Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,
Petitioner,

- versus -

MA. MERCEDITAS NAVARRO-GUTIERREZ (as then Ombudsman), DON M. FERRY, JOSE R. TENGCO, JR., ROLANDO M. ZOSA, CESAR C. ZALAMEA, OFELIA I. CASTELL, and RAFAEL A. SISON,
Public Respondents,

RODOLFO M. CUENCA, MANUEL I. TINIO, and ANTONIO R. ROQUE,
Private Respondents.

G.R. No. 194159

Present:

SERENO, C.*J.*, Chairperson,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
BERSAMIN, and
PERLAS-BERNABE, *JJ.*

Promulgated:
OCT 21 2015

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DECISION

PERLAS-BERNABE, *J.*:

Before the Court is a petition for *certiorari*[1] assailing the Resolution[2] dated May 30, 2007 and the Order[3] dated April 13, 2009 of the Office of the Ombudsman (Ombudsman) in OMB-C-C-03-0500-I, which dismissed the affidavit-complaint [4] of petitioner Presidential Commission on Good

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* Designated Acting Member per Special Order No. 2253 dated October 14, 2015.
1 *Rollo,* Vol. I, pp. 3-57.
2 Id. at 64-92. Penned by Graft Investigation and Prosecution Officer II Rolando B Zoleta and approved by herein respondent then Ombudsman Ma. Merceditas N. Gutierrez.
3 Id. at 93-97. Penned by Graft Investigation and Prosecution Officer I Ruth Laura A. Mella and approved by Overall Deputy Ombudsman Orlando C. Casimiro.
4 Id. at 142-158.

Government (PCGG) charging individual respondents Don M. Ferry (Ferry), Jose R. Tengco, Jr. (Tengco), Rolando M. Zosa (Zosa), Cesar C. Zalamea (Zalamea), Ofelia I. Castell (Castell), Rafael A. Sison (Sison), Rodolfo M. Cuenca (Cuenca), Manuel I. Tinio (Tinio), and Antonio R. Roque (Roque) for allegedly violating Sections 3 (e) and (g) of Republic Act No. (RA) 3019,[5] for lack of probable cause.

The Facts

The instant case arose from an Affidavit-Complaint[6] dated July 15, 2003 filed by the PCGG – through Rene B. Gorospe, the Legal Consultant in-charge of reviewing behest loan cases – against former officers/directors of the Development Bank of the Philippines (DBP), namely, Ferry, Tengco, Zosa, Zalamea, Castell, and Sison, as well as former officers/stockholders of National Galleon Shipping Corporation (Galleon),[7] namely, Cuenca, Tinio, and Roque charging them of violating Sections 3 (e) and (g) of RA 3019. In the Affidavit-Complaint, the PCGG alleged that on October 8, 1992, then President Fidel V. Ramos (President Ramos) issued Administrative Order No. 13,[8] creating the Presidential *Ad Hoc* Fact-Finding Committee on Behest Loans (*Ad Hoc* Committee) in order to identify various anomalous behest loans entered into by the Philippine Government in the past. Later on, President Ramos issued Memorandum Order No. 61[9] on November 9, 1992, laying down the criteria which the *Ad Hoc* Committee may use as a frame of reference in determining whether or not a loan is behest in nature. Thereafter, the *Ad Hoc* Committee, with the assistance of a Technical Working Group (TWG) consisting of officers and employees of different government financial institutions (GFIs), examined and studied documents relative to loan accounts extended by GFIs to various corporations during the regime of the late President Ferdinand E. Marcos (President Marcos) – one of which is the loan account granted by the DBP to Galleon.[10]

After examining the aforesaid loan account, the TWG found, *inter alia*, that: (*a*) on September 19, 1979, DBP, pursuant to its Board Resolution No. 3002,[11] approved guarantees in favor of Galleon in the aggregate amount of US$90,280,000.00 for the purpose of securing foreign currency

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5 Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT," approved on August 17, 1960.

6 *Rollo*, Vol. I, pp. 142-158.

7 Formerly known as "Galleon Shipping Corporation."

8 Entitled "CREATING A PRESIDENTIAL AD HOC FACT-FINDING COMMITTEE ON BEHEST LOANS"; *rollo*, Vol. I, pp. 159-160.

9 Section 1 of Memorandum Order No. 61, entitled "BROADENING THE SCOPE OF THE AD HOC FACT FINDING COMMITTEE ON BEHEST LOANS CREATED PURSUANT TO ADMINISTRATIVE ORDER NO. 13, DATED 8 OCTOBER 1992," provides the following criteria which may be utilized as a frame of reference in determining a behest loan: (*a*) the loan is undercollaterized; (*b*) the borrower corporation is undercapitalized; (*c*) direct or indirect endorsement by high government officials like presence of marginal notes; (*d*) stockholders, officers or agents of the borrower corporation are identified as cronies; (*e*) deviation of use of loan proceeds from the purpose intended; (*f*) use of corporate layering; (*g*) non-feasibility of the project for which financing is being sought; and (*h*) extra-ordinary speed in which the loan release was made. See id. at 161-162.

10 See id. at 142-144.

11 Id. at 281-289. See also id. at 102-141.

borrowings from financial institutions related to Galleon's acquisition of five (5) brand new and two (2) secondhand vessels;[12] (*b*) Board Resolution No. 3002 specifically stated that such accommodation "shall be undertaken at the behest of the Philippine Government;"[13] (*c*) as a condition for the grant of the guarantees, Board Resolution No. 3002 required Galleon to raise its paid up capital to ₱98.963 Million by 1981,[14] but Galleon was only able to raise its capital to ₱46,740.755.00;[15] (*d*) despite Galleon's failure to comply with such condition, DBP still granted the guarantees; (*e*) as of June 30, 1981, Galleon's arrearages had already amounted to ₱40,684,059.37, while the aggregate DBP obligations of Galleon already totaled ₱691,058,027.92;[16] (*f*) despite the outstanding debts, DBP still issued Board Resolution Nos. 4008[17] and 3001,[18] approving further accommodations in Galleon's favor in the form of one-year foreign currency loans to refinance the latter's arrearages, which amounted to ₱58,101,718.89 as of September 30, 1982;[19] (*g*) despite Galleon's arrearages amounting to ₱128,182,654.38 and obligations accumulating to ₱904,277,536.96, DBP still approved the release of Galleon's two (2) secondhand vessels as collaterals resulting in collateral deficiency;[20] and (*h*) as of March 31, 1984, Galleon's total obligations to DBP amounted to ₱2,039,284,390.85, while the value of its collaterals was only ₱539,000,000.00.[21] These findings were then collated in an Executive Summary[22] which was submitted to the *Ad Hoc* Committee.

Based on the foregoing, the *Ad Hoc* Committee concluded that the loans/accommodations obtained by Galleon from DBP possessed positive characteristics of behest loans, considering that: (*a*) Galleon was undercapitalized; (*b*) the loan itself was undercollateralized; (*c*) the major stockholders of Galleon were known to be cronies of President Marcos; and (*d*) certain documents pertaining to the loan account were found to bear "marginal notes" of President Marcos himself.[23] Resultantly, the PCGG filed the instant criminal complaint against individual respondents, docketed as OMB-C-C-03-0500-I.

Except for Roque, Zalamea, Tengco, and Castell, the other individual respondents impleaded in the affidavit-complaint did not file their respective counter-affidavits despite due notice.[24]

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12 Id. at 146-147 and 281.
13 Id. at 283 and104.
14 Id. at 131.
15 Id. at 150.
16 Id. at 150-151.
17 Id. at 368-370.
18 Id. at 371-372.
19 Id. at 151-152.
20 Id. at 152-153.
21 Id. at 155.
22 Id. at 191-201.
23 Id. at 155. See also Fourteenth (14th) Report of Presidential Ad Hoc Fact-Finding Committee on "Behest" Loans dated July 15, 1993; id. at 202-221.
24 Id. at 82 and 86.

In his defense,[25] Roque denied being a Marcos crony, and averred that he was only a minor shareholder of Galleon and that he was in no position to influence the DBP in extending the subject loan to Galleon.[26] For his part,[27] Zalamea maintained that he had no participation or hand in the subject loan transactions as he joined the DBP as Chairman only in 1982, while the execution of the transactions pertaining to such loan was done in 1979-1981, and that the criminal charges against them are barred by prescription since it had been more than 20 years before the complaint against them was filed on July 15, 2003.[28] Similarly, Tengco also argued[29] that the criminal charges against them had already prescribed. He also contended that his participation in the approval of the subject loan was at the board level only and was done in the exercise of his sound business judgment through the collective act of the DBP Board of Directors.[30] Finally, Castell pleaded[31] that her role in the handling of the projects and transactions of Galleon involved only the supervision of employees, but with no approving authority for matters like those involving the transactions pertaining to the subject loan obtained by Galleon from DBP.[32]

The Ombudsman Ruling

In a Resolution[33] dated May 30, 2007, the Ombudsman found no probable cause against private respondents and, accordingly, dismissed the criminal complaint against them.[34] It found that the pieces of evidence attached to the case records were not sufficient to establish probable cause against the individual respondents, considering that the documents presented by the PCGG consisted mostly of executive summaries and technical reports, which are hearsay, self-serving, and of little probative value.[35] In this relation, the Ombudsman noted that the PCGG failed to present "the documents which would directly establish the alleged illegal transactions like, the Loan Agreement between DBP and [Galleon], the approved Board Resolutions by the DBP officers/board of directors, the participation/voting that transpired at the board meetings wherein the alleged behest loans were granted."[36]

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25 See Counter-Affidavit dated October 8, 2003; id. at 464-467.
26 See id. at 82-83.
27 See Comment (in lieu of Counter-Affidavit) dated November 15, 2003; id. at 486-490.
28 Id. at 84.
29 See Counter-Affidavit dated December 11, 2003; id. at 468-485.
30 Id. at 85.
31 See Counter-Affidavit dated December 3, 2003; id. at 491-506.
32 Id. at 86.
33 Id. at 64-92.
34 Id. at 91.
35 Id. at 86-87.
36 Id. at 87-88.

Aggrieved, the PCGG moved for reconsideration,[37] which was, however, denied in an Order[38] dated April 13, 2009; hence, this petition.[39]

The Issue Before the Court

The issue raised for the Court's resolution is whether or not the OMB gravely abused its discretion in finding no probable cause to indict respondents of violating Sections 3 (e) and (g) of RA 3019.

The Court's Ruling

The petition is meritorious.

At the outset, it must be stressed that the Court has consistently refrained from interfering with the discretion of the Ombudsman to determine the existence of probable cause and to decide whether or not an Information should be filed. Nonetheless, the Court is not precluded from reviewing the Ombudsman's action when there is a charge of grave abuse of discretion. Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction.[40] The Ombudsman's exercise of power must have been done in an arbitrary or despotic manner which 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.[41] The Court's pronouncement in *Ciron v. Gutierrez*[42] is instructive on this matter, to wit:

> x x x **this Court's consistent policy has been to maintain non-interference in the determination of the Ombudsman of the existence of probable cause, provided there is no grave abuse in the exercise of such discretion. This observed policy is based not only on respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well.** Otherwise, the functions of the Court will be seriously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped with cases if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.[43] (Emphasis and underscoring in the original)

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37 See Motion for Reconsideration dated November 18, 2008; id. at 98-101.
38 Id. at 93-97.
39 Likewise impleading then Ombudsman Ma. Merceditas Navarro-Gutierrez as respondent; id. at 3 and 6.
40 See *Ciron v. Gutierrez*, G.R. Nos. 194339-41, April 20, 2015.
41 See id., citing *Soriano v. Marcelo*, 610 Phil. 72, 79 (2009).
42 See id.
43 See id., citing *Tetangco v. Ombudsman*, 515 Phil. 230, 234-235 (2006).

In this regard, it is worthy to note that the conduct of preliminary investigation proceedings – whether by the Ombudsman or by a public prosecutor – is geared only to determine whether or not probable cause exists to hold an accused-respondent for trial for the supposed crime that he committed. In *Fenequito v. Vergara, Jr.*,[44] the Court defined probable cause and the parameters in finding the existence thereof in the following manner, to wit:

> Probable cause, for the purpose of filing a criminal information, has been defined as **such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof**. The term 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 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**.
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> A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed by the suspects. **It need not be based on clear and convincing evidence of guilt, not on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt**. 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. It does not require an inquiry as to whether there is sufficient evidence to secure a conviction**.[45] (Emphases and underscoring supplied)

Verily, preliminary investigation is merely an inquisitorial mode of discovering whether or not there is reasonable basis to believe that a crime has been committed and that the person charged should be held responsible for it. Being merely based on opinion and belief, a finding of probable cause does not require an inquiry as to whether there is sufficient evidence to secure a conviction.[46] "[A preliminary investigation] is not the occasion for the full and exhaustive display of [the prosecution's] evidence. The presence and absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits."[47] Hence, "the validity and merits of a party's defense or accusation, as well as the admissibility of testimonies and evidence, are better ventilated during trial proper than at the preliminary investigation level."[48]

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44 G.R. No. 172829, July 18, 2012, 677 SCRA 113.
45 Id. at 121, citing *Reyes v. Pearlbank Securities, Inc.*, 582 Phil. 505, 518-519 (2008).
46 See *Clay & Feather International, Inc. v. Lichaytoo*, 664 Phil. 764, 771 (2011).
47 *Lee v. KBC Bank N.V.*, 624 Phil. 115, 126 (2010), citing *Andres v. Cuevas*, 499 Phil. 36, 49-50 (2005).
48 Id. at 126-127.

Guided by the foregoing considerations, the Court finds that the Ombudsman gravely abused its discretion in dismissing the criminal complaint against individual respondents for lack of probable cause, as will be explained hereunder.

As already stated, individual respondents were accused of violating Section 3 (e) of RA 3019, the elements of which are as follows: (*a*) that the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (*b*) that he acted with manifest partiality, evident bad faith, or inexcusable negligence; and (*c*) that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.[49] In the same vein, they were likewise charged with violation of Section 3 (g) of the same law, which has the following elements: (*a*) that the accused is a public officer; (*b*) that he entered into a contract or transaction on behalf of the government; and (*c*) that such contract or transaction is grossly and manifestly disadvantageous to the government. [50] Notably, private individuals may also be charged with violation of Section 3 (g) of RA 3019 if they conspired with public officers.[51]

A review of the records of the case reveals that Galleon made a request for guarantees from DBP to cover its foreign borrowings for the purpose of acquiring new and secondhand vessels. In an evaluation memorandum[52] dated August 27, 1979, the DBP itself already raised various red flags regarding Galleon's request, such as the following: (*a*) its guarantee accommodation request covers 100% of its project cost, which is in excess of DBP's normal practice of financing only 80% of such cost; (*b*) its net profit margin was experiencing a steady decrease due to high operating costs; (*c*) its paid-up capital is only ₱9.95 Million; and (*d*) aside from its proposal to source the increase in equity from the expected profits from the operations of the vessels to be acquired, Galleon has not shown any concrete proof on how it will be funding its equity build-up.[53] Despite the foregoing, DBP still agreed to grant Galleon's request under certain conditions (*e.g.*, increase in paid-up capital, placement of adequate collaterals), which were eventually not complied with. Further, when Galleon's arrearages and obligations skyrocketed due to its failure to service its debts, DBP, instead of securing its interest by demanding immediate payment or the foreclosure of the collaterals, granted Galleon further accommodations in the form of foreign currency loans and release of certain collaterals. As a result of the foregoing, among other things, Galleon's total obligations to DBP ballooned all the way to ₱2,039,284,390.85, while the collaterals securing such obligations were only valued at ₱539,000,000.00 as

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49 See *Ciron v. Gutierrez*, supra note 40, citations omitted.
50 *Go v. The Fifth Division, Sandiganbayan*, 549 Phil. 783, 809 (2007), citations omitted.
51 See id. at 800-801, citing *Singian, Jr. v. Sandiganbayan*, 514 Phil. 536 (2005).
52 *Rollo*, Vol. I, pp. 295-323.
53 See id. at 148.

of March 31, 1984.[54] Further, Galleon's paid-up capital remained only at ₱46,740,755.00 as of June 30, 1981.[55]

In light of the foregoing considerations, the *Ad Hoc* Committee concluded that the accommodations extended by DBP to Galleon were in the nature of behest loans, which then led to the filing of criminal cases against individual respondents, who were high-ranking officers and/or directors of either Galleon or DBP, as evidenced by the various documents on record. Specifically, Cuenca, Tinio, and Roque were Galleon stockholders and were its President, Executive Vice-President and Treasurer, and Corporate Secretary, respectively.[56] On the other hand, the following individual respondents exercised official functions for the DBP during the time it extended Galleon the aforesaid accommodations: (*a*) Ferry as DBP Vice Chairman and Acting Chairman;[57] (*b*) Tengco as DBP Board Member, Supervising Governor, and Acting Chairman;[58] (*c*) Zosa as DBP Supervising Governor and Chairman of the Loan Committee;[59] (*d*) Zalamea as DBP Chairman;[60] (*e*) Castell as DBP Executive Officer and Manager of the Industrial Projects Development III;[61] and (*f*) Sison as DBP Board Member and Acting Chairman.[62] As may be gleaned from the documents on record, it appears that each of these high-ranking officers and/or directors of DBP had a hand in recommending the approval and/or the actual approval of the series of accommodations that DBP granted in favor of Galleon, which constituted the behest loans received by the latter during the regime of the late President Marcos.

In view of the accusations that they were involved in the grant of behest loans, Roque, Zalamea, Tengco, and Castell merely denied liability by maintaining that they had no participation in such grant. Suffice it to say that these are matters of defense that are better ventilated during the trial proper. On the other hand, Ferry, Zosa, Cuenca, Tinio, and Sison miserably failed to debunk the charges against them by not filing their respective counter-affidavits despite due notice. Indubitably, the foregoing establishes probable cause to believe that individual respondents may have indeed committed acts constituting the crimes charged against them, and as such they must defend themselves in a full-blown trial on the merits.

Finally, it was error for the Ombudsman to simply discredit the TWG's findings contained in the Executive Summary which were adopted by the *Ad Hoc* Committee for being hearsay, self-serving, and of little probative value. It is noteworthy to point out that owing to the initiatory

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54 Id. at 155.
55 Id. at 150.
56 Id. at 109, 112, 145, 191, and 355.
57 Id. at 398, 402, and 421.
58 Id. at 85,294, 402, and 469.
59 Id. at 391 and 458.
60 Id. at 391, 458, and 487.
61 Id. at 86, 294, 390, and 430.
62 Id. at 141.

nature of preliminary investigations, the technical rules of evidence should not be applied in the course of its proceedings.[63] In the recent case of *Estrada v. Ombudsman*,[64] the Court declared that hearsay evidence is admissible in determining probable cause in preliminary investigations because such investigation is merely preliminary, and does not finally adjudicate rights and obligations of parties. Citing a case decided by the Supreme Court of the United States, it was held that probable cause can be established with hearsay evidence, as long as there is substantial basis for crediting the hearsay, *viz.*:

> Justice Brion's pronouncement in *Unilever* that "the determination of probable cause does not depend on the validity or merits of a party's accusation or defense or on the admissibility or veracity of testimonies presented" correctly recognizes the doctrine in the United States that **the determination of probable cause can rest partially, or even entirely, on hearsay evidence, as long as the person making the hearsay statement is credible**. In *United States v. Ventresca*, the United States Supreme Court held:
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> > While a warrant may issue only upon a finding of "probable cause," this Court has long held that "the term 'probable cause' . . . means less than evidence which would justify condemnation," x x x and that a finding of "probable cause" may rest upon evidence which is not legally competent in a criminal trial. x x x As the Court stated in *Brinegar v. United States* x x x, "There is a large difference between two things to be proved (guilt and probable cause), as well as between the tribunals which determine them, and therefore a like difference in the quanta and modes of proof required to establish them." **Thus, hearsay may be the bases for issuance of the warrant "so long as there … [is] a substantial basis for crediting the hearsay."** x x x And, in Aguilar, we recognized that **"an affidavit may be based on hearsay information and need not reflect the direct personal observations of the affiant," so long as the magistrate is "informed of some of the underlying circumstances" supporting the affiant's conclusions and his belief that any informant involved "whose identity need not be disclosed…" was "credible" or his information "reliable."** x x x.
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> Thus, **probable cause can be established with hearsay evidence, as long as there is substantial basis for crediting the hearsay. Hearsay evidence is admissible in determining probable cause in a preliminary investigation because such investigation is merely preliminary, and does not finally adjudicate rights and obligations of parties.** x x x.[65] (Emphases and underscoring supplied)

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63 *De Chavez v. Ombudsman*, 543 Phil. 600, 620 (2007).

64 See G.R. Nos. 212140-41, January 21, 2015.

65 See id., citing *United States v. Ventresca*, 380 U.S. 102, 107-108 (1965).

In this case, assuming *arguendo* that the factual findings contained in the Executive Summary prepared by the TWG from which the *Ad Hoc* Committee based its conclusions are indeed hearsay, self-serving, and of little probative value, there is nevertheless substantial basis to credit the same, as such factual findings appear to be based on official documents prepared by DBP itself in connection with the behest loans it allegedly extended in favor of Galleon. In this regard, it must be emphasized that in determining the elements of the crime charged for purposes of arriving at a finding of probable cause, only facts sufficient to support a *prima facie* case against the respondents are required, not absolute certainty. Probable cause implies mere probability of guilt, *i.e.*, a finding based on more than bare suspicion, but less than evidence that would justify a conviction.[66] To reiterate, the validity of the merits of a party's defense or accusations and the admissibility of testimonies and evidences are better ventilated during the trial stage than in the preliminary stage.[67]

In sum, the Court is convinced that there is probable cause to indict individual respondents of violating Sections 3 (e) and (g) of RA 3019. Hence, the Ombudsman committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the criminal complaint against them.

WHEREFORE, the petition is **GRANTED**. The Resolution dated May 30, 2007 and the Order dated April 13, 2009 of the Office of the Ombudsman in OMB-C-C-03-0500-I are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Office of the Ombudsman is **DIRECTED** to issue the proper resolution indicting individual respondents Don M. Ferry, Jose R. Tengco, Jr., Rolando M. Zosa, Cesar C. Zalamea, Ofelia I. Castell, Rafael A. Sison, Rodolfo M. Cuenca, Manuel I. Tinio, and Antonio R. Roque of violating Sections 3 (e) and (g) of Republic Act No. 3019, in accordance with this Decision.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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66 *Shu v. Dee*, G.R. No. 182573, April 23, 2014, 723 SCRA 512, 523.
67 *De Chavez v. Ombudsman*, supra note 63.

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
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.

MARIA LOURDES P. A. SERENO
Chief Justice