



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**FIRST DIVISION**

**JUNEL ALASKA,**

Petitioner,

**G.R. No. 228298**

Present:

- versus -

GESMUNDO, C.J., Chairperson,  
 CAGUIOA,  
 CARANDANG,  
 ZALAMEDA, and  
 GAERLAN, JJ.

**SPO2 GIL M. GARCIA, PO3  
 ROMY P. GALICIA and PO2  
 RUZEL S. BRIONES,**

Respondents.

Promulgated:

JUN 23 2021 *mtf/ful*

X-----X

**DECISION**

**CAGUIOA, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> (Petition) filed under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated June 29, 2016 and Resolution<sup>3</sup> dated November 10, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 131205, which denied the petition for review under Rule 43 and subsequent motion for reconsideration of petitioner Junel Alaska (Alaska) and Adolfo Montesa (Montesa), both seeking to set aside the Joint Resolution<sup>4</sup> dated April 24, 2012 and Joint Order<sup>5</sup> dated November 23, 2012 of the Office of the Ombudsman (Ombudsman) in OMB-P-C-11-0918-K (for Arbitrary Detention) and OMB-P-A-11-0901-K (for Misconduct).

<sup>1</sup> *Rollo*, pp. 13-30.

<sup>2</sup> *Id.* at 38-47. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Socorro B. Inting and Victoria Isabel A. Paredes concurring.

<sup>3</sup> *Id.* at 49-50.

<sup>4</sup> *Id.* at 137-141.

<sup>5</sup> *Id.* at 142-145.

### Facts

On September 24, 2010, a robbery with homicide occurred at the Petron Gasoline Station owned by Leoncio and Josefina Docena (Josefina) in Poblacion District II, Brooke's Point, Palawan. Four armed men took ₱70,000.00 from the income of the gasoline station and shot one Romeo Tamaro, an employee of the gasoline station. Police officers responded to the incident, but were not able to apprehend the culprits. In the succeeding days, police officers conducted an investigation through interviews with witnesses and other persons of interest. From their investigation, they were able to gather that one Lilia Agda (Lilia), who was working as a cook at the gasoline station, mistakenly sent a message to the cellphone of Gubie Docena, which was one of the items taken by the robbers. Lilia received a call from the same cellphone number, saying "*Sino ka bakit nagsend ka ng graphics message ako na ang may ari ng cp na ito simula ngayon wag kang magtext doon dahil kami ang gumawa ng kaguluhan sa Brooke's Point gasolinahan at hinoldap namin ito.*"<sup>6</sup>

Another employee of Josefina, Jovy Abastillas (Jovy), sent messages to the same cellphone number allegedly in the possession of the culprits, in the guise of being a text mate. Purportedly through the exchanges, the police officers were able to locate the suspects in Barangay Ocayan, Bataraza, Palawan on September 29, 2010, five days after the incident. The police officers caught Alaska while talking on a cellphone with Jovy; they confirmed this from the call register of the cellphone, which they seized.<sup>7</sup>

Alaska and Montesa were brought to the Police Station in Rio Tuba where witnesses supposedly identified them as two of the men who robbed the gasoline station. They were brought to the prosecutor for inquest proceedings, but they opted for preliminary investigation.<sup>8</sup>

Subsequently, Alaska and Montesa were charged with Robbery with Homicide before the Regional Trial Court (RTC) of Puerto Princesa City.<sup>9</sup> Prior to arraignment, the two filed an Omnibus Motion to Judicially Determine Probable Cause, Quash the Information and Quash the Arrest Warrant<sup>10</sup> (Omnibus Motion) dated February 4, 2011, arguing that their warrantless arrests were unlawful and that there was no probable cause for the filing of the information.

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<sup>6</sup> Id. at 39-40.

<sup>7</sup> Id. at 40.

<sup>8</sup> Id.

<sup>9</sup> Id. at 316.

<sup>10</sup> Id. at 308-313.



In the meantime, on August 23, 2011, Alaska and Montesa filed a Complaint-Affidavit for Misconduct against Senior Police Officer 2 Gil M. Garcia, Police Officer 3 Romy P. Galicia and Police Officer 2 Ruzel S. Briones (respondents) before the Ombudsman docketed as OMB-P-A-11-0901-K. Subsequently, on October 11, 2011, they also filed a Joint Complaint Affidavit for Arbitrary Detention before the same office, docketed as OMB-P-C-11-0918-K.<sup>11</sup>

On September 28, 2012, the Ombudsman issued a Joint Resolution<sup>12</sup> dated April 24, 2012 dismissing both the administrative case for Misconduct and the criminal case for Arbitrary Detention.

According to the Ombudsman, the crux of the complaints was the legality of Alaska's and Montesa's warrantless arrests, which should be raised before the trial court prior to entering their plea on arraignment. Since the criminal case for Robbery with Homicide was already pending before the RTC, the legality of the arrest should be questioned before said court and not by filing counter-charges for Arbitrary Detention and Misconduct. Furthermore, the Ombudsman cited Section 20 of Republic Act (R.A.) No. 6770<sup>13</sup> in saying that since Alaska and Montesa had an adequate remedy before the RTC, it would then no longer conduct the investigation of any administrative act or omission complained of in order not to preempt the decision of the court.<sup>14</sup>

Alaska and Montesa filed a Motion for Reconsideration dated October 23, 2012 of the Ombudsman's Joint Resolution. In a Joint Order<sup>15</sup> dated November 23, 2012, the Ombudsman denied the Motion for Reconsideration, further noting that Alaska and Montesa had already questioned the legality of their arrest before the RTC during the hearing on "the judicial determination of probable cause, motion to quash the information and arrest warrant held on August 12, 2011."<sup>16</sup> Alaska and Montesa assailed the Ombudsman's findings through a petition for review before the CA.

On May 21, 2014, the RTC issued a Resolution<sup>17</sup> resolving Alaska and Montesa's Omnibus Motion. The RTC found that the prosecution was not able to present sufficient evidence warranting the arrest, indictment, and prosecution of Alaska and Montesa. The trial court further found that the prosecution's ground for pinning the crime upon Alaska and Montesa was

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<sup>11</sup> Id. at 40-41.

<sup>12</sup> Supra note 4.

<sup>13</sup> THE OMBUDSMAN ACT OF 1989, approved on November 17, 1989.

<sup>14</sup> *Rollo*, p. 140.

<sup>15</sup> Supra note 5.

<sup>16</sup> Id. at 143.

<sup>17</sup> Id. at 316-353. Rendered by Presiding Judge Leopoldo Mario P. Legazpi.



flimsy, and that the law enforcers involved showed a “readiness to contrive evidence.”<sup>18</sup>

Subsequently, the CA, in its assailed Decision<sup>19</sup> dated June 29, 2016, dismissed Alaska and Montesa’s contest against the Ombudsman’s Joint Resolution and Joint Order. The CA found that Alaska and Montesa’s resort to Rule 43 of the Rules of Court was erroneous, as the correct remedy was a Petition for *Certiorari* under Rule 65.<sup>20</sup> On the merits, the CA found that Alaska and Montesa had failed to raise any objection to the irregularity of their arrest before arraignment and had therefore waived any perceived defect therein, including the filing of an administrative complaint.<sup>21</sup> The CA denied a subsequent motion for reconsideration in its assailed Resolution<sup>22</sup> dated November 10, 2016.

Hence, this Petition, brought by Alaska alone.

### Issues

Alaska raises the following issues for resolution by the Court:

- (a) Whether the CA validly dismissed the petition on the premise that Alaska raised no objection as to the irregularity of his arrest before arraignment.
- (b) Whether the Ombudsman erred in holding that questioning the legality of the arrest before the RTC bars the filing of administrative and criminal cases with the Ombudsman.

### Ruling of the Court

There is merit in the Petition.

At the outset, the Court notes that, as correctly found by the CA, Alaska and Montesa availed themselves of the wrong remedy in assailing the Ombudsman’s Joint Resolution and Joint Order. Decisions of the Ombudsman in administrative cases, where the respondent is absolved of the charges, are final, executory, and unappealable, but if issued with grave abuse of discretion, may be assailed by filing a petition for *certiorari* under Rule 65 before the CA.<sup>23</sup> On the other hand, the remedy against the

<sup>18</sup> Id. at 344.

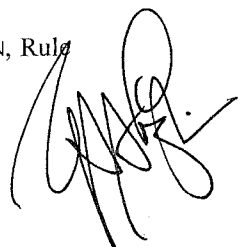
<sup>19</sup> Supra note 2.

<sup>20</sup> Id. at 43.

<sup>21</sup> Id. at 45.

<sup>22</sup> Supra note 3.

<sup>23</sup> Administrative Order No. 07, or the RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN, Rule 3, Sec. 7. See also *Mandagan v. Dela Cruz*, G.R. No. 228267, October 8, 2018, 882 SCRA 349.



Ombudsman's decisions in criminal cases is to file a petition for *certiorari* under Rule 65 before this Court.<sup>24</sup> In this case, the Ombudsman's decisions in both the criminal and administrative cases were assailed through a petition for review under Rule 43 filed with the CA, clearly in contravention of the aforementioned rules.

The Court emphasizes that rules of procedure are accorded utmost respect and must be constantly adhered to. However, if a strict and rigid application thereof would tend to obstruct and frustrate rather than promote substantive justice, the Court may relax the same, in light of the prevailing circumstances of the case.<sup>25</sup> Here, the Court finds that there are incidents which merit a relaxation of the rules. Among these are: (a) the CA, despite acknowledging the erroneous remedy availed of by Alaska and Montesa, proceeded to decide the case on the merits; (b) in its appreciation of the merits of the case, the CA made conclusions which had no basis whatsoever in the facts and antecedents of the case; and (c) there are serious indications, not only of unlawful arrest but also of fabrication of evidence by respondents, which the CA and the Ombudsman refused to tackle without proper legal basis. For these reasons, the Court resolves to take cognizance of this case, lest a miscarriage of justice be allowed to occur.

*The CA gravely erred in dismissing Alaska and Montesa's petition on the premise that they raised no objections to their arrest prior to arraignment*

In its assailed Decision, the CA said:

A review of the records reveals that petitioners raised no objection as to the irregularity of their arrest before their arraignment. Considering this and their active participation in the trial of the case for robbery with homicide, petitioners are deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in their arrest. An accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.

In the instant case, at the time of petitioners' arraignment, there was no objection raised as to the irregularity of their arrest. Thereafter, they actively participated in the proceedings before the trial court. In effect, they are deemed to have waived any perceived defect in their arrest and they effectively submitted to the jurisdiction of the court trying their

<sup>24</sup> *Gatchalian v. Ombudsman*, G.R. No. 229288, August 1, 2018, 876 SCRA 148, 157.

<sup>25</sup> *Chona Jayme v. Noel Jayme and the People of the Philippines*, G.R. No. 248827, August 27, 2020, p. 5.

case. Thus, the Office of the Ombudsman did not commit any error in dismissing the administrative complaints. The instant case falls within the exception provided under Section 20 (1) of [R.A. No.] 6770, in cases where the Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of. Petitioners were given an adequate remedy before the trial court but since they failed to raise the irregularity of their arrest therein, they can no longer resort to filing an administrative complaint.<sup>26</sup> (Citation omitted)

That Alaska timely and properly assailed the validity of his arrest through an Omnibus Motion, which was heard and decided by the RTC in Alaska's favor, is clear from the records. This fact is even admitted by respondents.<sup>27</sup> Even the Ombudsman acknowledged this in its Joint Order which Alaska assailed before the CA. Hence, there is simply no basis whatsoever for the foregoing findings of the CA.

Even assuming that Alaska failed to question the validity of his arrest before the RTC, the CA still grievously erred in holding that such a failure would have precluded the filing of administrative and criminal charges against errant public officers. This is discussed further below in conjunction with the second issue for resolution.

*The right of an accused to assail his arrest before the trial court does not preclude the filing of administrative or criminal charges against the arresting officers*

To be clear, Alaska is assailing the Ombudsman's refusal, as affirmed by the CA, to pursue (1) an administrative case for Misconduct, and (2) a criminal case for Arbitrary Detention against respondents, such refusal being on the ground that the validity of an accused's arrest "fall[s] into the question of the exercise by the trial court of its jurisdiction over the person of the accused"<sup>28</sup> and cannot be assailed through "counter-charges" of Arbitrary Detention and Misconduct. Specifically, as regards the administrative case for Misconduct, the Ombudsman further cites Section 20 of R.A. No. 6770 in saying that investigation of any administrative act complained of is discretionary if the complainants have an adequate remedy before the proper court. In relation to this, respondents, in their Comment on the Petition for Review,<sup>29</sup> even go so far as to say that the filing of administrative and criminal cases against them were attempts at forum shopping by Alaska.

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<sup>26</sup> Rollo, p. 45.

<sup>27</sup> Comment on the Petition for Review, *see* temporary rollo.

<sup>28</sup> Rollo, p. 140.

<sup>29</sup> *See* temporary rollo.



The Ombudsman's and respondents' arguments cannot be countenanced.

Section 20 of R.A. No. 6770 provides:

Section 20. Exceptions. — The Office of the Ombudsman may not conduct the necessary investigation of **any administrative act or omission complained of** if it believes that:

- (1) **The complainant has an adequate remedy in another judicial or quasi-judicial body;**
- (2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;
- (3) The complaint is trivial, frivolous, vexatious or made in bad faith;
- (4) The complainant has no sufficient personal interest in the subject matter of the grievance; or
- (5) The complaint was filed after one (1) year from the occurrence of the act or omission complained of. (Emphasis supplied)

Pursuant to the foregoing provision of law, Administrative Order (A.O.) No. 07,<sup>30</sup> or the Rules of Procedure of the Office of the Ombudsman, as amended by A.O. No. 17,<sup>31</sup> of the same office, provides that:

Section 3. How initiated. - **An administrative case may be initiated by a written complaint under oath accompanied by affidavits of witnesses and other evidence in support of the charge.** Such complaint shall be accompanied by a Certificate of Non-Forum Shopping duly subscribed and sworn to by the complainant or his counsel. An administrative proceeding may also be ordered by the Ombudsman or the respective Deputy Ombudsman on his initiative or on the basis of a complaint originally filed as a criminal action or a grievance complaint or request for assistance.

Section 4. Evaluation. - Upon receipt of the complaint, the same shall be evaluated to determine whether the same may be:

- a) **dismissed outright for any of the grounds stated under Section 20 of [R.A. No.] 6770, provided, however, that the dismissal thereof is not mandatory and shall be discretionary on the part of the Ombudsman or the Deputy Ombudsman concerned;**
- b) treated as a grievance/request for assistance which may be referred to the Public Assistance Bureau, this Office, for appropriate action under Section 2, Rule IV of this Rules;

<sup>30</sup> Approved on April 10, 1990.

<sup>31</sup> AMENDMENT OF RULE III, ADMINISTRATIVE ORDER NO. 07, approved on September 15, 2003.

- c) referred to other disciplinary authorities under paragraph 2, Section 23, [R.A. No.] 6770 for the taking of appropriate administrative proceedings;
- d) referred to the appropriate office/agency or official for the conduct of further fact-finding investigation; or
- e) docketed as an administrative case for the purpose of administrative adjudication by the Office of the Ombudsman. (Emphasis and underscoring supplied)

Contrary to the Ombudsman's stance, neither the foregoing provisions, nor the fact that Alaska and Montesa may assail the legality of their arrest before the RTC, precludes them from filing administrative and criminal charges against the apprehending officers. Having the opportunity to raise objections against the legality of one's arrest is not the "adequate remedy in another judicial or quasi-judicial body" adverted to in Section 20 of R.A. No. 6770. This is so because the supposed relief afforded by one recourse is not the same as that afforded by the other.

It is settled that the invalidity of an arrest leads to several consequences: (a) the failure to acquire jurisdiction over the person of an accused, if timely raised by the accused; (b) criminal liability of law enforcers for arbitrary detention under Article 124 of the Revised Penal Code;<sup>32</sup> and (c) any search incident to the arrest becomes invalid thus rendering the evidence acquired as constitutionally inadmissible.<sup>33</sup> In addition to this, the arresting officers who conducted a warrantless arrest without strictly complying with the conditions set forth in Section 5, Rule 113 of the Rules of Court can be held liable for damages under Article 32 of the Civil Code and for other administrative sanctions.<sup>34</sup> Basic in the law of public officers is the three-fold liability rule, which states that the wrongful acts or omissions of a public officer may give rise to civil, criminal and administrative liability.<sup>35</sup> An action for each can proceed independently of the others.<sup>36</sup>

The criminal case previously pending before the RTC against Alaska and Montesa, on the one hand, was separate and distinct from the criminal case for Arbitrary Detention and the administrative case for Misconduct against herein respondents, on the other hand. In the former, what the RTC was tasked to resolve was whether Alaska and Montesa were guilty of committing the crime of Robbery with Homicide corresponding to the incident at the Petron Gasoline Station in Poblacion District II, Brooke's

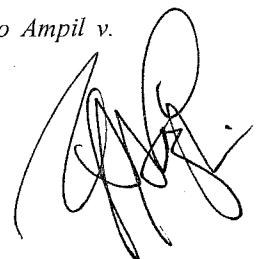
<sup>32</sup> *Umil v. Ramos*, G.R. No. 81567, October 3, 1991, 202 SCRA 251, 268.

<sup>33</sup> *Veridiano v. People*, G.R. No. 200370, June 7, 2017, 826 SCRA 382, 395.

<sup>34</sup> *Umil v. Ramos*, supra note 32, at 268-269. See also *Integrated Bar of the Philippines Pangasinan Legal Aid v. Department of Justice*, G.R. No. 232413, July 25, 2017, 832 SCRA 396, 413.

<sup>35</sup> *Domingo v. Rayala*, G.R. No. 155831, February 18, 2008, 456 SCRA 90, 112. See also *Ampil v. Ombudsman*, G.R. No. 192685, July 31, 2013, 703 SCRA 1, 39.

<sup>36</sup> *Id.*





Point, Palawan. In the latter, the Ombudsman was tasked to determine whether there was probable cause to file an Information for Arbitrary Detention against respondents, or substantial evidence to penalize them for Misconduct, due to the arrest and detention of Alaska and Montesa purportedly without legal ground.

Admittedly, since Alaska and Montesa assailed the validity of their arrest before the RTC, both tribunals would then have to contend with the question of whether there was legal ground for respondents to effect said arrest. Indeed, the issue of the validity of Alaska and Montesa's arrest is akin to a prejudicial question<sup>37</sup> from the perspective of the Ombudsman, considering that it was first raised before the RTC through Alaska and Montesa's Omnibus Motion. However, the RTC and the Ombudsman are called to resolve this same question for entirely different purposes. As earlier mentioned, for the Ombudsman, the purpose is determination of probable cause to file an Information or to penalize for Misconduct. For the RTC, the purpose is to determine whether it had properly acquired jurisdiction<sup>38</sup> over the persons of Alaska and Montesa as therein accused, and whether it was proper to quash<sup>39</sup> the Information filed against them. The proper course of action for the Ombudsman, therefore, was not to wash its hands clean of the cases for Misconduct and Arbitrary Detention by dismissing the same, but to suspend the proceedings before it pending the RTC's resolution of the Omnibus Motion.

Given the difference in nature and purpose of the criminal proceedings for Robbery with Homicide against Alaska and Montesa, and the proceedings against respondents for the purportedly illegal arrest, Section 20(1) of R.A. No. 6770 cannot be invoked to validate the discretionary dismissal by the Ombudsman of the charges of Arbitrary Detention and Misconduct. The "adequate remedy" referred to in Section 20(1) of R.A. No. 6770 can only be construed as referring to, where proper, recourse to other proceedings or tribunals whereby the erring official who committed the act or omission complained of may also be made administratively liable. In other words, this refers to a situation where the Ombudsman has concurrent administrative jurisdiction over the said act or omission.

<sup>37</sup> Section 7, Rule 111 of the Revised Rules of Criminal Procedure sets forth the elements of a prejudicial question as follows: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed. Jurisprudence has, however, recognized that the concept of a prejudicial question – and the suspension of proceedings in the subsequent case on the basis thereof – may be applied even in instances where the two elements are not strictly met, but where the resolution of the issue by one tribunal is determinative of the case before the other tribunal. *See Quiambao v. Osorio*, No. L-48157, March 16, 1988, 158 SCRA 674 and *Tamin v. CA*, G.R. No. 97477, May 8, 1992, 208 SCRA 863. *See also Security Bank Corporation v. Victorio*, G.R. No. 155099, August 31, 2005, 468 SCRA 609, 628, where the Court, despite finding that there was strictly no prejudicial question, recognized the propriety of suspending proceedings in the subsequent case "to avoid multiplicity of suits and prevent vexatious litigations, conflicting judgments, confusion between litigants and courts."

<sup>38</sup> *People v. Meris*, G.R. Nos. 117145-50 & 117447, March 28, 2000, 329 SCRA 33.

<sup>39</sup> RULES OF CRIMINAL PROCEDURE, Rule 117, Sec. 3.

It must be noted as well that Section 20(1) of R.A. No. 6770 leaves no room for ambiguity as regards what kind of charges or proceedings it would apply to — that is, in administrative, and only in administrative cases. There is no similar provision granting the Ombudsman discretionary authority to dismiss outright any criminal complaint filed before it. In fact, the Court has said:

Jurisprudence has so far settled that dismissal based on the grounds provided under Section 20 is not mandatory and is discretionary on the part of the evaluating Ombudsman or Deputy Ombudsman evaluating the administrative complaint. Clearly, as the law, its implementing rules, and interpretative jurisprudence stand, the dismissal by the Ombudsman on grounds provided under Section 20 is applicable only to administrative complaints. Its invocation in the present criminal case is therefore misplaced.

Contrariwise, the procedure in criminal cases requires that the Ombudsman evaluate the complaint and after evaluation, to make its recommendations in accordance with Section 2, Rule II of the Admin[i]strative Order No. 07, as follows:

Section 2. Evaluation. — Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate office or official for fact-finding investigation;
- e) referred for administrative adjudication; or
- f) subjected to a preliminary investigation.

Thus, the only instance when an outright dismissal of a criminal complaint is warranted is when such complaint is palpably devoid of merit. Nothing in the assailed Orders would show that the Ombudsman found the complaint to have suffered from utter lack of merit. In fact, the assailed Orders are empty except for the citation of Section 20 as basis for outright dismissal. It is thus inaccurate and misleading for the Ombudsman to profess that the criminal complaint was dismissed only after the conduct of a preliminary investigation, when the complaint never reached that stage to begin with. Clearly, the Ombudsman committed grave abuse of discretion when it evaluated and consequently dismissed a criminal complaint based on grounds peculiar to administrative cases and in an unexplained deviation from its own rules of procedure.<sup>40</sup> (Citations, emphasis and italics omitted, and underscoring supplied)

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<sup>40</sup> *Espaldon v. Buban*, G.R. No. 202784, April 18, 2018, 861 SCRA 651, 661-662.



The foregoing makes clear that the Ombudsman had no business pointing to the RTC as Alaska's only recourse for the illegal arrest he alleged to have suffered. The charges for Misconduct and Arbitrary Detention should have been resolved on their merits, or the lack thereof.

Furthermore, upholding the Ombudsman's stance would wreak havoc upon the criminal justice system. Precluding victims of illegal warrantless arrests from filing criminal charges against the unscrupulous officers who arrested them, on the ground that their only recourse is with the trial court before which their very own criminal cases are pending, would prevent any prosecution of Arbitrary Detention from ever occurring, let alone prospering. Needless to say, this would frustrate the law prohibiting such illegal arrests, and the Court cannot support such an interpretation.

While it is in an accused's interest to timely raise objections to his or her warrantless arrest before the trial court which has acquired jurisdiction over his or her case, it is in the State's interest to investigate and prosecute violations of fundamental rights by the State's own elements. What is at stake are not merely innocuous mistakes or minor lapses in procedure by arresting officers. Such a sweeping limitation on who may file complaints for Arbitrary Detention will also allow those who maliciously fabricate charges and evidence against innocent civilians to evade prosecution for their crimes.

Alaska's plight actually serves as a case in point. In its Resolution<sup>41</sup> dated May 21, 2014, resolving Alaska's Omnibus Motion, the RTC made the following findings:

Based on the foregoing factual milieu, it is readily discernible that the circumstances resulting in the identification and the corresponding arrest of the accused as suspects in the robbery-homicide incident subject of this case is highly questionable and irregular.

The Court does not know how the names of the accused cropped up as alleged suspects in the incident, but there definitely is not much room for credulity regarding the police version thereof. None of the witnesses the police interviewed at the crime scene, right after the incident, was able to give the name or even describe the face of even one of the several suspects in the heist. The follow-up investigations conducted by police officers Galicia and Lovido, for several days after the incident, turned up empty on this score. x x x

x x x x

Against this unfounded claim of alleged conversations with Jovy's text mate and later, with Alaska which allegedly resulted in the identification of the accused, there is credible testimony pointing to the

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<sup>41</sup> Supra note 17.



negative participation of the accused in the incident. Recla, a barangay kagawad, swore that Kulihim, an alleged eyewitness to the incident whom he accompanied to the residences of the accused to identify them as suspects, negatively identified them as such. Benjie Abastillas also did not take the witness stand to affirm the police's claim that he pointed to accused Alaska as one of those whom he saw during the incident.

Thus, under the given circumstances, the Court is of the persuasion that there is no truth to x x x [Lilia] and [Jovy's] alleged conversations, not only because there is no proof to affirm the factuality thereof but also because they fly in the face of what is credible under those circumstances. It clearly appears to be a mere crude idea that the police had hatched to justify their arrest of the accused as suspects in the incident, so much so that it cannot be said that the arrest of the accused suited the evidence but, rather, it was the evidence that [was] made to suit their arrest.

x x x x

In this case, as already pointed out, the Brooke's Point police had nary an idea who the suspects are in the incident it was investigating. It faced a complete blank wall when it started its investigation. There is even basis to presume that it has no idea as well as to the actual number of suspects who were involved in the incident, as shown by the fact that, as SPO2 Garcia had admitted, the police had to amend its complaint to include two John Does as respondents after another two alleged suspects, who were allegedly also involved in the heist, were apprehended by the Puerto Princesa City police but who, for unknown causes, escaped from the latter's custody.

Demonstrably, the follow-up operations, which the police conducted after its initial blank investigation, were exactly just that—a plain extension of its initial investigation made in other places, in the hope that it would be able to get some lead on the identities of their unknown suspect(s). It was not a hot pursuit by the police of fleeing criminals who, in the presence of the pursuing policemen, have committed, have just committed, or have been attempting to commit a crime for which they are sought to be arrested. Neither was it a pursuit by the police based on its knowledge of facts and circumstances that the crime that had just transpired was committed by the particular persons it was pursuing and intending to arrest.

Based on all the foregoing reasons, the Court thus finds the arrest and indictment of the accused to be without proper legal bases, for which reason the warrants for their arrest and the commitment order issued pursuant thereto cannot likewise be sustained.<sup>42</sup> (Emphasis omitted and underscoring supplied)

From the foregoing, the RTC is convinced that the warrantless arrest of Alaska was completely bereft of legal and factual basis. The RTC even goes so far as to imply that evidence was fabricated to support the arrest. To be clear, the Court is not making any conclusions, nor is it adopting the foregoing findings of the RTC on the validity of Alaska's arrest. Indeed, the Court is not a trier of facts. But if the foregoing is true, it is not only proper

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<sup>42</sup> Id. at 348-352.

that Alaska and Montesa were released, and the Information against them quashed — it is also of prime importance that those who are responsible for these acts be held accountable, and any future perpetration be deterred.

To this end, the Ombudsman was created and tasked by no less than the Constitution to:

(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.<sup>43</sup>

Pursuant thereto, Section 13 of R.A. No. 6770 gives the Ombudsman the following mandate:

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

In this case, there was no valid reason for the Ombudsman to have refused to conduct an investigation on the criminal and administrative charges filed by Alaska and Montesa against respondents. Its unjustified refusal is contrary to its mandate under the law, and cannot be tolerated.

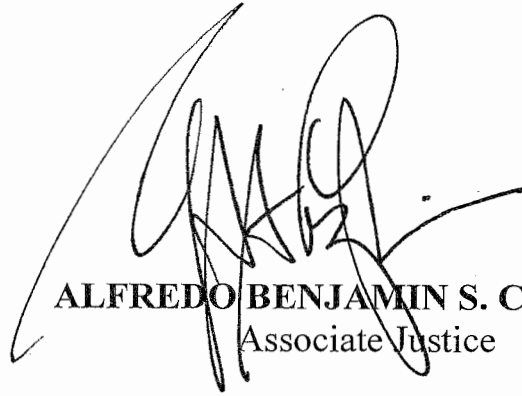
**WHEREFORE**, premises considered, the Petition for Review on *Certiorari* is **GRANTED**. The Decision dated June 29, 2016 and Resolution dated November 10, 2016 of the Court of Appeals in CA-G.R. SP No. 131205, affirming the dismissal by the Office of the Ombudsman of OMB-P-C-11-0918-K (for Arbitrary Detention) and OMB-P-A-11-0901-K (for Misconduct), are hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Office of the Ombudsman for resolution on the merits.

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<sup>43</sup> 1987 CONSTITUTION, Art. XI, Sec. 13.

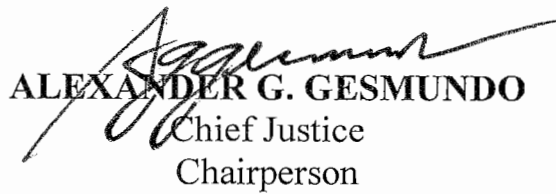


**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

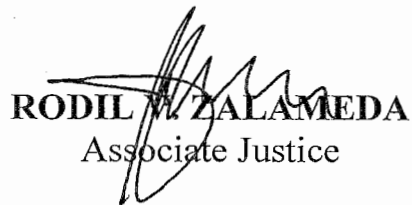
**WE CONCUR:**



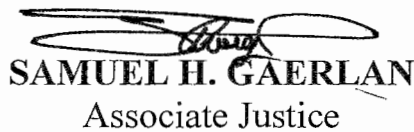
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson



**ROSMARI D. CARANDANG**  
Associate Justice



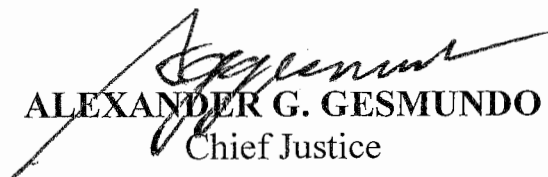
**RODIL W. ZALAMEDA**  
Associate Justice



**SAMUEL H. GAERLAN**  
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.



**ALEXANDER G. GESMUNDO**  
Chief Justice