

SECOND DIVISION

[G.R. No. 132177, July 19, 2001]

**JUDGE JOSE F. CAOIBES, JR., PETITIONER, VS. THE HONORABLE
OMBUDSMAN AND JUDGE FLORENTINO M. ALUMBRES,
RESPONDENTS.**

D E C I S I O N

BUENA, J.:

Petitioner Jose F. Caoibes, Jr., Presiding Judge of Branch 253 of the Regional Trial Court of Las Piñas City, seeks the review of the following orders of the Office of the Ombudsman: (1) the Order dated August 22, 1997 denying the ex-parte motion to refer to the Supreme Court filed by petitioner; and (2) the Order dated December 22, 1997 denying petitioner's motion for reconsideration and directing petitioner to file his counter-affidavit and other controverting evidences.

On May 23, 1997, respondent Florentino M. Alumbres, Presiding Judge of Branch 255 of the Regional Trial Court of Las Pinas City, filed before the Office of the Ombudsman, a Criminal Complaint^[1] for physical injuries, malicious mischief for the destruction of complainant's eyeglasses, and assault upon a person in authority. Respondent alleged therein that on May 20, 1997, at the hallway on the third floor of the Hall of Justice, Las Pinas City, he requested petitioner to return the executive table he borrowed from respondent; that petitioner did not answer so respondent reiterated his request but before he could finish talking, petitioner blurted "*Tarantado ito ah,*" and boxed him at his right eyebrow and left lower jaw so that the right lens of his eyeglasses was thrown away, rendering his eyeglasses unserviceable; and that respondent had the incident blottered with the Las Piñas Police Station. He prayed that criminal charges be filed before the Sandiganbayan against the petitioner.

On June 13, 1997, respondent Judge lodged another Complaint^[2] against petitioner, this time an administrative case with the Supreme Court, docketed as Adm. Case No. 97-387-RTJ, praying for the dismissal of petitioner from the judiciary on the ground of grave misconduct or conduct unbecoming a judicial officer. Said complaint is based on the same facts as those in the complaint filed earlier with the office of the Ombudsman.

In the Order^[3] dated June 25, 1997, the Office of the Ombudsman required petitioner to file a counter-affidavit within ten (10) days from receipt thereof. Instead of filing a counter-affidavit, petitioner filed on July 7, 1997 and "Ex-Parte Motion for Referral to the Honorable Supreme Court,"^[4] praying that the Office of the Ombudsman hold its investigation of Case No. OMB-0-97-0903 in abeyance, and refer the same to the Supreme Court which, through the Office of the Court Administrator, is already investigating what transpired on May 20, 1997. Petitioner contended that the Supreme Court, not the Office of the Ombudsman, has the

authority to make a preliminary determination of the respective culpability of petitioner and respondent Judge who, both being members of the bench, are under its exclusive supervision and control.

On August 22, 197, the Office of the Ombudsman issued an Order^[5] denying the motion for referral to the Supreme Court. Invoking Section 15 (1) of Republic Act No. 6770, the Office of the Ombudsman held that it is within its jurisdiction to investigate the criminal charges of respondent Judge against petitioner.

Petitioner moved for reconsideration^[6] of the foregoing order, maintaining that the Office of the Ombudsman should either refer Case No. OMB-0-97-0903 to the Supreme Court for preliminary evaluation, or await the latter's resolution of Adm. Case No. 97-387-RTJ which involves the same parties and subject matter. Otherwise, petitioner argues, the absurd situation may result wherein the Office of the Ombudsman files criminal charges against petitioner who, on the other hand, is declared without fault by the Supreme Court.

In the Order^[7] dated December 22, 1997, the Office of the Ombudsman denied the motion for reconsideration and required petitioner to submit a counter-affidavit within an inextendible period of five (5) days from receipt thereof.

Hence, petitioner filed this petition for certiorari, asking for the reversal of the assailed Orders dated August 22, 1997 and December 22, 1997 of the Office of the Ombudsman and the issuance of a writ of injunction or temporary restraining order, directing the Office of the Ombudsman to refrain from taking further action in the implementation of the challenged orders.

The issue in this case is whether or not the Office of the Ombudsman should defer action on case No. OMB-0-97-0903 pending resolution of Adm. Case No. 97-387-RTJ.

The issue is not novel. In ***Maceda vs. Vasquez***,^[8] this Court resolved in the affirmative the issue of whether or not the Ombudsman must defer action on a criminal complaint against a judge, or a court employee where the same arises from their administrative duties, and refer the same to this Court for determination whether said judge or court employee had acted within the scope of their administrative duties.

Invoking Section 15 of R.A. 6770, the Office of the Ombudsman refuses to refrain from taking cognizance of Case NO. OMB-0-97-0903 in favor of this Court on the ground that, allegedly, the accusations therein against petitioner constitute simple criminal charges falling within the parameters of its constitutional power and duty to investigate and prosecute any act or omission of any public officer or employee which appears to be illegal, unjust, improper or inefficient.

Section 15 (1) of R.A. 6770 grants, among others, the following powers and duties to the Office of the Ombudsman:

- " Investigate and prosecute on its own, or on complaint by any (1) person, any act or omission of any public officer or employee, office or agency when such act or omission appears to be