



Republic of the Philippines
 Supreme Court
 Baguio City

THIRD DIVISION

**JOSECHITO B. GONZAGA, RUEL
 A. MAGSINO, AND ALFREDO B.
 SANTOS,**

G.R. No. 201914

Petitioners,

- versus -

**GOVERNOR ENRIQUE T.
 GARCIA, JR., AURELIO C.
 ANGELES, JR., EMERLINDA S.
 TALENTO, RODOLFO H. DE
 MESA, THE OFFICE OF THE HON.
 OMBUDSMAN, THE OFFICE OF
 THE HON. OVERALL DEPUTY
 OMBUDSMAN, AND THE OFFICE
 OF THE HON. SECRETARY OF
 THE DEPARTMENT OF THE
 INTERIOR AND LOCAL
 GOVERNMENT,**

Respondents.

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OFFICE OF THE OMBUDSMAN,

G.R. No. 202156

Petitioner,

Present:

- versus -

**GOVERNOR ENRIQUE T.
 GARCIA, JR., AURELIO C.
 ANGELES, JR., EMERLINDA S.
 TALENTO, AND RODOLFO H. DE
 MESA,**

**CAGUIOA, J.,
 LAZARO-JAVIER,*
 INTING,
 GAERLAN, and
 SINGH, JJ.**

Respondents.

Promulgated:

April 26, 2023

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 MIS-DEB-#

* Designated additional Member per Raffle dated April 19, 2023.

DECISION

GAERLAN, J.:

Before Us are two consolidated petitions for review on *certiorari*¹ under Rule 45 of the Rules of Court, as amended, assailing the Decision² dated December 22, 2011 and the Resolution³ dated May 16, 2012 issued by the Court of Appeals (CA) in CA-G.R. SP No. 106026.

Antecedents

Governor Enrique T. Garcia, Jr. (Gov. Garcia) was the governor of the Province of Bataan from 1992 to 1994 and from 2004 to 2013.⁴ On the other hand, respondents Aurelio C. Angeles, Jr. (Angeles), Emerlinda S. Talento (Talento), and Rodolfo H. De Mesa (De Mesa) served as Provincial Legal Officer, Provincial Treasurer (Officer-in-Charge), and Provincial Administrator, respectively, of the Province of Bataan.

The relevant facts obtaining in this case have been summarized by the Court in *Garcia, Jr. v. Court of Appeals*,⁵ thus:

Sometime in 2004, the provincial government of Bataan caused the tax delinquency sale of the properties of Sunrise Paper Products Industries, Inc. (Sunrise). Without any other bidder at the public auction, the province acquired the immovables consisting of a paper plant with its machineries and equipment and the parcels of land where it is erected. To annul the auction sale and to prevent the province from consolidating in its name the titles over the properties, Sunrise, on April 21, 2005, filed a petition for injunction docketed as Civil Case No. 8164 in the Regional Trial Court (RTC) of Bataan. Consequently, the other creditors of Sunrise intervened in the proceedings.

During the pendency of the case, the province represented by the governor entered into a compromise agreement with Sunrise on June 14, 2005. On the same date, the *Sangguniang Panlalawigan*, through a unanimous resolution, approved the same. Subsequently, the parties moved for the dismissal of the civil case, not on account of the settlement, but on the ground that the court did not acquire jurisdiction for failure of any of the parties to

¹ *Rollo* (G.R. No. 201914), pp. 33-74; *rollo* (G.R. No. 202156, Vol. I), pp. 45-121.

² *Id.* at 9-28. Penned by Associate Justice Danton Q. Bueser with Associate Justices Ricardo R. Rosario and Mario V. Lopez (now Members of the Court) concurring.

³ *Id.* at 30-31.

⁴ Greg Refraccion, June 15, 2016, Duterte visits wake of Bataan vice governor, *Philippine Daily Inquirer* (<https://newsinfo.inquirer.net/790878/duterte-visits-wake-of-bataan-vice-governor>). Last accessed May 2, 2022.

⁵ 604 Phil. 677 (2009). Penned by Associate Justice Antonio Eduardo B. Nachura with Associate Justices Consuelo Ynares-Santiago and Minita V. Chico-Nazario concurring and Associate Justices Maria Alicia Austria-Martinez and Diosdado M. Peralta dissenting.

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comply with Section 267 of Republic Act (R.A.) No. 7160, or the Local Government Code (LGC) of 1991. Upon the same ground, the parties no longer sought judicial approval of the compromise agreement.

However, the trial court refused to dismiss the case and, on June 15, 2007, rendered its Decision declaring, among others, that the auction sale was invalid, that the transfer certificates of titles in the name of the province were falsified, and that the compromise agreement executed by the parties was illegal. In G.R. No. 181311, currently pending with this Court, the province questioned, among others, the said decision of the trial court. A *status quo* order restraining the implementation of the trial court's decision was issued by this Court in that case.⁶ (Citations omitted)

By virtue of a Complaint-Affidavit⁷ dated January 22, 2008 and Supplemental Complaint-Affidavit⁸ dated March 18, 2008, filed by Josechito B. Gonzaga, Ruel A. Magsino, and Alfredo B. Santos (collectively, petitioners) before the Office of the Ombudsman (Ombudsman), Gov. Garcia, Aurelio C. Angeles, Jr., Emerlinda S. Talento, and Rodolfo H. De Mesa (collectively, respondents), along with other officials of the provincial government of Bataan, were charged with violation of Section 3(e) and (g) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as well as the offenses of Falsification of Public Documents, Malversation of Public Funds, and Illegal Detention, all of which were allegedly committed between the years 2004 and 2006.

In a Petition to Suspend Proceedings on the Ground of Existence of Prejudicial Question⁹ dated February 28, 2008, respondents prayed that the Ombudsman hold in abeyance its investigation of the averments in the complaint-affidavit and supplemental complaint-affidavit because the same were intricately related to a case which was pending before this Court, docketed as G.R. No. 181311.¹⁰

On October 28, 2008, the Ombudsman issued two Orders¹¹ denying respondents' petition, thereby directing the conduct of preliminary investigation and, in addition, preventively suspending respondents for a period not exceeding six months without pay.

⁶ Id. at 685-686.

⁷ *Rollo* (G.R. No. 202156, Vol. 1), pp. 217-262.

⁸ Id., Vol. 2, pp. 490-495.

⁹ Id. at 568-575.

¹⁰ Entitled "Province of Bataan, Hon. Enrique T. Garcia, Jr., Emerlinda S. Talento, and Amelita E. Abad, *petitioners*, v. Hon. Remigio M. Escalada, Jr., in his capacity as Presiding Judge of the Regional Trial Court Branch 3, Balanga City. Bataan, Victor G. Gawtee, and Cameron Granville 2 Asset Management, Inc., *respondents*."

¹¹ *Rollo* (G.R. No. 202156, Vol. 2), pp. 578-584 and 585-600. The Orders were penned by Judy Anne D. Escalona, Graft Investigation & Prosecution Officer II, recommended for approval by Mary Antonette Yalao, Director of the Preliminary Investigation, Administrative Adjudication, and Review Bureau (PARB), and, ultimately, approved by Overall Deputy Ombudsman Orlando C. Casimiro.

First, the Ombudsman resolved the issue on prejudicial question in the following manner:

In this case, we find no prejudicial question that would justify the suspension of the conduct of preliminary investigation for many reasons. First, the main issues which respondents raised in their Petition for Certiorari pertain to the denial by the Regional Trial Court of their motions for reconsideration of the Decision dated 15 June 2007, the declaration by the court that they lost their right to appeal his (sic) Decision dated 15 June 2007, and the issuance of a writ of execution against the respondents to satisfy its Decision dated 15 June 2007, while in this case, the issue pertains to the determination of whether or not there is sufficient evidence to engender a well-founded belief that herein respondents committed the crimes penalized under Sections 3(e) and 3(g) of Republic Act No. 3019, and the offenses of Falsification of Public Documents, Malversation of Public Funds and Properties, Illegal Detention, and Plunder. The issues in the Petition for Certiorari are not similar, not even intimately related to the issue in this case.

It therefore appears clearly from the foregoing that the issues in the Petition for Certiorari do not constitute prejudicial question to this case. Second, the eventual resolution by the Supreme Court of the issues raised in the special civil action for certiorari, even if in their favor, is irrelevant to and would not necessarily determine the finding by this forum whether respondents have probably committed the crimes of which they are charged. Third, the complainants in this case are not even parties to Civil Case No. 8164 the Decision of which the respondents in their Petition before the Supreme Court seek to annul.

With respect to the administrative proceedings on the administrative complaint against herein respondent public officials for Grave Misconduct, Dishonesty, and Oppression, the rules on prejudicial question do not apply.

UNDER THE FOREGOING PREMISES, the instant Petition is **DENIED**. Accordingly, the conduct of preliminary investigation and administrative adjudication of this case shall proceed. Respondents are hereby directed to submit their respective responsive pleadings to the Complaint-Affidavit dated 22 January 2008, and the Supplemental Complaint-Affidavit dated 13 March 2008 within ten (10) days from receipt of this Order.

SO ORDERED.¹²

And second, the Ombudsman ordered respondents' preventive suspension, *viz.*:

[A]dding to it the fact that herein respondents are charged of Oppression, Dishonesty, and Grave Misconduct which, if proved to have been perpetrated, warrant removal from the service, we have now determined that it is very likely that they would again intimidate or influence witnesses or would tamper with records that might be vital to the prosecution of the case against them, making it imperative on the part of the Office of the Ombudsman to immediately place

¹² Id. at 582-583.

them under preventive suspension, as the need for precautionary measures against possible abuse of the prerogatives of their office escalates under the circumstances.

UNDER THE FOREGOING PREMISES, the prayer seeking for the preventive suspension of respondent public officials is **PARTIALLY GRANTED**. Pursuant to Section 24, Republic Act No. 6770, and Section 9, Rule III, Administrative Order No. 7, Rules of Procedure of the Office of the Ombudsman, as amended by Administrative Order No. 17, Series of 2003, **GOVERNOR ENRIQUE T. GARCIA JR., ATTY. AURELIO C. ANGELES JR., EMERLINDA S. TALENTO, and RODOLFO H. DE MESA** are hereby placed under **PREVENTIVE SUSPENSION** until the administrative adjudication on this case is terminated, but not to exceed six (6) months, **WITHOUT PAY**, except when the delay in the disposition of the case is due to the fault, negligence or petition of respondents, in which case the period of such delay shall not be counted in computing the period of suspension.

X X X X

SO ORDERED.¹³

Aggrieved, respondents filed a Petition for *Certiorari*, Prohibition and *Mandamus*¹⁴ before the CA. They expounded, *inter alia*, that the complaint against them must be dismissed by virtue of the condonation doctrine. Since the acts imputed against them were allegedly committed between the years 2004 and 2006, Gov. Garcia's reelection in the May 2007 elections had effectively exonerated them from the wrongdoings imputed against them.

On December 22, 2011, the CA issued the herein assailed Decision¹⁵ reversing and setting aside the foregoing issuances of the Ombudsman. The appellate court found that the Ombudsman committed grave abuse of discretion when it did not suspend the proceedings in light of a prejudicial question involved in G.R. No. 181311. More significantly, the CA ruled that the propriety of imposing preventive suspension against respondents had already been rendered moot and academic in view of the condonation doctrine which effectively exonerated respondents, primarily Gov. Garcia, from administrative liability, *viz.*:

It is not disputed that the acts subject of the complaint filed before the Ombudsman were committed sometime in 2004 or before the 2007 and 2010 elections. Also, the fact is undisputed that Governor Enrique T. Garcia, Jr. was elected by the people of the Province of Bataan in the aforementioned elections. Considering such, We deem it necessary to cite the following comprehensible and pertinent rulings of the High Court x x x.

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¹³ Id. at 598-599.

¹⁴ Id. at 849-877.

¹⁵ Id. (G.R. No. 201914), pp. 9-28

No matter how we may look at it, the inescapable conclusion is that the petitioner Governor is entitled to the application of the above Supreme Court rulings. His successful re-election, twice, as a Governor are proof of the condonation by the people of the province of Bataan of the **alleged** past administrative faults. The order therefore of the Ombudsman on October 28, 2008, preventively suspending petitioner Governor for six months has been rendered moot and academic.

One may validly contend (a) that the reelection of the petitioner Governor does not bar prosecution for the crimes committed, or (b) that the electorate's condonation cannot be extended to other administratively and criminally charged employees. However, it cannot also be denied that the decision of the trial court dated June 15, 2007, in Civil Case No. 8164, is being questioned before the Supreme Court. The same was docketed as G.R. No. 181311 and is presently pending. Given the foregoing, We believe that a prejudicial question comes into play with regard to the civil and criminal cases.

A prejudicial question is defined as that which arises in a case, the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. It is said to come into play when a civil action and a criminal action are both pending and there exists in the former case an issue which must be preemptively resolved before the latter case may proceed since the resolution of the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case. Aimed at avoiding two conflicting decisions, a prejudicial question requires the concurrence of two essential requisites, to wit: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and, (b) the resolution of such issue determines whether or not the criminal action may proceed. x x x

x x x x

Here, the only and main basis in the filing of the administrative and criminal charges against the petitioners is the decision rendered by the trial court in Civil Case No. 8164. The counsel for the government even admitted this when it declared that the Office of the Ombudsman **is still looking for evidence** independent from those that came from private respondents Josechito B. Gonzaga, Ruel A. Magsino and Alfredo B. Santos. x x x But the validity of the said trial court's decision has been questioned before the Supreme Court which is still pending. If the latter reverses the trial court ruling, then the subject complaint will no longer have a leg to stand on. (Governor Enrique T. Garcia, Jr., vs. Court of Appeals, G.R. No. 185132, April 24, 2009) Thus, it is only apt that the civil action must be decided first before the prosecution of the petitioners can proceed.

With respect to the administrative action against the other charged employees, the prejudicial question is squarely not applicable. Yet, in the interest of good order, We find that the Ombudsman must still await the outcome of the pending civil case before continuing with the proceeding. Both cases are so closely associated. x x x¹⁶

The CA thus disposed:

¹⁶ Id. at 20-26.

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WHEREFORE, premises considered, the petition is **GRANTED**.
The assailed Order of the Office of the Ombudsman dated October 28, 2008 in OMB-L-A-08-0039-A is hereby **REVERSED and SET ASIDE**.

SO ORDERED.¹⁷

Petitioners¹⁸ and the Ombudsman,¹⁹ through the Office of the Solicitor General, filed separate motions for reconsideration, but the same were denied by the CA in the herein assailed Resolution²⁰ dated May 16, 2012.

Hence, the present recourse.

Arguments

Petitioners contend that in rendering the herein assailed issuances, the CA interfered with the Ombudsman's duty to conduct administrative investigations;²¹ that the Ombudsman had justifiable grounds to preventively suspend respondents;²² and that the CA overlooked the basic procedural tenets when it gave due course to respondents' petition despite the fact that they never filed any motion for reconsideration before the Ombudsman.²³

The Ombudsman, on the other hand, asseverates that the petition before the CA was infirm for failure on the part of respondents to file a motion seeking a reconsideration of the issuances of the Ombudsman;²⁴ that the Ombudsman did not act with grave abuse of discretion when it ordered the conduct of preliminary investigation and preventively suspend respondents;²⁵ and that the condonation doctrine must not be applied in favor of respondents.²⁶

Countermanding the foregoing postures, respondents in their Comments²⁷ assert that the arguments advanced by petitioners and the Ombudsman are mere reiterations of their contentions before the CA;²⁸ and that, at any rate, the issues raised in the present consolidated cases have already been settled by this Court in G.R. No. 185132.²⁹

¹⁷ Id. at 28.

¹⁸ Id. at 94-117.

¹⁹ Id. (G.R. No. 202156, Vol. 1), pp. 145-184.

²⁰ Id. (G.R. No. 201914), pp. 30-31.

²¹ Id. at 50.

²² Id. at 58.

²³ Id. at 69.

²⁴ *Rollo* (G.R. No. 202156, Vol. 1), p. 67.

²⁵ Id. at 81-82.

²⁶ Id. at 85-86.

²⁷ *Rollo* (G.R. No. 201914), pp. 155-172; id. (G.R. No. 202156, Vol. 3), pp. 1111-1128.

²⁸ Id. at 163-164; id. at 1117.

²⁹ Id. (G.R. No. 202156, Vol. 3), p. 1125.

Meanwhile, Gov. Garcia passed away on June 13, 2016.³⁰ The Court takes notice of such fact in accordance with Section 2,³¹ Rule 129 of the Rules of Court.

Issue

The Court is tasked to resolve whether the CA erred in granting respondents' petition for *certiorari*, prohibition and *mandamus*.

Ruling of the Court

The Court observes that the assailed issuances of the CA mandate: (1) the suspension of the criminal and administrative investigation against respondents on the ground of prejudicial question; and (2) the recall of the preventive suspension of respondents because of the condonation doctrine.

We partly grant the petitions.

I.

At the outset, the issue on the propriety of suspending the proceedings before the Ombudsman, on the ground of the existence of a prejudicial question, had already been rendered moot by virtue of the Court's Decision³² dated November 24, 2021 in G.R. No. 181311. In the said Decision, the Court ruled, *inter alia*, that the auction sale made by the Province of Bataan was null and void; that the Province of Bataan and Sunrise Paper Products, Inc. were jointly and solidarily liable to pay damages in the amount of ₱120,000,000.00 to one Victor G. Gawtee whose machinery and equipment were taken as part of the auction sale; and that the provincial officials of Bataan, respondents included, cannot be held liable for damages because their specific acts were not established by the plaintiff in that case.

Jurisprudence teaches us that a prejudicial question comes into play generally in a situation where civil and criminal actions are pending and the issues involved in both cases are similar or so closely related that an issue must be pre-emptively resolved in the civil case before the criminal action can

³⁰ Allan Macatuno, June 20, 2016, In Bataan, "Pitbull of Congress" buried. *Philippine Daily Inquirer* (<https://newsinfo.inquirer.net/791409/in-bataan-pitbull-of-congress-buried>). Last accessed May 2, 2022.

³¹ SECTION 2. *Judicial notice, when discretionary.* — A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.

³² Penned by Associate Justice Rosmari D. Carandang with Associate Justices Marvic Mario Victor F. Leonen, Rodil V. Zalameda, Ricardo R. Rosario, and Japar B. Dimaampao concurring.

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proceed.³³ Since the civil case has already been resolved, the issue of whether there is a prejudicial question, as would necessitate a pause in the criminal proceedings involving the respondents, is now moot and academic.

Indeed, a moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.³⁴ In *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*,³⁵ the Court elaborated:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.³⁶ (Citations omitted)

On this score, We need not adjudicate on the issuances of the CA insofar as they overturned the Order of the Ombudsman denying respondents' Petition to Suspend Proceedings on the Ground of Existence of Prejudicial Question dated February 28, 2008.³⁷

It bears noting that because of the principle that a person's criminal liability pending investigation, if any, is extinguished by reason of his or her death, the criminal complaint as far as Gov. Garcia is concerned can no longer proceed. This should not, however, impede the Ombudsman's conduct of its investigation on whether there is probable cause to indict respondents Angeles, Talento, and De Mesa of the crimes charged.

II.

The condonation doctrine, which was first edified by the Court in *Pascual v. Provincial Board of Nueva Ecija*,³⁸ prohibits the disciplining of an elective official for a wrongful act committed during his or her immediately preceding term of office.³⁹ This is based on the reasoning that the said elective official's reelection is considered a condonation of his or her past misdeeds.⁴⁰

³³ *Domingo v. Spouses Singson*, 808 Phil. 488, 498 (2017).

³⁴ *Gunsi, Sr. v. Commissioners, Commission on Elections*, 599 Phil. 223, 229 (2009).

³⁵ 728 Phil. 535 (2014).

³⁶ *Id.* at 540.

³⁷ *Rollo* (G.R. No. 202156, Vol. 1), p. 60.

³⁸ 106 Phil. 466, 471-472 (1959).

³⁹ *Salumbides, Jr. v. Office of the Ombudsman*, 633 Phil. 325, 333 (2010).

⁴⁰ *Garcia v. Mojica*, 372 Phil. 892, 911-912 (1999).

In *Carpio Morales v. Court of Appeals*⁴¹ (*Carpio Morales*), the Court abandoned the condonation doctrine ratiocinating, *inter alia*, that it is “out of touch from — and now rendered obsolete by — the current legal regime.”⁴² Then, in *Madreo v. Bayron*⁴³ (*Madreo*), We emphasized that the abandonment of the condonation doctrine shall be prospective in nature, or from April 12, 2016 onwards.

Parenthetically, the condonation doctrine is still considered as “good law” in all administrative cases involving public officials whose *reelections occurred before April 12, 2016*, regardless of the dates of filing of the administrative cases against them or the status of said cases when the *Carpio Morales* ruling attained finality.⁴⁴ The most important consideration in the doctrine of condonation is the fact that the misconduct was done on a prior term and that the subject public official was eventually reelected by the same body politic.⁴⁵

II. A.

In the instant case, the offense charged was allegedly committed sometime between the years 2004 and 2006. It is an undisputed fact that Gov. Garcia was reelected to the same position of governor in the 2007 elections. Obviously, these events took place prior to the effectivity of the abandonment of the condonation doctrine as laid down in *Carpio Morales* and clarified in *Madreo*.

Applying the condonation doctrine, it can be concluded that by reason of Gov. Garcia’s reelection to the same position in 2007, his constituents have already forgiven him for any administrative liability that he may have incurred during his incumbency as governor.⁴⁶ His reelection to the same position had already exonerated him from the administrative misconduct imputed against him from 2004 to 2007.⁴⁷

In any event, We apply the ruling in *Flores-Concepcion v. Castañeda*⁴⁸ where the Court declared that the death of the respondent in an administrative case renders such case against him or her moot. Since Gov. Garcia died during the pendency of the investigation against him, the same is now moot as far as he is concerned.

⁴¹ 772 Phil. 672 (2015).

⁴² *Id.* at 775.

⁴³ G.R. Nos. 237330 & 237579, November 3, 2020.

⁴⁴ *Gaudan v. Degamo*, G.R. Nos. 226935, 2288238 & 228325, February 9, 2021.

⁴⁵ *Office of the Ombudsman v. Vergara*, 822 Phil. 361, 380 (2017).

⁴⁶ *Valeriano v. De Castro*, G.R. Nos. 247689-90, April 26, 2021.

⁴⁷ *Id.*

⁴⁸ A.M. No. RTJ-15-2438, September 15, 2020.

II. B.

As for respondents Angeles, Talento, and De Mesa, the records show that they were not elected officials at the time of the commission of the acts imputed against them.

In *Civil Service Commission v. Sojor*,⁴⁹ the Court declared that the benefits of the condonation doctrine do not extend to non-elected government officials, viz.:

Lastly, We do not agree with respondent's contention that his appointment to the position of president of NORSU, despite the pending administrative cases against him, served as a condonation by the BOR of the alleged acts imputed to him. The doctrine this Court laid down in *Salalima v. Guingona, Jr.* and *Aguinaldo v. Santos* are inapplicable to the present circumstances. Respondents in the mentioned cases are elective officials, unlike respondent here who is an appointed official. Indeed, election expresses the sovereign will of the people. Under the principle of *vox populi est suprema lex*, the re-election of a public official may, indeed, supersede a pending administrative case. The same cannot be said of a re-appointment to a non-career position. There is no sovereign will of the people to speak of when the BOR re-appointed respondent Sojor to the post of university president.⁵⁰ (Citation omitted)

Thus, it is apparent the CA egregiously erred in applying the condonation doctrine to benefit respondents Angeles, Talento, and De Mesa.

III.

Indeed, the provisions of R.A. No. 6770⁵¹ cover the entire gamut of administrative adjudication which entails the authority of the Ombudsman to, *inter alia*, receive complaints, conduct investigations, hold hearings in accordance with its rules of procedure, summon witnesses and require the production of documents, place under preventive suspension public officers and employees pending an investigation, determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence, and, necessarily, impose the said penalty.⁵²

Specifically, Section 19 of R.A. No. 6770 empowers the Ombudsman to act on administrative complaints:

⁴⁹ 577 Phil. 52 (2008).

⁵⁰ Id. at 72.

⁵¹ The Ombudsman Act of 1989.

⁵² *Office of the Ombudsman v. Court of Appeals*, 524 Phil. 405, 430 (2006).

SECTION 19. *Administrative Complaints.* — The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.

And adjunct with the Ombudsman's power to investigate is the power to order the preventive suspension of government officials who are the subject of said investigations. Section 24 of R.A. No. 6770 so states:

SECTION 24. *Preventive Suspension.* — The Ombudsman or his Deputy may preventively suspend any officer or employee under his authority pending an investigation, if in his judgment the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (b) the charges would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the case filed against him.

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six (6) months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.

In *Buenaseda v. Flavier*,⁵³ the Court explained the importance of the Ombudsman's power to preventively suspend government officials and employees under investigation:

Under the Constitution, the Ombudsman is expressly authorized to recommend to the appropriate official the discipline or prosecution of erring public officials or employees. In order to make an intelligent determination whether to recommend such actions, the Ombudsman has to conduct an investigation. In turn, in order for him to conduct such investigation in an expeditious and efficient manner, he may need to suspend the respondent.

The need for the preventive suspension may arise from several causes, among them, the danger of tampering or destruction of evidence in the

⁵³ 297 Phil. 719 (1993).

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possession of respondent; the intimidation of witnesses, etc. The Ombudsman should be given the discretion to decide when the persons facing administrative charges should be preventively suspended.⁵⁴

The imposition of preventive suspension lies at the discretion of the Ombudsman which cannot be disturbed by the courts in the absence of grave abuse of discretion. As the Court ratiocinated in *Office of the Ombudsman v. Capulong*:⁵⁵

The requisites for the Ombudsman to issue a preventive suspension order are clearly contained in Section 24 of R.A. No. 6770. The rule is that whether the evidence of guilt is strong is left to the determination of the Ombudsman by taking into account the evidence before him. In the very words of Section 24, the Ombudsman may preventively suspend a public official pending investigation if “*in his judgment*” the evidence presented before him tends to show that the official's guilt is strong and if the further requisites enumerated in Section 24 are present. The Court, however, can substitute its own judgment for that of the Ombudsman on this matter, with a clear showing of grave abuse of discretion on the part of the Ombudsman.⁵⁶ (Citations omitted)

Apart from its discussion on the condonation doctrine, the CA never explained why the Ombudsman erred in ordering the preventive suspension of respondents Angeles, Talento, and De Mesa.

On the contrary, the Ombudsman clearly advanced as justification for the foregoing officials' preventive suspension that “it is very likely that they would again intimidate or influence witnesses or would tamper with records that might be vital to the prosecution of the case against them, making it imperative on the part of the Office of the Ombudsman to immediately place them under preventive suspension, as the need for precautionary measures against possible abuse of the prerogatives of their office escalates under the circumstances.”⁵⁷ In so doing, We find that the Ombudsman did not commit any grave abuse of discretion, or such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction,⁵⁸ in exercising its power of preventive suspension.

WHEREFORE, the petitions are **PARTLY GRANTED**. The Decision dated December 22, 2011 and the Resolution dated May 16, 2012 issued by the Court of Appeals in CA-G.R. SP No. 106026 are hereby **REVERSED** and **SET ASIDE** insofar as respondents Aurelio C. Angeles, Jr., Emerlinda S. Talento, and Rodolfo H. De Mesa are concerned.

⁵⁴ Id. at 727-728.


⁵⁵ 729 Phil. 553 (2014).

⁵⁶ Id. at 564.

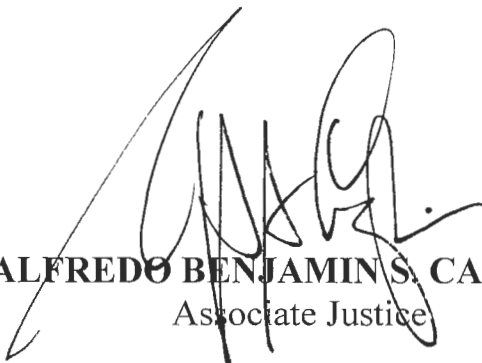
⁵⁷ *Rollo* (G.R. No. 202156, Vol. 2), p. 598.

⁵⁸ *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591 (2007).

SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

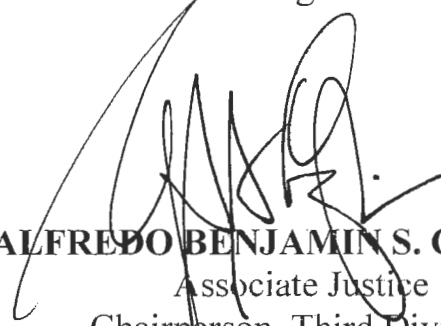

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice


ATTESTATION

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


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice