



Supreme Court of the Philippines PUBLIC INFORMATION OFFICE

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SC Rules that OSG Has No Control Over Ombudsman, Dismisses Petition

The Office of the Solicitor General (OSG) has no power of control over the Office of the Ombudsman, the latter being an independent constitutional body.

Thus held the Supreme Court as it dismissed the Petition for Certiorari filed by the government, through the OSG, assailing the Plea Bargaining Agreement in 2010 between the Office of the Special Prosecutor (OSP) and retired Major General Carlos F. Garcia, former comptroller of the Armed Forces of the Philippines.

"The government was already rightfully represented by the Office of the Ombudsman in the plunder case [against Garcia] before the Sandiganbayan. Thus, the Office of the Solicitor General overstepped its bounds by insisting on providing additional representation. Further, the Office of the Solicitor General had no power of control or supervision over the Office of the Ombudsman, an independent constitutional body. It had no authority to impose on the latter's handling of the Plea Bargaining Agreement was grossly disadvantageous to the government and the people's welfare," said the Court's Third Division in a decision penned by Justice Marvic M.V.F. Leonen.

The Court further said that: "[The OSG] had no authority to impose on the [Ombudsman's] handling of the Plea Bargaining Agreement, even if it strongly believed that the Plea Bargaining Agreement was grossly disadvantageous to the government and the people's welfare."

The SC added that the acceptance of a plea bargain is purely upon the discretion of the prosecutor, while its approval is subject to the judicial discretion of the court trying the facts. "Hence, any review of a plea bargain approved by the Office of the Ombudsman would be tantamount to an appeal on a question of fact and not the proper subject of a petition for certiorari," the SC said.

While it dismissed the OSG's petition, the Court, however, emphasized that it "will not interfere with the substance of or the wisdom behind the Plea Bargaining Agreement, as that falls squarely within the Office of the Ombudsman's mandate of investigating and prosecuting erring government employees."

The SC noted that the OSG did not dispute the Ombudsman's authority to file the criminal case and enter into a plea bargaining deal; rather, it claimed it had the right to intervene in the agreement, citing its "mandate to protect and promote the interests of the people."

The SC stressed that the OSG's authority to represent the Government is not plenary or all-encompassing, adding that the mandate to represent the government in the proceedings before the Sandiganbayan generally lies with the Ombudsman,

with the exception of the Marcos ill-gotten wealth cases where the OSG was allowed to prosecute a case before the anti-graft court and only in representation of the Presidential Commission on Good Government (PCGG). The present case does not involve Marcos ill-gotten wealth; thus, the Ombudsman rightfully represented the government in the plunder case against Garcia.

Furthermore, the Court also held that it cannot be said that the Sandiganbayan gravely abused its discretion in approving the deal considering the prosecution's failure to prove Garcia's guilt for plunder and money laundering beyond reasonable doubt.

Hence, the Court's Third Division lifted the temporary restraining order enjoining the Sandiganbayan from continuing with its criminal proceedings against Garcia and from implementing its December 16, 2010 Resolution which approved Garcia's request for bail.

Garcia was criminally charged with separate cases for plunder and money laundering for conspiring with co-accused, including family members, to amass alleged ill-gotten wealth in the form of funds, landholdings and other real and personal properties in the aggregate amount of over P303.2M. Only Garcia was arraigned for both cases which were eventually consolidated, to which he pleaded not guilty.

In 2010, Garcia entered into a Plea Bargaining Agreement with the Office of the Special Prosecutor, which was approved and signed by then Ombudsman Merceditas N. Gutierrez. In the agreement, Garcia withdrew his plea of not guilty to the crime of plunder and offered to enter a plea of guilty to the lesser offense of indirect bribery. He also offered to enter a plea of guilty to the lesser offense of facilitating money laundering as he withdrew his not guilty plea to the money laundering charges. As part of the deal, Garcia offered to cede P135,433,387.84 worth of cash, real and personal properties owned by him and his family in the favor of the government.

In a separate civil forfeiture case against Garcia before Branch 27 of the Manila Regional Trial Court (RTC), the OSG filed a motion to allow the transfer of the Garcia family's assets to the government. There, the OSG, representing the Anti-Money Laundering Council, recognized the plea bargain deal. The RTC granted the motion.

Subsequently, the OSP informed the Sandiganbayan that Garcia had executed the appropriate deeds of conveyance and turned them over to the OSP. On December 16, 2010, Garcia then pleaded to a lesser offer of direct bribery and violation of Section 4 (b) of RA 9160 or facilitating money laundering. That same day, upon his motion, Garcia was allowed by the Sandiganbayan to post bail in the amount of P30,000 per case or P60,000 in total. The following year, the OSG filed a motion to intervene, stressing that the plea bargain deal was without the Republic's consent.

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