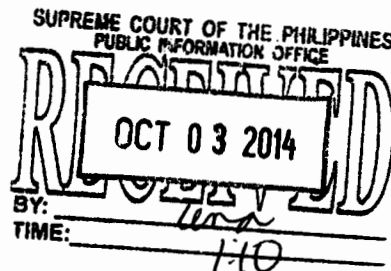




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **September 17, 2014** which reads as follows:

**“G.R. No. 212841 — JED PAGUE, HOUSING HOMESITE REGULATION OFFICER II, HOUSING LAND USE REGULATORY BOARD (HLURB), DAVAO CITY, Petitioner v. ROY TORRES LOPEZ, REGIONAL OFFICER, HLURB, REGIONAL FIELD OFFICE XI, DAVAO CITY AND THE OFFICE OF THE OMBUDSMAN, Respondents.**

Before this Court is Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 filed by Jed Pague (Pague) assailing error on the part of the Court of Appeals in not finding that there was a grave abuse of discretion on the part of the Office of the Ombudsman when it denied his Motion for Ocular Inspection and Subpoena *Duces Tecum*.

On 25 September 2007, Pague filed a complaint for grave misconduct and dishonesty against his head of office Roy T. Lopez (Lopez), Housing Land Use Regulatory Board (HLURB) Davao City Regional Officer, before the Office of the Ombudsman. Together with his complaint-affidavit was his *Ex-Parte* Manifestation with Motion for Ocular Inspection and Subpoena *Duces Tecum* to direct Lopez to produce pertinent documents relating to the complaint. He alleged that he requested Lopez in writing to produce the documents but the latter refused to do so.

On 5 October 2007, the Ombudsman issued a Joint Order directing Lopez to submit his counter-affidavit. Upon receipt of the counter-affidavit, it ordered both parties on 26 December 2007, Pague and Lopez, to submit their respective position papers. Lopez complied with the order on 24 January 2008. Instead of complying, Pague, however, filed a motion for reconsideration praying that his motion for ocular inspection and

<sup>1</sup> Rollo, pp. 11-47.

subpoena *duces tecum* should be granted first before his submission of position paper.

On 14 April 2008, the Ombudsman issued an Order that Pague cannot impose conditions before he would comply with the lawful order of the Ombudsman. The Ombudsman cited the following reasons for the denial. *First*, the documents subject of the subpoena *duces tecum* were accessible to him; *Second*, the non-necessity of ocular inspection; *Third*, the documents subject of the letter refer to a different case and finally, the Office of the Ombudsman was convinced that he was not denied any access to the records of the office.

The motion for reconsideration was denied through an Order dated 18 April 2011. The Ombudsman ruled that Pague's prayer defied its order and asserted its power not to be compelled to order the production of unnecessary documents.

Before the Court of Appeals, Pague argued that the Office of the Ombudsman acted with grave abuse of discretion when it denied its *ex-parte* manifestation with motion for ocular inspection and subpoena *duces tecum* without any justifiable reason. On 30 April 2014, the appellate court dismissed the petition of Pague.<sup>2</sup>

**We dismiss the petition.**

As a general rule, the courts will not interfere with the discretion of the prosecutor or the Ombudsman, in the exercise of his investigative power, to determine the specificity and adequacy of the averments of the offense charged. The prosecution is given latitude of discretion to determine whether the offense charged, together with the evidence presented, is sufficient in determining whether or not it is proper to file corresponding information.<sup>3</sup> As explained in *Esquivel v. Ombudsman*:<sup>4</sup>

Settled is the rule that the Supreme Court will not ordinarily interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise. Said exercise of powers is based upon the constitutional

- over -

<sup>2</sup> Id. at 54-63.

<sup>3</sup> *Soriano v. Ombudsman*, 610 Phil. 72, 78 (2009).

<sup>4</sup> 437 Phil. 702, 711-712, (2002).

mandate and the court will not interfere in its exercise. The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman, but upon practicality as well.<sup>5</sup>

It is within the powers of the Ombudsman to dismiss a complaint outright for lack of merit and to determine whether the evidence before him is sufficient to establish probable cause. Thus, Pague may not compel the Ombudsman to order the production of certain documents, if in the Ombudsman's judgment such documents are not necessary in order to establish the guilt or innocence of the accused.<sup>6</sup>

**WHEREFORE**, the instant petition is **DENIED**. The Court of Appeal's Decision dated 30 April 2014 in CA-G.R. SP No. 04512-MIN is hereby **AFFIRMED**.

**SO ORDERED."**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

164

CARIAGA LAW OFFICES  
Counsel for Petitioner  
2<sup>nd</sup> Flr., Cariaga Bldg.  
Mt. Apo St., Davao City 8000

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. SP No. 04512-MIN)

OFFICE OF THE OMBUDSMAN  
National Government Center  
1128 Diliman, Quezon City

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

OFFICE OF THE OMBUDSMAN-  
MINDANAO  
4<sup>TH</sup> Flr., H & C Bldg., Alvarez St.  
Sta. Ana, Davao City 8000  
(OMB-M-A-07-244-J)

Judgment Division (x)  
Supreme Court

Atty. Lloyd Christopher A. Lao  
Counsel for Resp. R. T. Lopez  
2<sup>nd</sup> Flr., Torre Bldg.  
Anda St., Davao City 8000

SR

<sup>5</sup> Soriano v. Ombudsman, supra note 3.

<sup>6</sup> Mamburao, Inc. v. Office of the Ombudsman, 398 Phil. 762, 779 (2000).

