Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

OFFICE OF THE OMBUDSMAN,
Petitioner,

- versus -

LETICIA BARBARA B. GUTIERREZ,
Respondent.

G.R. No. 189100

Present:

VELASCO, JR., *J.*, Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:

June 21, 2017

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DECISION

VELASCO, JR., *J.*:

Nature of the Case

This treats of the Petition for Review on Certiorari filed by the Office of the Ombudsman that seeks the reversal of the June 16, 2009 Decision[1] and July 23, 2009 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 107551. The adverted rulings absolved respondent Leticia Barbara B. Gutierrez (Gutierrez) from the charge of grave misconduct and denied petitioner's motion for intervention and reconsideration of the setting aside of respondent's dismissal from service.

The Facts

On October 25, 2002, the Bureau of Food and Drugs (BFAD), through its Bids and Awards Committee (BAC) composed of chairperson Christina dela Cruz and members Ma. Theresa Icabales, Rosemarie Juaño, Corazon Bartolome, and Ma. Florita Gabuna, issued an Invitation to Bid for the procurement of a Liquid Crystal Display (LCD) Projector. The said bidding was declared a failure because the price offered by the two (2) bidders, Advance Solutions and Gakken Phils. (Gakken), were higher than the recommended price of the Department of Budget and Management (DBM). Thus, on November 2, 2002, a second round of bidding was conducted,

[1] Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Remedios A. Salazar-Fernando and Magdangal M. de Leon.

which was participated in by Linkworth International, Inc. (Linkworth). But again, the bidding was declared a failure because the price offered by Linkworth exceeded the DBM's recommended amount.[2]

Due to the failure of the biddings, the BFAD decided to enter into negotiated contracts by way of canvas and based on the end-users' preference. Thereafter, Linkworth and Gakken submitted their respective quotations and conducted product demonstrations before the BAC, the BFAD Secretariat, and the end-users: the Supply Section and the Office of the Deputy Director, National Drug Policy (NDP).[3] Upon conclusion of the demonstrations, the Deputy Director of the NDP allegedly informed the BAC that it preferred the product offered by Gakken.

On January 15, 2003, a new BAC was formed, composed of Jesusa Joyce N. Cirunay (Cirunay) as chairperson, and Leonida M. Castillo, Marle B. Koffa, Nemia T. Getes, and Emilio L. Polig, Jr. as members.[4]

Then, on July 16, 2003, the BFAD, through Gutierrez, then Director of the BFAD, issued a Notice of Award to Linkworth for three (3) units of LCD Projectors for the aggregate amount of ₱297,000, which notice the supplier received through facsimile. Further, the notice required Linkworth to signify its conformity and to post a performance bond equivalent to 5% of the total price. However, when the representative from Linkworth tried to tender the required bond in the amount of ₱14,850 on July 25, 2003, the agency refused to accept the same. Linkworth, thus, wrote to respondent asking for an explanation.[5]

Despite having acknowledged receiving the letter from Linkworth on July 31, 2003, no written response was given by respondent. Gutierrez merely informed Linkworth that the agency will investigate the matter. Linkworth then sought the assistance of a law firm to look into the anomaly, and it was only then when it found out that it was allegedly awarded the procurement project by mistake. According to respondent, it was Gakken that actually won the award for the supply as shown by the July 10, 2003 Resolution of the BAC, unanimously approved by the new BAC composition. Linkworth was then advised by Gutierrez to disregard the Notice of Award earlier made in its favor.[6] This led to the filing of administrative charges against respondent and the members of the two BACs for grave misconduct.

In her defense, respondent averred that she did not collude, as she could not have colluded, with Gakken for the supply contract since she had no participation in selecting the winning supplier. The award in favor of Gakken was due to the fact that the end-users preferred its product over that

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[2] *Rollo*, p. 45.
[3] Id. at 46.
[4] Id.
[5] Id. at 43.
[6] Id. at 43-44.

of Linkworth. And since the purchase was through negotiated contract, the product specifications and other terms and conditions of the bidding were rendered ineffective, making the end-user preference the primary selection criterion.[7] Additionally, respondent countered that affixing her signature in the Notice of Award was only a ministerial function.

Gutierrez likewise averred that the error in the procurement process was only discovered when a representative from Linkworth presented a copy of the Notice of Award and offered to post a performance bond. She then ordered the investigation of the incident, following Linkworth's complaint. As borne by the investigation, one Johnny Gutierrez was ordered to prepare the Notice of Award, but he mistakenly instructed Danilo Asuncion, the typist at the Supply Section, to address the said notice to Linkworth instead of Gakken. And when Danilo Asuncion gave Johnny Gutierrez the Notice of Award that he had prepared, the latter brought it to Cirunay, the chairperson of the second BAC, for her initials. Before affixing her initials, Cirunay asked Johnny Gutierrez if the latter cross-checked the notice of award with the July 10, 2003 Resolution, which he answered in the affirmative. The Notice of Award was then forwarded to and initialled in turn by the Officer-in-Charge of the Administrative Division before it reached respondent's desk. Relying in good faith on the initials of her subordinates, particularly the members of the BAC, respondent claims that she could not be held administratively liable for grave misconduct.[8]

Ruling of the Ombudsman

On February 27, 2006, the Office of the Ombudsman rendered a Decision finding respondent guilty of Grave Misconduct in the following wise:[9]

> **PREMISES CONSIDERED**, pursuant to Section 52 (A-3) Rule IV of the Uniform Rules on Administrative Cases (CSC Resolution No. 991936), dated August 31, 1999, respondents JESUSA JOYCE N. CIRUNAY, LEONIDA M. CASTILLO, MARLE B. KOFFA, NEMIA T. GETES, EMILIO L. POLIG, JR. and LETICIA-BARBARA B. GUTIERREZ are hereby found guilty of **GRAVE MISCONDUCT** and [are] meted the corresponding penalty of **DISMISSAL FROM THE SERVICE** with cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification for reemployment in the government service.
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> On the other hand, respondents CHRISTINA A. DELA CRUZ, MA. THERESA ICABALES, ROSEMARIE JUANO, CORAZON BARTOLOME, MA. FLORITA GABUNA, and MA. ELENA FRANCISCO are **ABSOLVED** of the charges hurled against them.
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> **SO ORDERED.**

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[7] Id. at 74-75.
[8] Id. at 72-73.
[9] Id. at 90-91.

In so ruling, the Ombudsman did not give credence to the defense that the Notice of Award in favor of Linkworth was vitiated by error or mistake. It deemed improbable, if not impossible, that everyone who prepared, initialled, and signed the Notice of Award would make the same mistake despite the presence or availability of the attached July 10, 2003 Resolution that allegedly declares Gakken as the awardee of the negotiated purchase.[10] The Ombudsman also found it suspicious that when a representative from Linkworth attempted to post the required performance bond on July 25, 2003, a copy of the July 10, 2003 Resolution was not presented to him right then and there.[11]

Respondent, along with the members of the second BAC, moved for reconsideration from the judgment of dismissal, but to no avail. On September 30, 2008, the Ombudsman issued an Order, denying the recourses for lack of merit. Hence, the aggrieved parties filed their separate petitions for review before the appellate court. Respondent's appeal was docketed as CA-G.R. SP No. 107551, entitled *"Leticia Barbara B. Gutierrez vs. Linkworth International, Inc., represented by Tador L. Efann."* Petitioner was personally served a copy of respondent's petition for review.

Ruling of the Court of Appeals

Insofar as respondent is concerned, the CA, on June 16, 2009, reversed the findings of the Ombudsman, thusly:[12]

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED** and the Decision dated February 27, 2006 of the Office of the Ombudsman finding petitioner Leticia Barbara B. Gutierrez guilty of grave misconduct is **REVERSED** and **SET ASIDE**. Accordingly, the administrative complaint against her is dismissed.
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> **SO ORDERED.**

Justifying the reversal, the appellate court noted that Linkworth failed to file its comment on the petition despite due notice;[13] that there was no showing that respondent conspired with her co-respondents; that she neither acted irregularly nor did she perform an act outside of her official functions; and that there appears to be no deliberate or conscious act on her part showing bad faith or intent to give undue advantage to Gakken.[14]

Additionally, the CA ratiocinated that as head of office, respondent is saddled with numerous documents and other papers that routinely pass her office for signature. It is, thus, not humanly possible for her to examine each and every detail in the transaction or probe every single matter, but had to rely to a reasonable extent on the good faith of her subordinates who prepare

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[10] Id. at 85-86.
[11] Id. at 88.
[12] Id. at 60.
[13] Id. at 52.
[14] Id. at 56-57.

the documents.[15] Citing *Arias v. Sandiganbayan* (*Arias*),[16] the CA held that reliance in good faith by the head of office on his or her subordinates, upon whom the primary responsibility rests, absent clear proof of conspiracy, absolves the former from any liability. In this case, respondent relied on the initials of the BAC chairperson and the acting head of the administrative division when she signed the Notice of Award, and no conspiracy among them was established. Johnny Gutierrez and Danilo Asuncion even admitted to committing the mistake in the preparation of the Notice of Award.

Linkworth did not move for reconsideration of the above ruling.

Meanwhile, petitioner Ombudsman received a copy of the assailed CA Decision on June 22, 2009. Thereafter, it filed an Omnibus Motion for Intervention and for Admission of Attached Motion for Reconsideration (Omnibus Motion). Petitioner argued that under the 1997 Constitution and Republic Act No. 6770, otherwise known as the Ombudsman Act, the Ombudsman, as the mandated disciplining body with quasi-judicial authority to resolve administrative cases against public officials, has legal standing to explain, if not defend, its decisions in disciplinary cases,[17] consistent with the Court's pronouncement in *Philippine National Bank v. Garcia*,[18] *Civil Service Commission v. Dacoycoy*,[19] and *Office of the Ombudsman v. Samaniego*.[20]

Unfortunately for petitioner, the Omnibus Motion was denied on July 23, 2009 for having been filed out of time. The pertinent portion of the CA Resolution reads:

> Considering that the time for intervention has already passed with the rendition by the Court of its decision on June 16, 2009 (Sec. 2, Rule 19, 1997 Revised Rules of Civil Procedure), the Omnibus Motion for Intervention and for Admission of Attached Motion for Reconsideration filed by the Office of the Ombudsman is DENIED.

Thus, the instant recourse.

Grounds for the Allowance of the Petition

Petitioner invokes the following grounds for the reinstatement of its February 27, 2006 Decision:

I.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT TAKING COGNIZANCE OF AND NOT GRANTING THE

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[15] Id. at 57.
[16] G.R. Nos. 81563 & 82512, December 19, 1989, 180 SCRA 390.
[17] *Rollo*, p. 113.
[18] G.R. No. 141246, September 9, 2002, 388 SCRA 485.
[19] G.R. No. 135805, April 29, 1999, 306 SCRA 405.
[20] G.R. No. 175573, September 11, 2008, 564 SCRA 567.

OFFICE OF THE OMBUDSMAN'S MOTIONS FOR INTERVENTION AND RECONSIDERATION

II.

THE OFFICE OF THE OMBUDSMAN'S DECISION DATED 27 FEBRUARY 2006 FINDING RESPONDENT ADMINISTRATIVELY LIABLE FOR GRAVE MISCONDUCT AND THE ORDER DATED 30 SEPTEMBER 2008 DENYING RESPONDENT'S MOTION FOR RECONSIDERATION ARE IN ACCORDANCE WITH LAW AND ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.[21]

Primarily, petitioner bases its motion to intervene on the catena of cases it cited in its Omnibus Motion. It reiterates that as the constitutionally mandated disciplining body, it has the authority to defend its rulings on appeal, and that it had been allowed to do so via intervention before judicial authorities. As a party directly affected by the ruling rendered by the CA, it has sufficient legal interest to intervene, so the Ombudsman claims.[22]

More importantly, petitioner argues that its rulings were supported by substantial evidence on record. Conspiracy, according to petitioner, does not require direct evidence to be proven.[23] Here, respondent's role as a co-conspirator was established through her signature in the Notice of Award. The *Arias* doctrine could not exonerate respondent from liability, in view of the difference in factual milieu compared with the case at bar. The presumption that official duty has been regularly performed had been overturned since there is evidence to the contrary.[24]

In her Comment, respondent prays that the Court sustain the ruling of the CA. She discussed that the denial of the Omnibus Motion is consistent with Section 2, Rule 19 of the Rules of Court; that petitioner has no legal standing to intervene in this case in accordance with the Court's ruling in *Office of the Ombudsman v. Magno*,[25] *National Police Commission v. Mamauag*,[26] *Mathay, Jr. v. Court of Appeals*,[27] and *Pleyto v. Philippine National Police Criminal Investigation and Detection Group*;[28] that there is no valid reason to liberally apply the rules on intervention; and that even assuming arguendo that belated intervention is proper, the petition should still be denied for it failed to show any reversible error on the part of the CA.

Petitioner would reinforce its position in its Reply.

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[21] *Rollo*, pp. 14-15.
[22] Id. at 16-20.
[23] Id. at 23.
[24] Id. at 28-30.
[25] G.R. No. 178923, November 27, 2008, 572 SCRA 272.
[26] G.R. No. 149999, August 12, 2005, 466 SCRA 624.
[27] G.R. Nos. 124374, 126354 & 126366, December 15, 1999, 320 SCRA 703.
[28] G.R. No. 169982, November 23, 2007, 538 SCRA 534.

The Issue

Succinctly stated, the issue that the Court is confronted with is whether or not the appellate court erred in denying petitioner's Omnibus Motion.

The Court's Ruling

The petition is devoid of merit.

The Ombudsman has legal standing to intervene on appeal in administrative cases that it has resolved

Preliminarily, the Court rules that petitioner has legal standing to intervene. Based on the citations by both parties, it would appear that jurisprudence on this point has been replete, but erratic. A survey of the Court's pertinent rulings must then be made to shed light on this conundrum.

In earlier years, an exoneration from an administrative case is akin to an acquittal in a criminal action—both results are not subject to appeal. This is brought about not by the existence of a bar in administrative cases similar to double jeopardy; rather, this is based on the basic premise that appeal is not a statutory right, but a privilege. Of relevance are Secs. 37 and 39 of Presidential Decree No. 807,[29] which then provided:

> **Section 37.** *Disciplinary Jurisdiction.*
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> (a) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from Office. x x x
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> x x x x
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> **Section 39.** *Appeals.* Appeals, where allowable, **shall be made by the party adversely affected by the decision** within fifteen days from receipt of the decision unless a petition for reconsideration is seasonably filed, which petition shall be decided within fifteen days. x x x (emphasis added)

In *Paredes v. Civil Service Commission*,[30] *Mendez v. Civil Service Commission*,[31] *Magpale v. Civil Service Commission*,[32] *Navarro v. Civil Service Commission and Export Processing Zone Authority*,[33] and *Del Castillo v. Civil Service Commission*,[34] the Court has been uniform in its ruling that a decision exonerating a respondent of administrative liability is

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[29] Providing for the Organization of the Civil Service Commission in Accordance with Provisions of the Constitution, Prescribing Its Powers and Functions and for Other Purposes, October 6, 1975.

[30] G.R. No. 88177, December 4, 1990, 192 SCRA 84.

[31] G.R. No. 95575, December 23, 1991, 204 SCRA 96.

[32] G.R. No. 97381, November 5, 1992, 215 SCRA 398.

[33] G.R. Nos. 107370-71, September 16, 1993, 226 SCRA 522.

[34] G.R. No. 112513, February 14, 1995, 241 SCRA 317.

unappealable, neither by the private complainant nor by the disciplining authority. As explained in *Paredes*:[35]

> Based on the above provisions of law, **appeal to the Civil Service Commission in an administrative case is extended to the party adversely affected by the decision, that is, the person or the respondent employee who has been meted out the penalty of suspension for more than thirty days; or fine in an amount exceeding thirty days salary demotion in rank or salary or transfer, removal or dismissal from office**. The decision of the disciplining authority is even final and not appealable to the Civil Service Commission in cases where the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days salary. Appeal in cases allowed by law must be filed within fifteen days from receipt of the decision.
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> Here the MSPB after hearing and the submission of memoranda exonerated private respondent Amor of all charges except for habitual tardiness. The penalty was only a reprimand so that even private respondent Amor, the party adversely affected by the decision, cannot even interpose an appeal to the Civil Service Commission.
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> As correctly ruled by private respondent, petitioner **Paredes the complainant is not the party adversely affected by the decision so that she has no legal personality to interpose an appeal to the Civil Service Commission. In an administrative case, the complainant is a mere witness. Even if she is the Head of the Administrative Services Department of the HSRC as a complainant she is merely a witness for the government in an administrative case.** No private interest is involved in an administrative case as the offense is committed against the government. (emphasis added)

It will not be until the Court *En Banc*'s landmark ruling in the 1999 case of *Civil Service Commission v. Dacoycoy* (*Dacoycoy*), wherein the above pronouncement will be expressly overturned:

> At this point, we have necessarily to resolve the question of the party adversely affected who may take an appeal from an adverse decision of the appellate court in an administrative civil service disciplinary case. There is no question that respondent Dacoycoy may appeal to the Court of Appeals from the decision of the Civil Service Commission adverse to him. He was the respondent official meted out the penalty of dismissal from the service. On appeal to the Court of Appeals, the court required the petitioner therein, here respondent Dacoycoy, to implead the Civil Service Commission as public respondent as the government agency tasked with the duty to enforce the constitutional and statutory provisions on the civil service.
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> Subsequently, the Court of Appeals reversed the decision of the Civil Service Commission and held respondent not guilty of nepotism. Who now may appeal the decision of the Court of Appeals to the Supreme Court? Certainly not the respondent, who was declared not guilty of the charge. Nor the complainant George P. Suan, who was merely a witness for the government. **Consequently, the Civil Service Commission has become the party adversely affected by such ruling,**

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[35] Supra note 30, at 98-99.

> **which seriously prejudices the civil service system. Hence, as an aggrieved party, it may appeal the decision of the Court of Appeals to the Supreme Court. By this ruling, we now expressly abandon and overrule extant jurisprudence that the phrase party adversely affected by the decision refers to the government employee against whom the administrative case is filed for the purpose of disciplinary action** which may take the form of suspension, demotion in rank or salary, transfer, removal or dismissal from office and not included are cases where the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty days salary or when the respondent is exonerated of the charges, there is no occasion for appeal.[36] (emphasis added)

Apparently, *Dacoycoy* broadened the scope of "party adversely affected" so as to include the disciplining authority whose ruling is in question within its definition. However, this development introduced in *Dacoycoy* would be short-lived. In the same year that *Dacoycoy* was decided, the Court *En Banc* would render judgment in *Mathay, Jr. v. Court of Appeals* (*Mathay*) in the following wise:

> We are aware of our pronouncements in the recent case *of Civil Service Commission v. Pedro Dacoycoy* which overturned our rulings in *Paredes vs. Civil Service Commission, Mendez vs. Civil Service Commission* and *Magpale vs. Civil Service Commission.* In *Dacoycoy*, we affirmed the right of the Civil Service Commission to bring an appeal as the aggrieved party affected by a ruling which may seriously prejudice the civil service system.
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> **The aforementioned case, however, is different from the case at bar. *Dacoycoy* was an administrative case involving nepotism whose deleterious effect on government cannot be overemphasized. The subject of the present case, on the other hand, is reinstatement**.
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> We fail to see how the present petition, involving as it does the reinstatement or non-reinstatement of one obviously reluctant to litigate, can impair the effectiveness of government. Accordingly, the ruling in *Dacoycoy* does not apply.[37]

It would then appear that in not all administrative cases would the doctrine in *Dacoycoy* find application. On the other hand, *Mathay*, one of the cases relied upon by respondents, would pave the way for the Court's rulings in *National Police Commission v. Mamauag* (*Mamauag*)[38] and *Pleyto v. Philippine National Police Criminal Investigation and Detection Group* (*Pleyto*)[39] that would clarify the *Dacoycoy* doctrine, specifying that the government party appealing must not be the quasi-judicial body that meted out the administrative sanction, but the prosecuting body in the administrative case.

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[36] G.R. No. 135805, April 29, 1999, 306 SCRA 425, 436-437.
[37] Supra note 27, at 717.
[38] Supra note 26.
[39] Supra note 28.

In the 2005 case of *Mamauag*, the Court held that:[40]

> x x x [T]he **government party that can appeal is not the disciplining authority or tribunal which previously heard the case and imposed the penalty of demotion or dismissal from the service. The government party appealing must be one that is prosecuting the administrative case against the respondent. Otherwise, an anomalous situation will result where the disciplining authority or tribunal hearing the case, instead of being impartial and detached, becomes an active participant in prosecuting the respondent.** Thus, in *Mathay, Jr. v. Court of Appeals*, decided after *Dacoycoy*, the Court declared:
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> > To be sure, when the resolutions of the Civil Service Commission were brought before the Court of Appeals, the Civil Service Commission was included only as a nominal party. As a quasi-judicial body, the Civil Service Commission can be likened to a judge who should detach himself from cases where his decision is appealed to a higher court for review.
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> > In instituting G.R. No. 126354, the Civil Service Commission dangerously departed from its role as adjudicator and became an advocate. Its mandated function is to hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments and to review decisions and actions of its offices and agencies, not to litigate.

And in the 2007 ruling in *Pleyto*:[41]

> The court or the quasi-judicial agency must be detached and impartial, not only when hearing and resolving the case before it, but even when its judgment is brought on appeal before a higher court. The judge of a court or the officer of a quasi-judicial agency must keep in mind that he is an adjudicator who must settle the controversies between parties in accordance with the evidence and the applicable laws, regulations, and/or jurisprudence. His judgment should already clearly and completely state his findings of fact and law. There must be no more need for him to justify further his judgment when it is appealed before appellate courts. When the court judge or the quasi-judicial officer intervenes as a party in the appealed case, he inevitably forsakes his detachment and impartiality, and his interest in the case becomes personal since his objective now is no longer only to settle the controversy between the original parties (which he had already accomplished by rendering his judgment), but more significantly, to refute the appellants assignment of errors, defend his judgment, and prevent it from being overturned on appeal.

Later, in the 2008 case of *Office of the Ombudsman v. Samaniego (Samaniego)*,[42] the Court *En Banc* rendered judgment covering the decisions of the Ombudsman in administrative cases that is in tune with both *Dacoycoy* and *Mathay*. The Court ratiocinated in *Samaniego* that aside from the Ombudsman being the disciplining authority whose decision is being assailed, its mandate under the Constitution also bestows it wide disciplinary

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[40] Supra note 26, at 641-642.
[41] Supra note 28, at 549.
[42] Supra note 20.

authority that includes prosecutorial powers. Hence, it has the legal interest to appeal a decision reversing its ruling, satisfying both the requirements of *Dacoycoy* and *Mathay*. As elucidated in the case:[43]

> The Office of the Ombudsman sufficiently alleged its legal interest in the subject matter of litigation. Paragraph 2 of its motion for intervention and to admit the attached motion to recall writ of preliminary injunction averred:
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> > 2. As a competent disciplining body, the Ombudsman has the right to seek redress on the apparently erroneous issuance by this Honorable Court of the Writ of Preliminary Injunction enjoining the implementation of the Ombudsman's Joint Decision imposing upon petitioner the penalty of suspension for one (1) year, consistent with the doctrine laid down by the Supreme Court in PNB [vs]. Garcia x x x and CSC [vs]. Dacoycoy x x x; (citations omitted; emphasis in the original)
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> 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.
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> 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.
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> x x x x
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> 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?

Despite the *En Banc*'s clear pronouncement in *Samaniego*, seeming departures from the doctrine may be observed in the later rulings of *Office of the Ombudsman v. Magno* (*Magno*) (2008),[44] *Office of the Ombudsman v. Sison* (*Sison*) (2010),[45] and *Office of the Ombudsman v. Liggayu* (*Liggayu*)

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[43] Id. at 578-581.
[44] Supra note 25.
[45] G.R. No. 185954, February 16, 2010, 612 SCRA 702.

(2012).[46] Intervention by the Ombudsman was denied in these cases, citing *Mathay*, *Mamauag*, and *Pleyto* as precedents. Nevertheless, the Court would cement its position on the issue and would uphold *Samaniego* in *Office of the Ombudsman v. de Chavez* (2013)[47] and *Office of the Ombudsman v. Quimbo* (*Quimbo*) (2015).[48] As the Court ruled in *Quimbo:*

> The issue of whether or not the Ombudsman possesses the requisite legal interest to intervene in the proceedings where its decision is at risk of being inappropriately impaired has been laid to rest in *Ombudsman vs. De Chavez*. In the said case, **the Court conclusively ruled that even if the Ombudsman was not impleaded as a party in the proceedings, part of its broad powers include defending its decisions before the CA.** And pursuant to Section 1 of Rule 19 of the Rules of Court, the Ombudsman may validly intervene in the said proceedings as its legal interest on the matter is beyond cavil.[49] (emphasis added)

Thus, as things currently stand, *Samaniego* remains to be the prevailing doctrine. The Ombudsman has legal interest in appeals from its rulings in administrative cases. Petitioner could not then be faulted for filing its Omnibus Motion before the appellate court in CA-G.R. SP No. 107551.

The period for filing a motion to intervene had already lapsed

Jurisprudence describes intervention as a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him, her, or it to protect or preserve a right or interest which may be affected by such proceedings.[50] However, intervention is not a matter of right, but is instead addressed to the sound discretion of the courts.[51] It may be permitted only when the statutory conditions for the right to intervene are shown. Otherwise stated, the status of the Ombudsman as a party adversely affected by the CA's assailed Decision does not automatically translate to a grant of its motion to intervene. Procedural rules must still be observed before its intervention may be allowed.

Rule 19 of the Rules of Court prescribes the manner by which intervention may be sought, viz:

> **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

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[46] G.R. No. 174297, June 20, 2012, 674 SCRA 134.
[47] G.R. No. 172206, July 3, 2013, 700 SCRA 399.
[48] G.R. No. 173277, February 25, 2015.
[49] Id.
[50] *Mactan-Cebu International Airport Authority v. Heirs of Mioza*, G.R. No. 186045, February 2, 2011, 641 SCRA 520.
[51] *Ongco v. Dalisay*, G.R. No. 190810, July 18, 2012, 677 SCRA 232.

> 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.

Verily, aside from (1) having legal interest in the matter in litigation; (2) having legal interest in the success of any of the parties; (3) having an interest against both parties; (4) or being so situated as to be adversely affected by a distribution or disposition of property in the custody of the court or an officer thereof, the movant must also be able to interpose the motion before rendition of judgment, pursuant to Sec. 2 of Rule 19.

The period requirement is premised on the fact that intervention is not an independent action, but is ancillary and supplemental to an existing litigation.[52] Thus, when the case is resolved or is otherwise terminated, the right to intervene likewise expires. The *raison d'etre* for imposing the period was discussed in *Ongco v. Dalisay* in the following manner:

> There is wisdom in strictly enforcing the period set by Rule 19 of the Rules of Court for the filing of a motion for intervention. Otherwise, undue delay would result from many belated filings of motions for intervention after judgment has already been rendered, because a reassessment of claims would have to be done. Thus, those who slept on their lawfully granted privilege to intervene will be rewarded, while the original parties will be unduly prejudiced.[53]

It is this 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*. It may be that in these cases that seemingly deviated from *Samaniego*, the Court erred in holding that the Ombudsman does not have legal interest to intervene in the cases. However, it would be too much of a stretch to conclude that the Court likewise erred in denying the Ombudsman's motions to intervene. 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*. As held in *Magno*:[54]

> In the instant case, the Ombudsman moved to intervene in CA-G.R. SP No. 91080 only after the Court of Appeals had rendered its decision therein. It did not offer any worthy explanation for its belated

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[52] *Manalo v. Court of Appeals*, G.R. No. 141297, October 8, 2001, 419 SCRA 215.
[53] Supra note 51, at 242.
[54] Supra note 25, at 291.

> attempt at intervention, and merely offered the feeble excuse that it was not ordered by the Court of Appeals to file a Comment on Magno's Petition. Even then, as the Court has already pointed out, the records disclose that the Ombudsman was served with copies of the petition and pleadings filed by Magno in CA-G.R. SP No. 91080, yet it chose not to immediately act thereon.

And in *Sison*:[55]

> Furthermore, the Rules provides explicitly that a motion to intervene may be filed at any time **before rendition of judgment by the trial court**. In the instant case, the Omnibus Motion for Intervention was filed only on July 22, 2008, after the Decision of the CA was promulgated on June 26, 2008.
>
> In support of its position, petitioner cites *Office of the Ombudsman v. Samaniego*. That case, however, is not applicable here, since the Office of the Ombudsman filed the motion for intervention during the pendency of the proceedings before the CA.
>
> It should be noted that the Office of the Ombudsman was aware of the appeal filed by Sison. The Rules of Court provides that the appeal shall be taken by filing a verified petition for review with the CA, **with proof of service of a copy on the court or agency *a quo***. Clearly, the Office of the Ombudsman had sufficient time within which to file a motion to intervene. As such, its failure to do so should not now be countenanced. The Office of the Ombudsman is expected to be an activist watchman, not merely a passive onlooker.

Likewise, in *Liggayu*, the Office of the Ombudsman only filed its Omnibus Motion for Intervention and Reconsideration after the CA promulgated its decision.

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.

In the same vein, there is no cogent reason for the Court to disturb the ruling of the CA in CA-G.R. SP No. 107551. The appellate court did not abuse its discretion and neither did it commit reversible error when it denied the Office of the Ombudsman's Omnibus Motion, having been filed after the appellate court promulgated the assailed Decision. Resultantly, the instant petition must be denied, without the necessity of delving into the merits of the substantive arguments raised.

WHEREFORE, premises considered, the instant Petition for Review on Certiorari is hereby **DENIED** for lack of merit. The June 16, 2009 Decision and July 23, 2009 Resolution of the Court of Appeals in CA-G.R. SP No. 107551 are hereby **AFFIRMED**.

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[55] Supra note 45, at 717-718.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

NOEL GIMENEZ TIJAM
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 12 2017