

EN BANC

[G.R. NO. 159139, May 03, 2006]

INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES ET AL. V. COMMISSION ON ELECTIONS ET AL.

SIRS/MESDAMES:

*Quoted hereunder, for your information, is a resolution of this Court dated **MAY 3, 2006***

G.R. No. 159139 (*INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES et al. v. COMMISSION ON ELECTIONS et al.*)

On March 28; 2006, this Court issued a Resolution directing the Office of the Ombudsman (OMB), "under pain of contempt, to report on a regular basis - once every three months -- the steps it has taken and the corresponding results of those actions to 'determine the criminal liability, if any, of the public officials (and conspiring private individuals, if any,) involved in the subject Resolution and Contract.' Accordingly, the OMB shall render its reports on or before June 30, 2006, and every three months thereafter, on September 30, 2006, December 31, 2006, and so on, till the matter is finally disposed of."

On April 19, 2006, petitioners filed a Motion for Clarification, inquiring about the following issues: (1) "how long [can] the Office of the Ombudsman x x x sit on this case without making a determination on the criminal liability, if any, of the public officials involved"; and (2) "whether the failure of the Ombudsman to make a determination on the aforementioned Complaints, one (1) year and four (4) months after the case was deemed submitted (with the filing of the Joint Comment of the Comelec Commissioners with the Office of the Ombudsman), can be considered as acting promptly on a complaint, within the letter and spirit of the Constitution."

Petitioner-movants aver that the March 28, 2006 Resolution of this Court does not provide a closure as to when the OMB should make a determination of criminal liability. They contend that apparently, the OMB can even "sit on this case indefinitely," because "their only obligation under the "Resolution x x x is to submit a report every three months."

They, thus, seek an Order from the Court "directing the Office of the Ombudsman to complete its determination of the criminal liability, if any, of the public officials involved in Comelec Resolution No. 6074 awarding the contract for Phase II of AES to Mega Pacific Consortium, as well as the subject Contract between Comelec and Mega Pacific eSolutions (MPEI), within a deadline x x x."

The pertinent provision of the Constitution reads as follows:

"Sec. 12[, Article XI]. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government x x x."

Accordingly, the OMB is duty-bound to resolve *promptly* all complaints, motions and related matters before it. *Promptly* means "to act at once or without delay."^[1] It may also mean "within a reasonable period of time." Thus, OMB certainly does not have the luxury of sitting on cases for an indefinite period. Nor even this Court's directive for it to render every three months a report on steps it has undertaken relative to a case authorizes it to simply do just that and nothing more.

The OMB is fully aware of its duty to dispose of cases within a definite period. The time limits are spelled out in its very own Rules of Procedure (Administrative Order No. 7) as follows:

"Sec. 4[, Rule II]. *Procedure* [in criminal cases]. - The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court x x x.

x x x x x x x x x"

"Sec. 6[, Rule III. *Procedure in Administrative Cases*]. *Rendition of decision*. - Not later than thirty (30) days after the termination of the hearing, the investigating officer shall submit a resolution containing his findings and recommendation for the approval of the Ombudsman. Once approved, the said resolution shall constitute the decision in the case. x x x."

The aforementioned Section 3, Rule 112 of the Rules of Court, provides:

"Sec. 3. *Procedure*. - The preliminary investigation shall be conducted in the following manner:

x x x x x x x x x

"(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents.

x x x x x x x x x

"(c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense.

"(d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.