

SECOND DIVISION

[G. R. No. 137538, September 03, 2001]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. HON. FRANCISCO B. IBAY, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, MAKATI CITY, BRANCH 135, UNION BANK OF THE PHILIPPINES, AND LOURDES T. MARQUEZ, IN HER CAPACITY AS BRANCH MANAGER OF UBP JULIA VARGAS BRANCH, RESPONDENTS.

RESOLUTION

QUISUMBING, J.:

This special civil action for *certiorari* seeks to annul the Orders of public respondent dated August 19, 1998 and December 22, 1998, and to dismiss the proceedings in Civil Case No. 98-1585.

The factual antecedents of this case are as follows:

Sometime in 1998, petitioner conducted an investigation on the alleged "scam" on the Public Estates Authority-Amari Coastal Bay Development Corporation. The case, entitled *Fact-Finding and Intelligence Bureau vs. Amadeo Lagdameo, et al.*, was docketed as OMB-0-97-0411. Initial result of the investigation revealed that the alleged anomaly was committed through the issuance of checks which were subsequently deposited in several financial institutions. On April 29, 1998, petitioner issued an Order directing private respondent Lourdes Marquez, branch manager of Union Bank of the Philippines branch at Julia Vargas Avenue, Pasig City, to produce several bank documents for inspection relative to Account Nos. 011-37270-5, 240-020718, 245-30317-3 and 245-30318-1, reportedly maintained in the said branch. The documents referred to include bank account application forms, signature cards, transactions history, bank statements, bank ledgers, debit and credit memos, deposit and withdrawal slips, application for purchase of manager's checks, used manager's checks and check microfilms. The inspection would be done "*in camera*" wherein the bank records would be examined without bringing the documents outside the bank premises. Its purpose was to identify the specific bank records prior to the issuance of the required information not in any manner needed in or relevant to the investigation.^[1]

Private respondent failed to comply with petitioner's order. She explained that the subject accounts pertain to International Corporate Bank (Interbank) which merged with Union Bank in 1994. She added that despite diligent efforts, the bank could not identify these accounts since the checks were issued in cash or bearer forms. She informed petitioner that she had to first verify from the Interbank records in its archives the whereabouts of said accounts.^[2]

Petitioner found private respondent's explanation unacceptable. Petitioner reminded

private respondent that her acts constitute disobedience or resistance to a lawful order and is punishable as indirect contempt under Section 3 (b), Rule 71 of the Revised Rules of Court, in relation to Section 15 (9) of R.A. 6770 (Ombudsman Act of 1989). The same might also constitute willful obstruction of the lawful exercise of the functions of the Ombudsman, which is punishable under Section 36 of R.A. 6770. On June 16, 1998, petitioner issued an order to private respondent to produce the requested bank documents for "*in camera*" inspection. In the event of her failure to comply as directed, private respondent was ordered to show cause why she should not be cited for contempt and why she should not be charged for obstruction.

[3]

Instead of complying with the order of petitioner, private respondent filed a petition for declaratory relief with an application for temporary restraining order and/or preliminary injunction before the Regional Trial Court of Makati City, Branch 135, presided by respondent Judge Francisco Ibay. The petition was docketed as Civil Case No. 98-1585. In her petition, private respondent averred that under Sections 2 and 3 of R.A. 1405 (Law on Secrecy of Bank Deposits), she had the legal obligation not to divulge any information relative to all deposits of whatever nature with banks in the Philippines. But petitioner's Order cited Section 15 (8) of R.A. 6770 stating that the Ombudsman had the power to examine and have access to bank accounts and records. Private respondent, therefore, sought a definite ruling and/or guidelines as regards her rights as well as petitioner's power to inspect bank deposits under the cited provisions of law. Meanwhile, private respondent filed with this Court a petition for certiorari and prohibition, assailing petitioner's order to institute indirect contempt proceedings against her.[4]

Petitioner moved to dismiss the aforesaid petition for declaratory relief on the ground that the RTC has no jurisdiction over the subject matter thereof. In an order dated August 19, 1998, now being assailed, public respondent denied petitioner's motion to dismiss. Petitioner then filed an *ex-parte motion for extended ruling*. On December 22, 1998, public respondent issued an order declaring that it has jurisdiction over the case since it is an action for declaratory relief under Rule 63 of the Rules of Court.

Seasonably, petitioner filed before this Court the instant petition assailing the Orders dated August 19, 1998 and December 22, 1998 of public respondent on the ground that public respondent assumed jurisdiction over the case and issued orders with grave abuse of discretion and clear lack of jurisdiction. Petitioner sought the nullification of the impugned orders, the immediate dismissal of Civil Case No. 98-1585, and the prohibition of public respondent from exercising jurisdiction on the investigation being conducted by petitioner in the alleged PEA-AMARI land "scam".

The only question raised by petitioner for resolution is whether or not public respondent acted without jurisdiction and/or with grave abuse of discretion in entertaining the cited petition for declaratory relief.

Petitioner contends that the RTC of Makati City lacks jurisdiction over the petition for declaratory relief. It asserts that respondent judge should have dismissed the petition outright in view of Section 14 of R.A. 6770.

Section 14 of R.A. 6770 provides: