



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LUIS G. QUIOGUE,
Petitioner,

G.R. No. 218530

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson
LAZARO-JAVIER,
GAERLAN,
LOPEZ, and
ROSARIO, *JJ.

- versus -

BENITO F. ESTACIO, JR. and
OFFICE OF THE
OMBUDSMAN,
Respondents.

Promulgated:

JAN 13 2021

x-----x

RESOLUTION

LOPEZ, J.:

This Petition for *Certiorari* under Rule 65 of the Rules of Court assails the Resolution¹ dated October 13, 2014 and Order² dated March 10, 2015 issued by the Office of the Ombudsman (Ombudsman) in OMB-C-C-12-0288-G, dismissing the complaint against private respondent Benito F. Estacio, Jr. (Estacio) for violation of Section (Sec.) 3 (e) of Republic Act (RA) No. 3019 or the “Anti-Graft and Corrupt Practices Act,” for lack of probable cause.

* Designated additional Member *per* Special Order No. 2797 dated November 5, 2020.

¹ *Rollo*, pp. 28-37.

² *Id.* at 25-27.

J

ANTECEDENTS

In January 2007, upon recommendation of then President Gloria Macapagal-Arroyo to the Chairman of the Presidential Commission on Good Government (PCGG), Estacio was elected as member of the board of directors of Independent Realty Corporation Group of Companies (IRC), composed of various corporations surrendered by former Marcos crony Jose Y. Campos to the government, and presently supervised by the PCGG.³ Although Estacio's term is set to expire on June 30, 2010, he sat in the IRC board until December 2010, and served as concurrent Vice-President in mid-2010. Prior to the expiration of his term, Estacio and the other IRC board of directors, passed Resolution No. 2010-05-181⁴ dated May 21, 2010, which granted separation benefits to IRC officers. Based on the Resolution, Estacio received ₱467,308.20⁵ separation pay as IRC Vice-President, ₱56,870.00⁶ as 14th month pay, and ₱20,000.00⁷ extra bonus or a total of ₱544,178.20.⁸ This prompted the filing of a Complaint-affidavit⁹ before the Ombudsman by petitioner Luis G. Quiogue (Quiogue), IRC's General Manager on the ground that Estacio's receipt of the emoluments caused undue injury to the government, in violation of Sec. 3 (e) of RA No. 3019.

Quiogue alleged that under Memorandum Circular (MC) No. 40,¹⁰ Series of 1993, of the office of the President, PCGG-nominated directors of sequestered corporations may only receive representation and transportation allowances not exceeding ₱3,400.00 per month, in addition to the basic director's fee not exceeding ₱120,000.00 per year. Also, under MC No. 66, Series of 1993,¹¹ PCGG-nominated directors cannot assume line functions nor

³ *Id.* at 39; Desire Letter dated December 7, 2006.

⁴ *Id.* at 48.

⁵ *Id.* at 41; RCBC Savings Bank Check No. 0001468833.

⁶ *Id.* at 42; RCBC Savings Bank Check No. 0001502618.

⁷ *Id.* at 43; RCBC Savings Bank Check No. 0001491038.

⁸ *Id.* at 40; IRC Group of Companies' Certification dated April 25, 2012.

⁹ *Id.* at 51-55.

¹⁰ PRESCRIBING THE POLICY REGARDING THE GRANT OF ALLOWANCES TO THE MEMBERS OF THE BOARD OF DIRECTORS OF SEQUESTERED CORPORATIONS WHO ARE NOMINATED BY THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG); signed on April 5, 1993.

The following policy on the grant of representation and transportation allowances to PCGG-nominated Members of the Boards of Directors of sequestered corporations is hereby prescribed:

1. The Chairman of the Board of Directors of a sequestered corporation who is a PCGG-nominee may be granted transportation and representation allowances of P2,500.00 each per month or a total of P5,000.00 monthly.

2. The other Members of the Board of Directors who are PCGG-nominees may be granted like allowances of P1,700.00 each per month or a total of P3,400.00 monthly.

3. Extraordinary transportation expenses of these Directors, including gasoline expenses and airline fares arising on account of out-of-town official trips, shall be reimbursed by the sequestered corporations subject to the pertinent policies, rules and regulations of said corporations.

The foregoing shall be in addition to the basic Director's fees received by Members of such Board of Directors which fees shall not exceed the amount of P120,000 per annum. Any excess thereof shall be turned over by the sequestered corporations to the National Treasury thru the PCGG.

All concerned are enjoined to act accordingly.

¹¹ PRESCRIBING THE POLICY REGARDING THE ASSUMPTION OF DUTIES BY AND THE GRANT OF COMPENSATION TO THE MEMBERS OF THE BOARDS OF DIRECTORS (WHO ARE NOMINATED BY THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT [PCGG]) OF



accept appointment to any other position in the sequestered or surrendered corporation wherein he is a Director, unless expressly authorized in writing by the Office of the President. The directors are not entitled to any form of profit sharing, nor to any retirement benefits. If they are granted, the benefits must be returned to the National Treasury through the PCGG.

For his defense, Estacio countered that the Ombudsman has no jurisdiction over him as he is not a public officer. He explained that while the IRC was sequestered by the government and is being supervised by the PCGG, it remains a private corporation. He further argued that MC Nos. 40 and 66 do not apply to him. Also, his designation as Vice-President of IRC does not require the President's approval since he was not a PCGG-nominated director. As for the separation pay, 14th month pay and extra bonus, Estacio maintained that the release of these benefits was pursuant to a board resolution passed in good faith, hence, is valid under the principle of "business judgment rule."¹²

On October 13, 2014,¹³ the Ombudsman dismissed the complaint for lack of probable cause. The Ombudsman ruled that Estacio is a public officer since the State owns 481,181 out of the 481,184 subscribed shares of IRC, making it a government-owned or controlled corporation (GOCC). However, it found no violation of Sec. 3 (e) of RA No. 3019 since Estacio's act of receiving the questioned benefits was not done in the performance of judicial, administrative, or official functions, which is an essential element of the offense. As for the IRC *Resolution*¹⁴ granting separation benefits equivalent to 3 months' salary for

SEQUESTERED AND SURRENDERED CORPORATIONS UNDER PCGG SUPERVISION; signed on August 24, 1993.

The policy on the assumption of other duties and the grant of compensation to the Members of the Boards of Directors of sequestered corporations and surrendered corporations under PCGG supervision is hereby prescribed as follows:

1. PCGG-nominated Directors in sequestered corporations or surrendered corporations under PCGG supervision shall not assume line functions nor accept appointment to any other position or office in the sequestered or surrendered corporation wherein he is a Director unless expressly authorized in writing by the Office of the President. Only when so authorized, will such Director be entitled to receive the emoluments accruing to such other position or office, subject to the limitations set forth below on the grant of compensation.

2. PCGG-nominated Directors in sequestered corporations or surrendered corporations under PCGG supervision shall receive compensation and other emoluments not to exceed the amount of P120,000.00 per annum for all services rendered by them as such Directors. Any excess thereof shall be turned over by the sequestered corporations to the National Treasury through the PCGG.

3. PCGG-nominated Directors in sequestered corporations or surrendered corporations under PCGG supervision are entitled to representation and transportation allowances as prescribed under Memorandum Circular No. 40 dated 5 April 1993.


4. PCGG-nominated Directors in sequestered corporations or surrendered corporations under PCGG supervision, whether by reason of such Directorship or on account of another position or office held in such sequestered or surrendered corporation, shall not be entitled to any form of profit-sharing nor to any retirement benefits from the sequestered or surrendered corporation. If so granted by the sequestered or surrendered corporation, the profit share or retirement benefits will be returned over by the sequestered or surrendered corporation to the National Treasury through the PCGG.

All concerned are enjoined to act accordingly.

¹² *Rollo*, pp. 57-67; Counter-Affidavit dated January 17, 2013.

¹³ *Supra* note 1; Ombudsman Resolution.

¹⁴ *Supra* note 2; Ombudsman Order.



every year of service for the IRC President and 2 and ½ months' salary for every year of service for other IRC officers, the Ombudsman ruled that Estacio's participation in the approval thereof is not tainted with manifest partiality, or evident bad faith, or gross inexcusable negligence, thus:

MC Nos. 40 & 66 are only applicable to PCGG-nominated Directors. The subject Resolution, however, granted separation pay benefit to *all corporate officers*, like the corporate secretary and corporate treasurer who at the time material to the case were not PCGG-nominated Directors.

Further PCGG-nominated Directors who *were appointed to assume line functions or responsibilities through committee membership or otherwise and whose appointments were pre-approved by the Office of the President* are not covered by the limitations set forth in MC Nos. 40 & 66 and are instead governed by the affected corporations' by-laws and corporate policies, as provided by MC [No.] 175, Series of 1998 dated March 11, 1998.

Finally, there is no showing that the grant of separation pay benefit is contrary to IRC's by-laws, or IRC was saddled by losses that the grant of separation pay benefit would not be justifiable.

In LIGHT of the foregoing, probable cause for violation of Section 3 (e) of RA 3019 is not appreciated against respondent.¹⁵ (Citations omitted.)

On March 10, 2015, the Ombudsman denied petitioner's motion for reconsideration.¹⁶ Hence, this recourse.¹⁷ The petitioner imputes grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Ombudsman for its alleged unjust refusal to file the appropriate Information against Estacio for violation of Sec. 3 (e) of RA No. 3019.

RULING

The petition is unmeritorious.

The Ombudsman assumed jurisdiction over Estacio's case based on its finding that IRC is a GOCC since 481,181 out of the company's 481,184 subscribed shares are State-owned. Being a director in a GOCC, the Ombudsman concluded that Estacio is a public officer. Yet, who are considered

¹⁵ *Rollo*, pp. 35-36.

¹⁶ *Supra* note 2; Ombudsman Order.

¹⁷ *Rollo*, pp. 3-20; Petition for *Certiorari*.



public officers? Section 2 (b) of RA No. 3019 states that the term public officer includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government. Meanwhile, Article (Art.) 203 of the Revised Penal Code, defines a public officer as any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government, or in any of its branches, public duties as an employee, agent, or subordinate official, of any rank or class, shall be deemed to be a public officer. Thus, to be a *public officer*, one must be:

(1) *Taking part* in the performance of *public functions* in the government, or *Performing* in said Government or any of its branches *public duties* as an *employee, agent, or subordinate official*, of any rank or class; and

(2) That his authority to take part in the performance of public functions or to perform public duties must be —

- a. by direct provision of the law, or
- b. by popular election, or
- c. by appointment by competent authority.¹⁸

In *Javier v. Sandiganbayan (First Division)*,¹⁹ we held that persons from the private sector who are invested with some portion of the sovereign functions of the government, to be exercised by them for the benefit of the public, are public officers.²⁰ In that case, the petitioner was appointed by the President of the Philippines to sit as member of the National Book Development Board (NBDB). The NBDB was created pursuant to RA No. 8047²¹ or the “Book Publishing Industry Development Act.” Though she came from the private sector, the Court held that petitioner’s appointment to the Board made her a “public officer” as she was invested with some of the sovereign functions to achieve the government objective of cultivating the book publishing industry. The same is true in the case of Estacio.

As in *Javier*, Estacio was appointed by the President of the Philippines as a public officer. Then President Macapagal-Arroyo wrote a letter addressed

¹⁸ *Azarcon v. Sandiganbayan*, 335 Phil. 1202, 1213 (1997).

¹⁹ 615 Phil. 393 (2009).

²⁰ *Id.* at 407.

²¹ AN ACT PROVIDING FOR THE DEVELOPMENT OF THE BOOK PUBLISHING INDUSTRY THROUGH THE FORMULATION AND IMPLEMENTATION OF A NATIONAL BOOK POLICY AND A NATIONAL BOOK DEVELOPMENT PLAN: approved, June 7, 1995.

to former PCGG Chairman Camilo Sabio expressing her desire for Estacio to be elected as member of the IRC board of directors.²² In *Maligalig v. Sandiganbayan*,²³ the Court probed into the nature of such “Desire Letter,” and ruled against petitioner’s contention that he is not a public officer. The Court quoted with approval the PCGG’s position that members of the board of directors of sequestered companies, like BASECO, were elected by virtue of “Desire Letters” issued by the President of the Republic of the Philippines. The petitioner in that case sat as President and Director of BASECO by virtue of the appointing power of the President, and as such, he is considered a public officer exercising functions for public benefit, namely, management of sequestered corporation and earning income for the government.

Relative to this, we stress that while IRC was organized under the Corporation Code, it is a sequestered corporation subject to the fiscal supervision of the PCGG and is a GOCC which is under the direct supervision of the Office of the President.²⁴ Section 2 (13) of the Administrative Code of 1987²⁵ defines GOCC as:

(13) *Government-owned or controlled corporation* refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock: *Provided*, That government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.²⁶

This definition is also found in Sec. 3 (o) of the “GOCC Governance Act of 2011,”²⁷ which reads:

(o) *Government-Owned or -Controlled Corporation (GOCC)* refers to any agency organized as a stock or nonstock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities either wholly or, where applicable as

²² *Supra* note 3.

²³ G.R. No. 236293, December 10, 2019.

²⁴ *Aleandrino v. Commission on Audit*, G.R. No. 245400, November 12, 2019.

²⁵ EXECUTIVE ORDER NO. 292; signed on July 25, 1987.

²⁶ EXECUTIVE ORDER NO. 292, Sec. 2 (13).

²⁷ REPUBLIC ACT NO. 10149, AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES; approved, June 6, 2011.

in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock: *Provided, however*, That for purposes of this Act, the term “GOCC”- shall include GICP/GCE and GFI as defined herein.

In *Leyson, Jr. v. Office of the Ombudsman*,²⁸ we broke down the definition of GOCC into three requisites, namely: (1) any agency organized as a stock or non-stock corporation; (2) vested with functions relating to public needs whether governmental or proprietary in nature; and, (3) owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least 51% of its capital stock.²⁹ Possession of all three attributes is necessary to consider an entity a GOCC.³⁰

The *first* requisite is present as it is undisputed that IRC is a stock corporation organized under the Corporation Code. IRC also meets the *second* requisite. Like BASECO, the income and assets of IRC as a sequestered corporation are remitted to the PCGG and then turned over to the Bureau of Treasury. This means that the individual running the affairs of IRC is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public, and this makes Estacio a public officer.³¹ Lastly, we have long recognized in *Cuenca v. PCGG*,³² that IRC is among the several corporations organized, established, and managed for, and on behalf of former President Ferdinand E. Marcos, by Mr. Jose Y. Campos. The shares of IRC were later surrendered and turned over to PCGG, which effectively transferred ownership thereof to the Government. This satisfies the *third* requisite on government ownership.

Next, we discuss the Ombudsman’s authority to act on criminal complaints against erring public officials and employees, and the main issue on the existence of probable cause for violation of Sec. 3 (e) of RA No. 3019. The Ombudsman’s mandate as “the champion of the people” and “preserver of the integrity of the public service” have both the constitutional and statutory bases.³³ The powers, functions, and duties of the Ombudsman are found in

²⁸ 387 Phil. 241 (2000).

²⁹ *Id.* at 249.

³⁰ *Funa v. Manila Economic and Cultural Office*, 726 Phil. 63, 90 (2014); and *GSIS Family Bank Employees Union v. Villanueva*, G.R. No. 210773, January 23, 2019.

³¹ See *Maligalig v. Sandiganbayan*, G.R. No. 236293, December 10, 2019, citing *Serana v. Sandiganbayan*, 566 Phil. 224, 248-249 (2008).

³² 561 Phil. 235 (2007).

³³ *Beltran v. Sandiganbayan*, G.R. No. 201117, January 22, 2020, citing *Dichaves v. Office of the Ombudsman*, 802 Phil. 564, 589 (2016).



Sec. 12³⁴ and 13,³⁵ Art. XI of the 1987 Constitution, and in RA No. 6770³⁶ or the “Ombudsman Act of 1989.” Section 15 (1) of RA No. 6770, specifically states the Ombudsman’s authority to investigate and prosecute criminal cases, thus:

SEC. 15. *Powers, Functions and Duties.* — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the *Sandiganbayan* and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases[.]

As an independent constitutional body, the power of the Ombudsman to investigate is plenary and unqualified such that it has full discretion to determine whether a criminal case should be filed or not based on the attendant facts and circumstances of each case. Generally, the Court does not review the Ombudsman’s finding as to the existence or absence of probable cause, consistent with the policy of non-interference with the exercise of its constitutionally mandated powers.³⁷ Following this principle of non-

³⁴ SEC. 12. 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, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

³⁵ SEC. 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

(2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action.

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.

(6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence.

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency.

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

³⁶ AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES; approved, November 17, 1989.

³⁷ *Vergara v. The Hon. Ombudsman*, 600 Phil. 26, 42 (2009); see also *Casing v. Hon. Ombudsman*, 687 Phil. 468, 475-476 (2012).

interference, the Court exercises restraint in reviewing the Ombudsman's finding of probable cause. Since this Court is not a trier of facts, it generally defers to the sound judgment of the Ombudsman, as it is in a better position to assess the facts and circumstances necessary to find probable cause.³⁸ The only exception is when there is grave abuse of discretion amounting to lack or excess of jurisdiction.³⁹

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. This means that the Ombudsman must have exercised its investigatory and prosecutory powers in an arbitrary or despotic manner, which must be as patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.⁴⁰ A mere disagreement with the Ombudsman's findings is not enough to constitute grave abuse of discretion.⁴¹ In this case, even if the Court were to liberally adopt the exception to the general rule against the review of the findings of the Ombudsman, still, the petition must be dismissed as petitioner failed to demonstrate that the Ombudsman's Resolution and Order, which found no basis to charge Estacio for violation of Sec. 3 (e)⁴² of RA No. 3019, were tainted with grave abuse of discretion.

In *Uriarte v. People*,⁴³ the Court explained that Sec. 3 (e) of RA No. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. **Manifest partiality** signifies a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. Meanwhile, **evident bad faith** entails not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. This requires the state of mind to be affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. Lastly, **gross inexcusable negligence** is the degree of negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.⁴⁴

³⁸ *Beltran v. Sandiganbayan*, *supra* note 33.

³⁹ *Dr. Baylon v. Ombudsman*, 423 Phil. 705, 719-720 (2001).

⁴⁰ *Padaca v. Hon. Ombudsman Carpio Morales*, G.R. Nos. 201800 & 204007-08 (Resolution), August 8, 2018.

⁴¹ *Republic v. Hon. Ombudsman*, G.R. No. 198366, June 26, 2019.

⁴² SEC. 3. *Corrupt practices of public officers*. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

X X X X

e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

⁴³ 540 Phil. 477 (2006).

⁴⁴ *Id.* at 494-495.

In his complaint before the Ombudsman, petitioner claimed that Estacio's act of participating in the approval of the IRC board resolution granting separation pay benefits to the corporate officers, and his receipt of the ensuing emoluments, despite obvious conflict of interest, resulted in direct violation of Sec. 3 (e) of RA No. 3019.⁴⁵ Petitioner insists that this constitutes **evident bad faith** on the part of Estacio because his motive in voting for, and approving Board Resolution No. 2010-05-181 was really to benefit himself.⁴⁶ We do not agree.

In *Sistoza v. Desierto*,⁴⁷ we explained that before the modes of *manifest partiality*, *evident bad faith* or *gross inexcusable negligence* may even be considered, the Ombudsman should determine with certainty the facts indicating that a transgression of the law has been committed.⁴⁸ In this case, asserting evident bad faith as a method of commission is not enough to establish probable cause because allegation does not amount to proof. Nor can we deduce these modes from mere speculation or hypothesis given that good faith on the part of a public officer is presumed. Applying this standard, the Court agrees with the Ombudsman that it is not enough for petitioner to simply allege the presence of bad faith. The facts themselves must demonstrate *evident* bad faith. This connotes not only bad judgment, but entails a manifest deliberate intent on the part of the accused to do wrong or to cause damage. The Ombudsman cannot readily assume evident bad faith as it must be shown that the accused was spurred by a corrupt motive. Mistakes, no matter how patently clear, committed by a public officer are not actionable "absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith."⁴⁹

It is undisputed that the board resolution which granted separation pay benefits is a corporate act and Estacio is only one among the board of directors of IRC. Also, a simple reading of the board resolution reveals that the corporation has previously granted separation benefits to **all employees** of IRC exclusive of its officers. In issuing the board resolution, the IRC board of directors simply recognized that it is equitable to grant the same separation benefits being enjoyed by IRC employees to its officers. How can there be evident bad faith when the perceived benefit has long been enjoyed by all employees of IRC before it was granted to the officers such as Estacio. There is no evident bad faith or some perverse motive or ill will on the part of Estacio as there was no showing that he was unduly favored by the issuance of the board resolution.

Moreover, the Court thus rules that Estacio's participation in the approval of the board resolution cannot be construed as bad faith, and his

⁴⁵ *Supra* note 9, at 53; Complaint-affidavit.

⁴⁶ *Supra* note 17, at 15.

⁴⁷ 437 Phil. 117 (2002).

⁴⁸ *Id.* at 132.

⁴⁹ Concurring Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Villarosa v. People*, G.R. Nos. 233155-63, June 23, 2020.



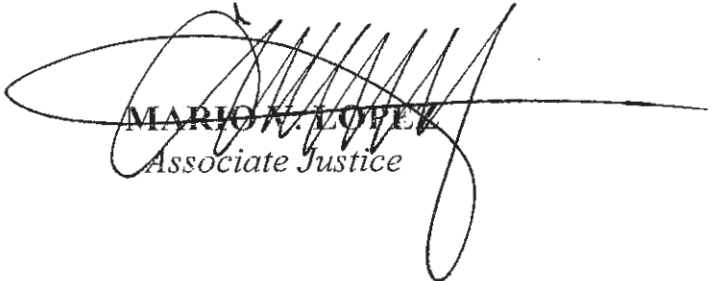
consequence of his service to the corporation. Any benefit which he may have derived from the board resolution is purely incidental to the position he was then occupying and cannot be deemed as an act which is intended to cause undue injury to any party or the government. Indeed, there is no such thing as presumption of bad faith in cases involving violations of the “Anti-Graft and Corrupt Practices Act.”⁵⁰ There being no proof that the incidental benefits received by Estacio was done with, or rooted in any corrupt intent, the Ombudsman’s dismissal of the complaint must be upheld.

To this end, the Court stresses that the purpose of a preliminary investigation is to secure innocent persons against hasty, malicious and oppressive prosecution, and to protect them from an open and public accusation of a crime, from the trouble, expense and anxiety of a public trial, and also to protect the State from useless and expensive trial. In discharging its duties, it is therefore, imperative upon the prosecutorial arms of the State to relieve any person from the trauma of going through a trial once it is ascertained that the evidence is insufficient to sustain a *prima facie* case, or that no probable cause exists to form a sufficient belief as to the guilt of the accused.⁵¹

In sum, the petition must be dismissed absent a compelling reason to reverse the Ombudsman's factual findings and conclusion of lack of probable cause.

FOR THESE REASONS, the petition for *certiorari* is **DISMISSED**. The assailed Resolution dated October 13, 2014 and Order dated March 10, 2015 issued by the Office of the Ombudsman in OMB-C-C-12-0288-G are **AFFIRMED**.

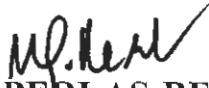
SO ORDERED.


MARIO N. LOPEZ
Associate Justice

⁵⁰ *Villarosa v. People*, G.R. Nos. 233155-63, June 23, 2020.

⁵¹ *Dr. Baylon v. Ombudsman*, *supra* note 39, at 709.

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



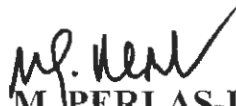
AMY C. LAZARO-JAVIER
Associate Justice



RICARDO R. ROSARIO
Associate Justice

ATTESTATION

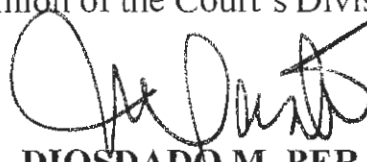
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice