Intervene, the Ombudsman was, pursuant to the Rules,⁶⁴ specifically furnished the following orders/resolutions of the CA: (1) Resolution⁶⁵ dated May 22, 2015 requiring therein respondent NBI to file its Comment; (2) Resolution⁶⁶ dated August 12, 2015 directing the NBI to show cause why the Petition for Review should not be submitted for decision without its Comment for failure to file the same despite actual receipt of the CA's May 22, 2015 Resolution; (3) Resolution⁶⁷ dated October 20, 2015 noting the Manifestation⁶⁸ filed by the NBI Director; (4) Resolution⁶⁹ dated February 17, 2016 submitting for decision the Petition for Review without the NBI's comment, the filing thereof having been deemed waived for the NBI's failure to file the same within the allowed period; and (5) Notice of Decision⁷⁰ dated April 7, 2016.⁷¹ Despite these notices and the NBI's clear failure to act (on Bongais's petition) to defend the Ombudsman Decision that was in danger of being impaired, the latter chose not to take action until the CA had rendered its Decision modifying its (the Ombudsman's) ruling. Worse, it did not offer any justifiable explanation for its belated attempt at intervention, other than the feeble excuse that "it was not expressly impleaded as a respondent"⁷² in Bongais's petition. To the Court's mind, in

⁶⁴ See Section 5, Rule 43 of the Rules of Court which requires proof of service of copy of the petition for review on the adverse party. It pertinently reads:

Section 5. *How appeal taken.* — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, **with proof of service of a copy thereof on the adverse party and on the court or agency a quo.** The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

x x x (Emphasis supplied)

⁶⁵ See CA *rollo*, p: 53.

⁶⁶ See *id.* at 54.

⁶⁷ See *id.* at 59.

⁶⁸ Dated September 4, 2015. *Id.* at 55-57.

⁶⁹ See *id.* at 60.

⁷⁰ See *id.* at 65.

⁷¹ See *rollo*, p. 99.

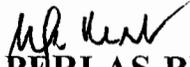
⁷² See *id.* at 51. See also *id.* at 23.

choosing not to act sooner, the Ombudsman had clearly waived its legal standing to intervene in CA-G.R. SP No. 139835, which the Court cannot now restore.

All told, the CA did not commit reversible error when it denied the Ombudsman's Omnibus Motion to Intervene. While the Ombudsman had legal standing to intervene in Bongais's petition for review before the CA, the period for the filing of its motion to intervene had already lapsed as it was filed after the CA had promulgated its assailed Decision. Consequently, the present petition must be denied, without the need to delve into the merits of the substantive arguments raised.

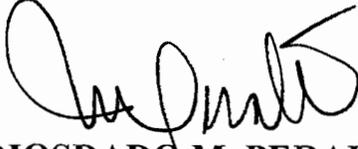
WHEREFORE, the petition is **DENIED** for lack of merit. The Decision dated April 7, 2016 and the Resolution dated July 26, 2016 of the Court of Appeals in CA-G.R. SP No. 139835 are hereby **AFFIRMED**.

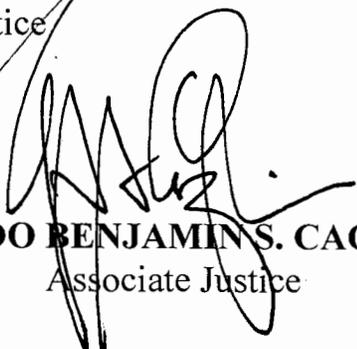
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice

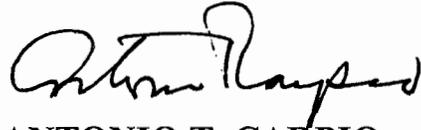

DIOSDADO M. PERALTA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

**ANTONIO T. CARPIO**

Senior Associate Justice

(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, As Amended)