Supreme Court E-Library

EN BANC

[G.R. Nos. 256060-61. June 27, 2023.]

PORO EXIM CORPORATION, represented by JAIME VICENTE, *Petitioner*, ***v.*** **OFFICE OF THE OMBUDSMAN and FELIX S. RACADIO,** *Respondents*.

D E C I S I O N

KHO, JR., *J.*:

Assailed in this Petition for *Certiorari*[1] under Rule 65 of the Rules of Court are the Joint Resolution[2] dated April 2, 2018 and the Joint Order[3] dated April 5, 2019 of the Office of the Ombudsman (Ombudsman) in OMB-L-C-17-0487 and OMB-L-A-17-0532 dismissing the Complaint of petitioner Poro Exim Corporation (petitioner) against private respondent Felix S. Racadio (respondent) on the ground of lack of jurisdiction.

The Facts

This case stemmed from a Complaint filed by petitioner before the Ombudsman criminally and administratively charging respondent with violation of Section 3(e) of Republic Act No. (RA) 3019,[4] abuse of authority, conduct prejudicial to the best

---

1 *Rollo*, pp. 3–41.

2 *Id.* at 42–54. Penned by Graft Investigation & Prosecution Officer I Rhey David S. Daway, reviewed by Director Margie G. Fernandez-Calpatura and Assistant Ombudsman Gil Felix A. Hidalgo, with recommending approval of Deputy Ombudsman for Luzon Gerard A. Mosquera, and approved by Ombudsman Samuel R. Martires (formerly a Member of this Court).

3 *Id.* at 55–60. Penned by Graft Investigation & Prosecution Officer I Rhey David S. Daway, reviewed by Director Margie G. Fernandez-Calpatura and Acting Assistant Ombudsman Adoracion A. Agbada, with recommending approval of Deputy Ombudsman for Luzon Gerard A. Mosquera, and approved by Ombudsman Samuel R. Martires (formerly a Member of this Court).

4 Entitled "Anti-Graft and Corrupt Practices Act," approved on August 17, 1960.

Supreme Court E-Library

interest of the service, grave misconduct, oppression, and violation of Section 5(c) of RA 6713,[5] docketed as OMB-L-C-17-0487 and OMB-L-A-17-0532. Respondent is the Director, President, and Chief Executive Officer (CEO) of the Poro Point Management Corporation (PPMC), a corporation incorporated under the Corporation Code that is fully owned by the Bases Conversion and Development Authority (BCDA). PPMC is the operating and implementing arm of the BCDA to manage the Poro Point Freeport Zone (PPFZ), which is a freeport established under RA 7227, as amended by RA 9400.[6]

In its Complaint, petitioner, an authorized importer within the PPFZ that was duly accredited by several government agencies, essentially alleged that respondent, in his capacity as PPMC Director, President, and CEO, committed acts that directly prejudiced its importation business. Particularly, petitioner alleged that respondent, under the guise of conducting a thorough and in-depth investigation of petitioner's past dealings, business transactions, and importations within the PPFZ, unduly delayed the approval of its various applications for import permits covering a shipment of more than 200 units of vehicles, equipment, and parts. Moreover, respondent issued petitioner a show-cause order (SCO), claiming that based on his initial investigation report (IIR), the latter committed various violations which, if not controverted, would result in the automatic revocation and cancellation of its Certificate of Registration.[7]

Furthermore, petitioner claimed that respondent's arbitrary and capricious delay in the approval of such import permits may be evinced from the following: (*a*) all of petitioner's past applications for import permits were duly approved within two days; (*b*) the PPMC's Vice President for Regulatory Services already endorsed petitioner's applications to respondent; (*c*) no notice of any violation of law, rule, or regulation had been

---

[5] Otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," approved on February 20, 1989.

[6] *Rollo*, pp. 42–43.

[7] *Id.* at 43–44.

Supreme Court E-Library

given to petitioner with respect to its shipments; (*d*) no criminal, civil, or administrative case had been filed against petitioner or any of its directors or officers for any such purported violations; (*e*) respondent was already implementing his new policy, although the same was neither published nor approved by the PPMC Board of Directors; (*f*) respondent did not cite any law, rule, or regulation as basis for considering petitioner's shipment as "big volume" or "large number"; (*g*) respondent refused to issue the import permits despite petitioner's repeated pleas for his immediate action on the applications for such permits, as well as his full awareness of the economic ramifications of such delay; (*h*) he defeated the PPMC's legal mandate of ensuring the free flow of goods within the PPFZ; and (*i*) the SCO and IIR, which he signed alone, do not cite any specific provision of law, rule, or regulation that petitioner purportedly violated. Finally, petitioner averred that due to respondent's undue delay, it was constrained to withdraw all its applications that it filed before the PPFZ and caused the importation of its shipment into regular customs territory through the Bureau of Customs, Port of San Fernando, and by other locators in the Subic Bay Freeport Zone.[8]

In his defense, respondent denied the allegations against him. He maintained that since it was his first time to encounter applications for import permits involving a very large volume of vehicles, equipment, and parts, he chose to be prudent by referring such applications to the Board of Directors for approval, but without denying or approving the same. He further contended, *inter alia*, that applying for an import permit will not automatically result in its grant. Finally, respondent asserted that the Ombudsman has no jurisdiction over him, being an official of the PPMC, which is a Government-Owned and Controlled Corporation (GOCC) without an original charter.[9]

---

[8] *Id.* at 44–46.

[9] *Id.* at 46–47.

Supreme Court E-Library

The Ombudsman Ruling

In a Joint Resolution[10] dated April 2, 2018, the Ombudsman dismissed the Complaint on the ground of lack of jurisdiction.[11]

Primarily citing Article XI, Section 13 (2) of the Constitution, in relation to *Khan, Jr. v. Office of the Ombudsman* (*Khan*),[12] the Ombudsman held that its jurisdiction over GOCCs is limited only to those with original charters. Since PPMC is a GOCC without an original charter, the Ombudsman has no jurisdiction over its officers, such as respondent.[13]

Aggrieved, petitioner moved for reconsideration but the same was denied in a Joint Order[14] dated April 5, 2019; hence, this petition.

The Issue Before the Court

The core issue for the Court's resolution is whether the Ombudsman gravely abused its discretion in dismissing petitioner's Complaint on the ground of lack of jurisdiction.

The Court's Ruling

The Petition is meritorious.

"The term 'grave abuse of discretion' has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a 'capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.' ***The abuse of discretion must be so patent and gross as to amount to an 'evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law***, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.' Furthermore, the use of a petition for *certiorari* is restricted only

---

[10] *Id.* at 42–54.

[11] *Id.* at 52.

[12] 528 Phil. 32 (2006) [Per J. Corona, Second Division].

[13] *Rollo*, pp. 48–52.

[14] *Id.* at 55–60.

Supreme Court E-Library

to 'truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void.' From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross."[15]

In this case, the Ombudsman, citing *Khan*, found that Article XI, Section 13 (2) of the Constitution should be interpreted to mean that the "Ombudsman's jurisdiction over GOCCs is confined only to those with original charters,"[16] and as such, it has no jurisdiction over respondent, who is the Director, President, and CEO of PPMC, a GOCC without an original charter.

The Court rules that such finding is tainted with grave abuse of discretion, and hence, must be set aside.

Article XI, Section 13 of the Constitution provides the powers, functions, and duties of the Ombudsman. The portions pertinent to this case read:

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

1. **Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient**.

2. Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, **as well as of any government-owned or controlled corporation with original charter**, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.

x x x x

---

[15] *Yokohama Tire Philippines, Inc. v. Reyes*, 870 Phil. 292, 306–307 (2020) [Per C.J. Peralta, First Division], citing *Yu v. Judge Reyes-Carpio*, 667 Phil. 474, 481–482 (2011) [Per J. Velasco, Jr., First Division].

[16] *Rollo*, p. 48.

Supreme Court E-Library

8. Promulgate its rules of procedure and exercise such other powers **or perform such functions or duties as may be provided by law**. (Emphases and underscoring supplied)

It is an elementary rule in statutory construction that "[t]he whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible. In short, every meaning to be given to each word or phrase must be ascertained from the context of the body of the statute since a word or phrase in a statute is always used in association with other words or phrases and its meaning may be modified or restricted by the latter."[17]

Here, to limit the Ombudsman's power over GOCCs only to those with original charters, purportedly pursuant to Article XI, Section 13 (2) of the Constitution, is myopic as it fails to consider the other powers given to the Ombudsman. It is well to emphasize that Article XI, Section 13 of the Constitution explicitly provides that the Ombudsman is tasked to, *inter alia*, "investigate x x x any act or omission of any public official, employee, office[,] or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient" and to "***perform such functions or duties as may be provided by law***." In this regard, there are various laws which provide the Ombudsman with additional powers, functions, and duties.

Section 15 (1) of RA 6770,[18] otherwise known as The Ombudsman Act of 1989, explicitly provides that the Ombudsman has the power to "[i]nvestigate and prosecute . . . any act or omission of any public officer, employee, office or agency, when such act or omission appears to be illegal. ***It has primary jurisdiction over case cognizable by the Sandiganbayan*** and, in the exercise of

---

[17] *Eizmendi, Jr. v. Fernandez*, 866 Phil. 638, 653–654 (2019) [Per J. Peralta, Third Division], citing *Blay v. Baña*, 827 Phil. 494, 500 (2018) [Per J. Perlas-Bernabe, Second Division].

[18] Entitled "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for Other Purposes" approved on November 17, 1989.

Supreme Court E-Library

his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases."

In relation to this, it is worthy to emphasize that the jurisdiction of the Sandiganbayan was first delineated in Presidential Decree No. (PD) 1486.[19] Throughout the years, various laws were enacted in relation thereto, such as PD 1606,[20] RA 7975,[21] RA 8249,[22] and RA 10660,[23] most of which expanded the jurisdiction of the Sandiganbayan to include crimes committed by public officers or employees including those employed in government-owned and controlled corporations ***without distinction on whether such GOCCs have original charters or not***.

To be sure, Section 4 (c) of PD 1606 reads:

Section 4. *Jurisdiction*. The Sandiganbayan shall have jurisdiction over:

x x x x

(c) Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.

---

[19] Entitled "Creating a Special Court to be Known as 'Sandiganbayan' and for Other Purposes" approved on June 11, 1978.

[20] Entitled "Revising Presidential Decree No. 1486 Creating a Special Court to be Known as 'Sandiganbayan' and for Other Purposes" approved on December 10, 1978.

[21] Entitled "An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, amending for that Purpose Presidential Decree No. 1606, as Amended" approved on March 30, 1995.

[22] Entitled "An Act Further Defining the Jurisdiction of the Sandiganbayan, amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds therefor, and for Other Purposes" approved on February 5, 1997.

[23] Entitled "An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, further Amending Presidential Decree No. 1606, as Amended, and Appropriating Funds therefor" approved on April 16, 2015.

Supreme Court E-Library

Later on, Section 2 of RA 7975 essentially retained the Sandiganbayan's jurisdiction over GOCCs in the following manner:

Section 2. Section 4 of the same Decree is hereby further amended to read as follows:

> Sec. 4. Jurisdiction. The Sandiganbayan shall exercise original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> x x x x
>
> (g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;
>
> b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

Thereafter, Section 4 of RA 8249 retained in essence the foregoing provision in RA 7975 insofar as GOCCs are concerned, to wit:

> Section 4. Section 4 of the same decree is hereby further amended to read as follows:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government

Supreme Court E-Library

whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

x x x x

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

Finally, Section 2, RA 10660 also retained the same provision as follows:

Section 2. Section 4 of the same decree, as amended, is hereby further amended to read as follows:

SEC. 4. *Jurisdiction*. — The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

x x x x

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

Furthermore, case law promulgated during the enactment of the foregoing amendatory laws has recognized the Sandiganbayan's

Supreme Court E-Library

jurisdiction over "presidents, directors or trustees, or managers of government-owned or controlled corporations," without any distinction on whether such GOCCs have original charters or not.

In *People v. Sandiganbayan*,[24] a case involving a complaint filed during the effectivity of RA 8249 against the President and Chief Operating Officer of the Philippine Postal Savings Bank (PPSB), a subsidiary of the Philippine Postal Corporation which is a government-owned corporation not created by special law, the Court, through Justice (and eventual Chief Justice) Renato C. Corona, ***explicitly ruled that the Sandiganbayan has jurisdiction over presidents, directors, trustees, or managers of GOCCs, regardless of whether or not they have original charters***, *viz.*:

> Does the Sandiganbayan have jurisdiction over presidents, directors or trustees, or managers of government-owned or controlled corporations organized and incorporated under the Corporation Code for purposes of the provisions of RA 3019, otherwise known as the Anti-Graft and Corrupt Practices Act?
>
> x x x x
>
> It is not disputed that the Sandiganbayan has jurisdiction over presidents, directors or trustees, or managers of government-owned or controlled corporations with original charters whenever charges of graft and corruption are involved. However, a question arises whether the Sandiganbayan has jurisdiction over the same officers in government-owned or controlled corporations organized and incorporated under the Corporation Code in view of the delimitation provided for in Article IX-B, Section 2(1) of the 1987 Constitution which states that:
>
> > SEC. 2. (1) The Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.
>
> It should be pointed out however, that the jurisdiction of the Sandiganbayan is separate and distinct from the Civil Service Commission. The same is governed by Article XI, Section 4 of the 1987 Constitution which provides that "the present anti-graft court known as the Sandiganbayan *shall continue to function and exercise its jurisdiction*

---

[24] 491 Phil. 591 (2005) [Per J. Corona, Third Division].

Supreme Court E-Library

as now or hereafter may be provided by law." This provision, in effect, retained the jurisdiction of the anti-graft court as defined under Article XIII, Section 5 of the 1973 Constitution which mandated its creation, thus:

> Sec. 5. The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offense committed by public officers and employees, *including those in government-owned or controlled corporations*, in relation to their office as may be determined by law. (Italics ours)

On March 30, 1995, Congress, pursuant to its authority vested under the 1987 Constitution, enacted RA 7975 maintaining the jurisdiction of the Sandiganbayan over presidents, directors or trustees, or managers of government-owned or controlled corporations without any distinction whatsoever. Thereafter, on February 5, 1997, Congress enacted RA 8249 which preserved the subject provision:

> **Section 4. *Jurisdiction*. The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:**
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director, and higher, otherwise classified as grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758) specifically including:
>
> x x x x
>
> **(g) *Presidents, directors or trustees, or managers of government-owned or controlled corporations*, state universities or educational institutions or foundations.** (Italics ours)

The legislature, in mandating the inclusion of "presidents, directors or trustees, or managers of government-owned or controlled corporations" within the jurisdiction of the Sandiganbayan, has

Supreme Court E-Library

consistently refrained from making any distinction with respect to the manner of their creation.

The deliberate omission, in our view, clearly reveals the intention of the legislature to include the presidents, directors or trustees, or managers of *both* types of corporations within the jurisdiction of the Sandiganbayan whenever they are involved in graft and corruption. Had it been otherwise, it could have simply made the necessary distinction. But it did not.

It is a basic principle of statutory construction that when the law does not distinguish, we should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. Corollarily, Article XI, Section 12 of the 1987 Constitution, on the jurisdiction of the Ombudsman (the government's prosecutory arm against persons charged with graft and corruption), includes officers and employees of government-owned or controlled corporations, likewise without any distinction.[25] (Emphases and underscoring supplied)

In *Carandang v. Desierto*,[26] a case also involving a complaint filed during the effectivity of RA 8249, the Court, through Justice (and eventual Chief Justice) Lucas P. Bersamin, similarly ruled:

It is not disputed that the Ombudsman has jurisdiction over administrative cases involving grave misconduct committed by the officials and employees of government-owned or -controlled corporations; and that the Sandiganbayan has jurisdiction to try and decide criminal actions involving violations of R.A. 3019 committed by public officials and employees, including presidents, directors and managers of government-owned or -controlled corporations. The respective jurisdictions of the respondents are expressly defined and delineated by the law.[27]

In *Garcia v. Sandiganbayan*,[28] the Court, through Justice Andres B. Reyes, Jr., in ruling that the Sandiganbayan has the inherent power to issue hold departure orders, also recognized, albeit in

---

[25] *Id.* at 593–595.

[26] 654 Phil. 277 (2011) [Per J. Bersamin, Third Division].

[27] *Id.* at 287; citations omitted.

[28] 842 Phil. 240 (2018) [Per J. A. Reyes, Jr., Second Division].

Supreme Court E-Library

passing, the Sandiganbayan's jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in GOCCs:

> As to the question on the determination of the necessity of the issuance of HDOs, it is largely dependent on the good judgment of the Sandiganbayan. It is worth reiterating that it is a special court tasked with a particular undertaking of hearing and deciding criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office. It is of the same level as the Court of Appeals and possesses all the inherent powers of a court of justice. Considering the complexity of its tasks which was made even more complicated by the fact that it is dealing with high-ranking public officials and employees, it is given the wide latitude of resorting to the exercise of its express and implied powers for the proper determination of the fitting recompense for the injury done to the government.[29]

Finally, in *Maligalig v. Sandiganbayan*,[30] which involves a complaint filed when RA 10660 was already the prevailing law insofar as the Sandiganbayan's jurisdiction is concerned, the Court, through Chief Justice Diosdado M. Peralta, again recognized the Sandiganbayan's jurisdiction over officials of GOCCs, to wit:

> In law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution. Jurisdiction is defined as the power and authority of a court to hear, try and decide a case. The jurisdiction of the Sandiganbayan is provided in P.D. No. 1606, as amended by R.A. No. 10660, which, insofar as relevant in this case, reads as follows:
>
> x x x x
>
> In this case, the two (2) Informations filed against the petitioner before the Sandiganbayan showed that he was charged with Violation of Section 3 (e) of R.A. No. 3019, and Malversation of Public Funds through Falsification of Public Document. The Information for violation

---

[29] *Id.* at 268–269; citations omitted.

[30] 867 Phil. 847 (2019) [Per C.J. Peralta, First Division].

Supreme Court E-Library

of the anti-graft law asserts that petitioner, "*in the discharge of his administrative and/or official functions and taking advantage of his official position, did then and there, willfully, unlawfully and criminally, with evident bad faith or gross inexcusable negligence*" performed the acts constitutive of the offense charged. On the other hand, the charge for the complex crime of Malversation of Public Funds through Falsification of Public Document was allegedly committed by the petitioner "*while in the performance of or in relation to his office and taking advantage of his official position.*" Both Informations also alleged that petitioner is a public officer "*being then the President and a member of the Board of Directors of the Bataan Shipyard and Engineering Co., Inc. (BASECO), a government-owned or -controlled corporation.*" Thus, on the basis of the allegations in the accusatory Informations alone, there is sufficient basis for the Sandiganbayan to take cognizance of the two (2) cases against the petitioner. The jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information. And once it is shown, the court may validly take cognizance of the case.

Petitioner's defense that he was not a public officer at the time of the alleged commission of the offense does not hold water. It is well-settled that, "jurisdiction is not affected by the pleas or the theories set up by defendant or respondent in an answer, a motion to dismiss, or a motion to quash. Otherwise, jurisdiction would become dependent almost entirely upon the whims of defendant or respondent." Besides, his admission in his Counter-Affidavit filed before the Office of the Ombudsman that he was appointed as member of the Board of Directors, and eventually as President of BASECO by former President Gloria Macapagal-Arroyo, militates against his claim that he was not a public officer. A public officer is defined in the Revised Penal Code as "any person who, by direct provision of the law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government, or in any of its branches, public duties as an employee, agent or subordinate official, of any rank or class." The concept of a public officer was expounded further in the *Serana* case, where it was held that, "An investment in an individual of some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public makes one a public officer." As President of a sequestered company like BASECO, petitioner is expected to perform functions that would benefit the public in general.

Thus, the Sandiganbayan did not commit grave abuse of discretion in denying petitioner's Motion to Quash and Motion for Reconsideration.

Supreme Court E-Library

It definitely has jurisdiction over the case and over the person of the petitioner since offenses for violation of R.A. No. 3019 and the complex crime of Malversation of Public Funds through Falsification of Public Document and petitioner's position, as alleged in the two (2) Informations, are clearly among those offenses and felonies and public officers enumerated in P.D. No. 1606, as amended by R.A. No. 10660.[31]

As may be gleaned from the foregoing, the Sandiganbayan's jurisdiction over "[p]residents, directors or trustees, or managers of government-owned or controlled corporations," without any distinction on whether such GOCCs have original charters or not, is well-settled both in law and jurisprudence.

Since the Sandiganbayan has jurisdiction over presidents, directors, trustees, or managers of GOCCs, regardless of whether they were incorporated through original charters, then the Ombudsman, in accordance with Article XI, Section 13 (8) of the Constitution and Section 15 (1) of RA 6770, also has jurisdiction over them.

At this juncture, suffice it to say that the case relied upon by the Ombudsman—*Khan*, which held that the jurisdiction over GOCCs is confined only to those with original charters—have no application in this case. This is considering that the complaint subject of *Khan* was filed in February 1989, or before the enactment of: (*a*) RA 6770 which provided through statute the additional powers of the Ombudsman; and (*b*) RA 7975, RA 8249, and RA 10660, all of which provided for the expanded jurisdiction of the Sandiganbayan, as previously discussed. On the other hand, the Complaint filed by herein petitioner was filed on August 10, 2017, or during the effectivity of RA 6770 and RA 10660.

In light of the foregoing, the Court rules that the Ombudsman has jurisdiction over the Complaint filed against respondent by herein petitioner; hence, it gravely abused its discretion in ruling that it had none. In this regard, since the Ombudsman merely dismissed such Complaint on this ground and did not traverse the merits thereof, it is only prudent that the Court reinstates OMB-

---

[31] *Id.* at 854–857; citations omitted.

Supreme Court E-Library

L-C-17-0487 and OMB-L-A-17-0532, and thereafter, remand the same to the Ombudsman for a resolution on the merits.

ACCORDINGLY, the Petition is **GRANTED**. The Ombudsman's Joint Resolution dated April 2, 2018 and the Joint Order dated April 5, 2019 in OMB-L-C-17-0487 and OMB-L-A-17-0532 are **ANNULLED** and **SET ASIDE**. As such, OMB-L-C-17-0487 and OMB-L-A-17-0532 are hereby **REINSTATED** and **REMANDED** to the Office of the Ombudsman for resolution on the merits, **WITH DISPATCH**.

SO ORDERED.

Leonen (Acting C.J.),[*] *Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez,* and *Singh, JJ.*, concur.

Gesmundo, C.J., on official leave.

APPEARANCES OF COUNSEL

Paraoan Nuestro and Associates Law Office for petitioner.

[*] Per Special Order No. 2989 dated June 24, 2023.