



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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POLICE DIRECTOR
GENERAL ALAN LA MADRID
PURISIMA,

G.R. No. 219501

Petitioner,

Present:

- versus -

HON. CONCHITA CARPIO
MORALES, in her official
capacity as the OMBUDSMAN
OF THE REPUBLIC OF THE
PHILIPPINES,

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Respondent.

Promulgated:

JUL 26 2017

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ filed by petitioner former Police Director General Alan La Madrid Purisima (Purisima), assailing the Decision² dated July 29, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722, which affirmed the Order³ dated December 3, 2014 issued by respondent Conchita Carpio Morales, in her capacity as the Ombudsman, preventively suspending Purisima during the pendency of the consolidated cases against him before the Office of the Ombudsman.

¹ *Rollo*, pp. 8-35.

² *Id.* at 41-54. Penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Fernanda Lampas Peralta and Nina G. Antonio-Valenzuela concurring.

³ *Id.* at 315-323.

The Facts

In 2011,⁴ the Philippine National Police (PNP) entered into a Memorandum of Agreement⁵ (MOA) with WER FAST⁶ Documentary Agency, Inc. (WER FAST) without going through any public bidding. Under the MOA, the PNP undertook to allow WER FAST to provide courier services to deliver firearm licenses to gun owners.⁷ In turn, WER FAST agreed to donate equipment for an online application system for the renewal of firearm licenses.⁸ PCSupt. Napoleon R. Estilles (Estilles), then Chief of the Firearms and Explosives Office (FEO) under the Civil Security Group (CSG), signed the MOA on behalf of the PNP. Based on the records, the incumbent PNP Chief approved the signing of the MOA on August 24, 2011.⁹

Subsequently, the PNP's Legal Service (LS) was instructed to review the signed MOA *vis-a-vis* a proposed revised MOA, noting that the signed MOA had not been implemented. In a Memorandum¹⁰ dated August 7, 2012, the LS opined that the FEO should first formulate rules for accreditation, by which to evaluate any company offering courier services, including WER FAST. It further suggested that the rules should include the qualifications of the company to be accredited, the required scope of courier services, the creation of an accreditation committee, provisions on strict confidentiality, disclaimer, and grounds to terminate accreditation.¹¹

Consequently, on November 19, 2012, the FEO Courier Services Accreditation Board (Accreditation Board) was constituted.¹² In an undated memorandum¹³ entitled "Policy on Accreditation of FEO Courier Service" (Accreditation Policy), then CSG Director Police Director Gil Calaguio Meneses (Meneses) laid down the criteria and procedure for the accreditation of courier service providers, as follows:

⁴ The CA cited "May 2011" based on the date on the MOA (id. at 63). The records show, however, that WER FAST submitted a proposed MOA to the PNP on May 25, 2011 (id. at 131), but the signing of the MOA occurred later that year, *i.e.*, after August 24, 2011 (see id. at 136). The MOA was notarized on September 13, 2011 (id. at 64).

⁵ Id. at 128-130.

⁶ "WERFAST" or "Werfast" in some parts of the records.

⁷ *Rollo*, p. 11.

⁸ The MOA clearly indicated that it is "under the context of accreditation and does not entitle [WER FAST] to exclusivity" and is valid for a period of five (5) years. See id. at 128-129.

⁹ Id. at 136. Notably, WER FAST's Articles of Incorporation (see Amended Articles of Incorporation; id. at 257-262) indicate that it was not authorized to engage as a courier service, but only as a consultant providing assistance in documentation and registration. See id. at 43, 257, and 318.

¹⁰ "Subject: Online Renewal of Individual Firearms License & Courier Service (MOA Between FEO and WER FAST)"; id. at 135-137.

¹¹ Id. at 137.

¹² Letter Orders Number 545, "Subject: FEO Courier Services Accreditation Board"; id. at 138.

¹³ Id. at 141-144.

5. QUALIFICATIONS/CRITERIA FOR ACCREDITATION

A Courier Service provided may be accredited under the following conditions:

5.1 Applicant must be a local entity with appropriate business permits and is **duly registered with the Securities and Exchange Commission (SEC)**[;]

5.2 It has completed and submitted all its reportorial requirements to the [SEC];

5.3 It has updated permits from [the local government unit (LGU)] where its main office is located[;]

5.4 It has **paid all its income taxes for the year**, as duly certified by the Bureau of Internal Revenue (BIR);

5.5 It must have **secured clearances from Directorate for Intelligence (DI)**[;]

5.6 It must have an **extensive network all over the Philippines**; and

5.7 The application shall be made in the name of the company represented by its President or any of its key directors as duly authorized in a board resolution for that purpose.¹⁴ (Emphases supplied)

On December 18, 2012, Purisima was appointed as PNP Chief.¹⁵ Thereafter, or on February 12, 2013, Meneses issued a Memorandum¹⁶ addressed to Purisima (Meneses Memo), stating that the CSG has accredited WER FAST as the courier service to deliver the approved firearms license cards to gun owners, and more importantly, recommended that the delivery of license cards via courier be made mandatory:

7. In compliance [with] the policy guidance of the then TACDS, now the Chief, PNP, to implement the delivery of the approved firearms license cards to the addresses supplied by the applicants, **this office has accredited WER FAST Documentation Agency for the purpose, after complying with all the documentary requirements stipulated in the FEO Policy on Accreditation.**

RECOMMENDATION

8. **Recommend that the delivery of firearms licenses cards of gun owners to their registered addresses**, whether newly purchased firearms or renewed firearm licenses **be made mandatory**, to give force

¹⁴ Id. at 142. See also id. at 118.

¹⁵ See id. at 11.

¹⁶ "Subject: Courier Service in the Renewal of Firearm Licenses (Wer Fast Documentation Agency/WER FAST)"; id. at 139-140.

and effect to this new intervention to monitor and control firearms in the hands of gun owners.

9. **Approval of para 8 above.**¹⁷ (Emphases supplied)

Purisima approved this memorandum on February 17, 2013.¹⁸ It was only more than a month after the Meneses Memo was issued, or on April 1, 2013, that the Accreditation Board issued Resolution Number 2013-027,¹⁹ accrediting WER FAST as a courier services provider to all FEO clients relative to the licensing of firearms (FEO Resolution).

The Proceedings Before the Ombudsman

In 2014, two (2) complaints were filed before the Office of the Ombudsman against Purisima, WER FAST, and other PNP officials relative to the PNP's directive for gun owners to avail of the courier delivery of firearm licenses *via* WER FAST. The first complaint²⁰ filed by a private complainant charged Purisima, Estilles, and WER FAST of violating Republic Act (RA) Nos. 6713,²¹ 3019,²² 7080,²³ and 9184.²⁴ He alleged, among others, that: the MOA was not procured through competitive bidding; it was executed before WER FAST obtained its SEC certificate of registration; WER FAST is not authorized by the Department of Transportation and Communication (DOTC) to deliver mails/ parcels to the public; Purisima has close personal ties with WER FAST's incorporator and high ranking officer; Purisima made mandatory the use of courier service for license delivery in favor of WER FAST; and WER FAST was inefficient in delivering the license cards.²⁵ He later filed a Manifestation and Motion²⁶ with attached Joint-Affidavit²⁷ executed by several PNP officials positively identifying Purisima as the one who directed FEO-CSG to accommodate

¹⁷ Id. at 140.

¹⁸ See id. at 139.

¹⁹ Entitled "In the Matter of Determining the Merit of the Request for Accreditation of the WER FAST Documentation Agency (WERFASTDA) for the Consideration of the FEO Accreditation Board that will Accommodate the Courier Service Provider for Messengerial Service of the PNP in the Licensing of Firearms"; id. at 145-146.

²⁰ The first complaint was filed by Glenn Gerard C. Ricafranca on April 16, 2014 (id. at 65-70) and was docketed as OMB-P-14-0259 and OMB-P-A-14-0333 (see id. at 72).

²¹ Entitled "AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES," otherwise known as the "CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES," approved on February 20, 1989.

²² Known as the "ANTI-GRAFT AND CORRUPT PRACTICES ACT" (August 17, 1960).

²³ Entitled "An Act Defining and Penalizing the Crime of Plunder," approved on July 12, 1991.

²⁴ Entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes," otherwise known as the "Government Procurement Reform Act," approved on January 10, 2003.

²⁵ *Rollo*, pp. 66-69.

²⁶ Dated July 23, 2014. Id. at 74-76.

²⁷ Dated April 24, 2014. Id. at 77-78.

WER FAST as the sole courier delivery service of the firearms license cards.²⁸ Purisima filed his Counter-Affidavit²⁹ on July 25, 2014.

On October 9, 2014, the second complaint³⁰ was filed by the Fact-Finding Investigation Bureau (FFIB) - Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (MOLEO) against several PNP officers involved in the MOA's execution and WER FAST's accreditation as a courier service provider. Attached to the complaint were certifications from various government agencies attesting that WER FAST failed to meet the qualifications for accreditation under the Accreditation Policy.³¹ As regards Purisima, FFIB-MOLEO prayed that he be administratively charged for gross negligence and/or gross neglect of duty, with a prayer for preventive suspension. It alleged that Purisima is administratively liable "for approving the recommendation of Meneses without verifying or checking the records and capability of [WER FAST]."³²

Purisima requested³³ for additional time to file his counter-affidavit and was granted an inextendible period of ten (10) days from receipt of the Order³⁴ dated December 1, 2014.

On December 3, 2014, without waiting for Purisima's counter-affidavit, the Ombudsman issued the assailed Order,³⁵ which preventively suspended Purisima and other PNP officers, for six (6) months without pay.³⁶

²⁸ The officials stressed that Purisima was infuriated due to the non-cooperation of some CSG satellite offices in the delivery of license cards, and was heard saying "[k]ilala ko 'yang si Mario Juan at di pa ako sikat ay siya lang ang nakakaalala at dumadalaw sa akin. Ayusin 'nyo ang delivery.'" Id. at 77.

²⁹ Id. at 81-96.

³⁰ Id. at 115-125. The second complaint was docketed as OMB-P-C-14-0536 and OMB-P-A-14-0659. (Id. at 101). Other PNP officials involved in the execution of the MOA and the eventual accreditation of WER FAST as PNP's courier service provider were also charged criminally and administratively in the same complaint (see id. at 115).

³¹ See discussion; id. at 318.

³² Id. at 124. The relevant portion of the complaint pertaining to Purisima reads:

ADMINISTRATIVE LIABILITY OF PURISIMA

42. Meneses issued a memorandum to Purisima stating that [WER FAST] has complied [with all] the requirements stipulated in the FEO Policy on Accreditation. He recommended that the delivery of firearm licenses to their registered addresses be made mandatory. Purisima approved this Memorandum of Meneses. This recommendation paved the way by which [WER FAST] was able to deliver all the firearms license cards issued to the applicants. Purisima is guilty of Gross Negligence or [Gross Neglect] of Duty for approving the recommendation of Meneses without verifying or checking the records and capability of [WER FAST]. (Emphasis supplied)

³³ See Manifestation and Motion dated November 28, 2014; id. at 312-313.

³⁴ Id. at 314. Issued by Assistant Special Prosecutor II Chair Maria Janina J. Hidalgo.

³⁵ Id. at 315-323.

³⁶ Id. at 320. The *fallo* of the Order reads:

WHEREFORE, in accordance with Section 24 of R.A. No. 6770 and Section 9, Rule III of Administrative Order No. 07, as amended, the following respondents from the PNP-PDG Alan La Madrid Purisima, PDIR Gil C. Meneses, PDIR Napoleon Estilles, PCSUPT Raul D. Petrasanta, PSSUPT Allan A. Parreño, PSSUPT Eduardo P. Acierto,

Purisima and another PNP official³⁷ filed their respective petitions for *certiorari* before the CA, docketed as CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722,³⁸ which were consolidated in a Resolution dated January 30, 2015.³⁹ While these consolidated cases were pending before the CA, Purisima resigned as PNP Chief⁴⁰ and the preventive suspension period had lapsed.⁴¹

The CA Ruling

In a Decision⁴² dated July 29, 2015, the CA dismissed the petitions and affirmed the Ombudsman's assailed Order. On the procedural aspect, the CA held that the petitions are moot in view of the lapse of the six-month period of preventive suspension. In particular, the CA noted that Purisima received the Order on December 4, 2014. Counting from this date, his period of preventive suspension lapsed on June 4, 2015. Nevertheless, the CA proceeded to discuss the merits of the case.⁴³

On the merits, the CA held that the Ombudsman is authorized under Section 24 of RA 6770⁴⁴ to preventively suspend without pay any public officer or employee during the pendency of an investigation. It added that the power to issue preventive suspension order is undoubtedly a part of the Ombudsman's investigatory and disciplinary authority.⁴⁵

The CA further held that the Ombudsman did not gravely abuse her discretion in preventively suspending Purisima for irregularly accrediting WER FAST as courier service provider, noting that the two (2) requisites⁴⁶ for the validity of a preventive suspension order were present.⁴⁷ *First*, the

PSSUPT Melchor V. Reyes, PSSUPT Lenbell J. Fabia, PSUPT Sonia C. Calixto, PCINSP Nelson L. Bautista, PSINSP Ford G. Tuazon, and CINSP Ricardo S. Zapata – are hereby **PREVENTIVELY SUSPENDED** without pay during the pendency of this case until its termination, but not to exceed the total period of six (6) months.

The Honorable MANUEL A. ROXAS II, Secretary, Department of Interior and Local Government, is hereby furnished a copy of this Order for its immediate implementation.

SO ORDERED.

³⁷ PSSUPT Allan A. Parreño was the petitioner in the other petition docketed as CA-G.R. SP No. 138722. (Id. at 41).

³⁸ Id.

³⁹ See id. at 44.

⁴⁰ See id. at 9.

⁴¹ Id. at 46.

⁴² Id. at 41-54.

⁴³ See id. at 46-47.

⁴⁴ Entitled "AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES," otherwise known as "THE OMBUDSMAN ACT OF 1989," approved on November 17, 1989.

⁴⁵ *Rollo*, p. 50.

⁴⁶ See The Ombudsman Rules of Procedure, Administrative Order No. 7, Rule III, Section 9.

⁴⁷ See *rollo*, p. 50.

Ombudsman made a prior determination that the evidence was strong based on the documents submitted to them and the following circumstances: (a) BIR certificate; (b) Director of Intelligence certificate; and (c) Department of Science and Technology (DOST) certificate.⁴⁸ Particularly, WER FAST was accredited despite non-payment of taxes for the years 2011 to 2013 as shown by the BIR certification. The Director of Intelligence likewise issued a certification that it has not given clearances to WER FAST. Additionally, WER FAST's business permits for the years 2011 to 2012 indicated "consultancy" as its business, while its Articles of Incorporation stated that the corporation's primary purpose is to act as a business consultant, engage in providing assistance in documentation and registration. The DOST Postal Regulation Committee also issued a certification that it has not accredited WER FAST as a courier service provider. Notably, WER FAST had no proven track record in courier service. It even engaged the services of LBC Express, Inc. precisely because the former lacked the capacity to deliver firearms licenses. Furthermore, it was not compliant with the DOTC's paid-up capital requirement of ₱500,000.00 to be accredited to operate as a courier service in two or more administrative regions in the country. To highlight, WER FAST was accredited by PNP nationwide despite having a paid-up capital of only ₱65,000.00.⁴⁹ *Second*, the charge filed against Purisima was Gross Negligence and/or Gross Neglect of Duty, which if proven true, would constitute a ground for his removal from public office.⁵⁰ Thus, the CA concluded that the concurrence of the foregoing elements rendered the preventive suspension order valid.

Aggrieved, Purisima filed the present petition.

The Issues Before the Court

The issues before the Court are: (a) whether or not the petition has been rendered moot and academic; and, (b) if in the negative, whether or not the CA correctly held that the Ombudsman did not gravely abuse her discretion in preventively suspending Purisima.

The Court's Ruling

The petition is denied.

⁴⁸ See id. at 50-52.

⁴⁹ Id. at 51.

⁵⁰ See id. at 52-53.

I.

In *Ombudsman v. Capulong*⁵¹ (*Capulong*), the Court ruled that a case questioning the validity of a preventive suspension order is not mooted by the supervening lifting of the same:

In the instant case, the subsequent lifting of the preventive suspension order against Capulong does not render the petition moot and academic. **It does not preclude the courts from passing upon the validity of a preventive suspension order**, it being a manifestation of its constitutionally mandated power and authority to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

As held in *Capulong*, the Court, in the exercise of its expanded judicial power, may not be precluded from passing upon the order's validity so as to determine whether or not grave abuse of discretion attended the issuance of the same. The result of a finding of a grave abuse of discretion means that the issuance is null and void from its very inception, and thus, bars the same from producing any legal effects. Indeed, "[n]o legal rights can emanate from a resolution that is null and void."⁵² As such, a public officer improperly placed under preventive suspension should be restored to his original position, and accordingly, should have earned his salaries as if he was not preventively suspended for the pertinent period.

"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."⁵³ In *Osmeña v. Social Security System of the Phils.*,⁵⁴ the Court explained the consequence of a finding of mootness:

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 – save when, among others, a compelling constitutional issue raised requires the formulation of controlling principles to guide the bench, the bar and the public; or when the case is capable of repetition yet evading judicial review.⁵⁵

In this case, since the propriety or impropriety of Purisima's preventive suspension would essentially determine his entitlement to back salaries during the six-month period therefor, the Court holds that despite the

⁵¹ G.R. No. 201643, March 12, 2014, 719 SCRA 209, 218.

⁵² *Quiambao v. People*, G.R. No. 185267, September 17, 2014, 735 SCRA 345, 357, citing *Paulin v. Gimenez*, G.R. No. 103323, January 21, 1993, 217 SCRA 386, 393.

⁵³ *Osmeña III v. Social Security System of the Phils.*, 559 Phil. 723, 735 (2007).

⁵⁴ *Id.*

⁵⁵ *Id.* at 735.

lapse of the period of his preventive suspension, there remains some practical value or use in resolving his petition assailing the Ombudsman's December 3, 2014 Order. Thus, by the same logic in *Capulong*, this case cannot be considered as moot and academic so as to obviate the Court from resolving its merits.

II.

The Ombudsman is explicitly authorized to issue a preventive suspension order under Section 24 of RA 6770 when two (2) conditions are met. These are: (a) the evidence of guilt is strong based on the Ombudsman's judgment; and (b) any of the three (3) circumstances are present – (1) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (2) the charges would warrant removal from service; or (3) the respondent's continued stay in office may prejudice the case filed against him. Section 24 reads:

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**.

x x x x (Emphases and underscoring supplied)

In this case, the Court need not belabor on the presence of the second condition, considering that (a) one of the charges against Purisima is gross neglect of duty; and (b) the criminal and administrative charges (*i.e.*, violations of RAs 6713, 3019, 7080, and 9184, as well as gross neglect of duty) against Purisima, if proven, would indeed warrant his removal from office. Since Section 24 uses the disjunctive “or”,⁵⁶ then the presence of any of the three (3) stated situations would be sufficient to comply with this condition.

As regards the first condition, case law states that the strength of the evidence is left to the determination of the Ombudsman by taking into account the evidence before her; hence, the deliberate use of the words “*in his judgment*.” In *Yasay, Jr. v. Desierto*:⁵⁷

⁵⁶ “In its elementary sense, ‘or’ as used in a statute is a disjunctive article indicating an alternative. It often connects a series of words or propositions indicating a choice of either. When ‘or’ is used, the various members of the enumeration are to be taken separately.” (*Centeno v. Villalon-Pornillos*, G.R. No. 113092, September 1, 1994, 236 SCRA 197, 206.)

⁵⁷ 360 Phil. 680 (1998).

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The rule is that whether the evidence of guilt is strong, as required in Section 24 of R.A. No. 6770, 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 cannot substitute its own judgment for that of the Ombudsman on this matter, absent clear showing of grave abuse of discretion.⁵⁸ (Emphasis and underscoring supplied)

The Court’s deference to the Ombudsman’s judgment regarding this condition not only stems from its policy of non-interference with the Ombudsman’s exercise of her prosecutorial and investigatory powers;⁵⁹ it is also a conscious recognition of the preliminary nature and purpose of a preventive suspension order. It is well-established that:⁶⁰

Preventive suspension is merely a preventive measure, a preliminary step in an administrative investigation. The purpose of the suspension order is to prevent the accused from using his position and the powers and prerogatives of his office to influence potential witnesses or tamper with records which may be vital in the prosecution of the case against him. If after such investigation, the charge is established and the person investigated is found guilty of acts warranting his suspension or removal, then he is suspended, removed or dismissed. (Emphasis and underscoring supplied)

Being a preventive measure essentially meant to ensure the proper course of a still ongoing investigation, the Ombudsman should thus be given ample discretion to determine the strength of the preliminary evidence presented before her and thereafter, decide whether or not to issue such order against a particular respondent. In *Buenaseda v. Flavier*,⁶¹ this Court explained:

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

⁵⁸ Id. at 697.

⁵⁹ See *Layus M.D. v. Sandiganbayan*, 377 Phil. 1067 (1999). See also *Dimayuga v. Ombudsman*, 528 Phil. 42, 48 (2006), citing *Kara-an v. Ombudsman*, 476 Phil. 536, 548 (2004): This policy is based not only on the Court’s respect for the constitutionally-granted powers of the Ombudsman, but on practicality as well. Otherwise, courts will be extremely swamped with cases compelling them to review the Ombudsman’s exercise of her discretion.

⁶⁰ *Quimbo v. Gervacio*, 503 Phil. 886, 891 (2005).

⁶¹ G.R. No. 106719, September 21, 1993, 226 SCRA 645.

the 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.⁶² (Emphasis and underscoring supplied)

However, as in any governmental power, the Ombudsman's authority to preventively suspend is not unlimited. When a complaint is virtually bereft of any supporting evidence or the evidence so cited is, on its face, clearly inadmissible, then no deference ought to be accorded. Under these instances, the Ombudsman may be said to have gravely abused her discretion in finding that the first condition was met.

In the present case, the Ombudsman found that the evidence of guilt against Purisima was strong enough to place him under preventive suspension. Said finding cannot be said to be tainted with grave abuse of discretion as it was based on supporting documentary evidence,⁶³ none of which were questioned to be inadmissible. For one, the Ombudsman considered the PNP officials' Joint Affidavit,⁶⁴ expressing that Purisima exerted pressure and coercion over his subordinates to coordinate with WER FAST in relation to the courier delivery service. The Ombudsman also cited several circumstances sourced from the documentary evidence that should have prodded Purisima to verify WER FAST's credentials and capability to provide courier services for the delivery of firearms licenses before he insisted on the implementation of the MOA. These circumstances are: (a) the absence of a public bidding before the MOA was executed; (b) the absence of accreditation from the Accreditation Board when Purisima approved the Meneses Memo; (c) the Meneses Memo failed to mention the resolution supposedly accrediting WER FAST; (d) the Accreditation Board accredited WER FAST despite the latter's lack of proof of compliance with the Accreditation Policy; (e) WER FAST had no proven track record in courier services and lacked the capacity to deliver the firearms licenses; (f) WER FAST failed to obtain the DOTC's accreditation for authority to operate courier services; and (g) WER FAST's failure to donate the equipment for the online system as stated in the MOA, among others.⁶⁵

Since both conditions for the issuance of a preventive suspension order against Purisima are present in this case, the Court therefore holds that the Ombudsman acted within her powers when she issued the assailed December 3, 2014 Order. In consequence, Purisima is not entitled to back salaries during the period of his preventive suspension.

As a final point, the Court clarifies that – contrary to Purisima's stance – the Ombudsman did not violate his right to due process nor did she

⁶² Id. at 652.

⁶³ *Rollo*, pp. 316-319.

⁶⁴ Id. at 77-78.

⁶⁵ Id. at 358-360.

prejudge the case when she issued the preventive suspension order before he was able to file his counter-affidavit for the second complaint.⁶⁶

*Lastimosa v. Ombudsman*⁶⁷ already settles that the Ombudsman may issue a preventive suspension order prior to the filing of an answer or counter-affidavit, considering that the same is but a preventive measure:

Prior notice and hearing is not required, such suspension not being a penalty but only a preliminary step in an administrative investigation. As held in *Nera v. Garcia* [(106 Phil. 1031, 1034 [1960])]:

In connection with the suspension of petitioner **before he could file his answer to the administrative complaint**, suffice it to say that the **suspension was not a punishment or penalty** for the acts of dishonesty and misconduct in office, **but only as a preventive measure**. Suspension is a preliminary step in an administrative investigation. If after such investigation, the charges are established and the person investigated is found guilty of acts warranting his removal, then he is removed or dismissed. This is the penalty. There is, therefore, nothing improper in suspending an officer pending his investigation and before the charges against him are heard and be given an opportunity to prove his innocence.

x x x x

As held in *Buenaseda v. Flavier* [(G.R. No. 106719, September 21, 1993, 226 SCRA 645, 655)], however, whether the evidence of guilt is strong is left to the determination of the Ombudsman by taking into account the evidence before him. A preliminary hearing as in bail petitions in cases involving capital offenses is not required. In rejecting a similar argument as that made by petitioner in this case, this Court said in that case:

The import of the *Nera* decision is that the disciplining authority is given the discretion to decide when the evidence of guilt is strong. This fact is bolstered by Section 24 of R.A. No. 6770, which expressly left such determination of guilt to the “judgment” of the Ombudsman on the basis of the administrative complaint. x x x⁶⁸ (Emphases and underscoring supplied)

Ultimately, it should be borne in mind that the issuance of a preventive suspension order does not amount to a prejudgment of the merits of the case.⁶⁹ Neither is it a demonstration of a public official’s guilt as such pronouncement can be done only after trial on the merits.⁷⁰

⁶⁶ Id. at 28-33.

⁶⁷ 313 Phil. 358, 375 (1995).

⁶⁸ Id. at 375-377.

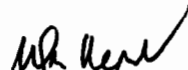
⁶⁹ See *Yasay, Jr. v. Desierto*, supra note 57, at 698.

⁷⁰ See Id.


N

WHEREFORE, the petition is **DENIED**. The Decision dated July 29, 2015 of the Court of Appeals in CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722 is hereby **AFFIRMED**.

SO ORDERED.

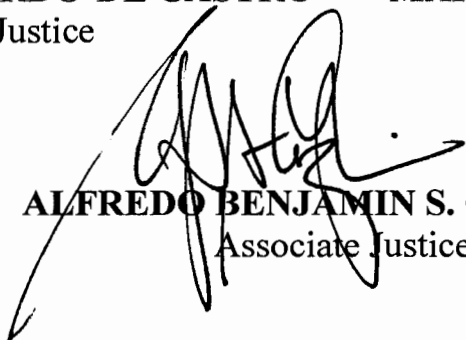

ESTELA M. BERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice