SECOND DIVISION

[G.R. Nos. 157419-20. December 13, 2004]

LIBRADO M. CABRERA, FE M. CABRERA and LUTHER LEONOR, *petitioners, vs.* HON. SIMEON V. MARCELO, in his capacity as OMBUDSMAN, THE HON. SANDIGANBAYAN (FOURTH DIVISION) and FRANCO P. CASANOVA, *respondents.*

D E C I S I O N

TINGA, *J.*:

Through the present *Petition for Certiorari,* elected local officials of the Municipality of Taal, Batangas attempt to nip in the bud criminal prosecutions lodged against them by the Ombudsman before the Sandiganbayan. They fail.

The antecedents follow.

Before the Ombudsman, complaints were filed by private respondent Franco P. Casanova against incumbent Taal, Batangas mayor Librado M. Cabrera, his wife, former Mayor Fe M. Cabrera, and Taal Municipal Councilor Luther Leonor, for violation of Article 217 in relation to Articles 171 and 48 of the Revised Penal Code (*i.e.*, the complex crime of Malversation of Public Funds thru Falsification of Public Documents), and Section 3(e) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. The cases pertained to the allegedly unauthorized travels of the spouses Cabrera, and the allegedly anomalous purchase of medicines involving Leonor and the Cabreras.

The complaint pertaining to the alleged unauthorized travel, docketed as OMB-1-01-0873-J, alleges that during his previous term, Librado Cabrera had, on 13 March 1998 and 22 June 1998, collected and received from the Municipal Government of Taal, reimbursement of alleged travel expenses incurred outside of the Province of Batangas in the respective amounts of Thirteen Thousand Six Hundred Seventy Pesos and Twenty-Nine Centavos (₱13,670.29) and Thirteen Thousand Nine Hundred Eighty- One Pesos and Fifty Four Centavos (₱13,981.54). Likewise, Fe Cabrera, during her own term, obtained reimbursement for alleged travel expenses incurred outside the province of Batangas in the total amount of One Hundred Seventy Thousand Nine Hundred Eighty-Seven Pesos and Sixty-Six Centavos (₱170,987.66).[1] The Cabreras, prior to undertaking the questioned trips, did not secure formal approval from the Provincial Governor of Batangas as required under the Local Government Code. It is also alleged that the Cabreras forged the signature of then Governor Hermilando I. Mandanas in a purported Certification dated 14 December 2000, which appeared to approve the travel orders and expenses incurred by the Cabreras.[2]

The complaint regarding the alleged unauthorized purchases of medicine was docketed as OMB-1-01-0874-J. It is alleged therein that on several occasions in 1998 and 1999, during the respective incumbencies of Librado and Fe Cabrera, they caused the procurement of certain medical supplies/medicines from a sole supplier, Diamond Laboratories, Inc. ("DLI"), in the total amount of One Million Five Hundred Thirteen Thousand Five Hundred Thirteen Pesos and Two Centavos (₱1,513,513.02).[3] These procurements were purportedly irregular, as they were made without the benefit of a public bidding; in certain cases, payments were actually made prior to the delivery and acceptance of the medical supplies; the checks issued in payment were made payable to DLI or Luther Leonor, who thereafter encashed the same; and per General Information Sheet of DLI with the Securities and Exchange Commission, the members of the Board of Directors at the time of the transactions were relatives of Librado within the fourth civil degree of consanguinity, namely: Roberto V. Cabrera, Jr., Profetiza P. Cabrera, Edrich P. Cabrera, Roberto V. Cabrera III, and Jason Paul P. Cabrera.[4]

The Cabreras and Leonor filed their respective counter-affidavits. They noted that the allegations were based on an audit report in the form of a memorandum dated 11 June 2001 submitted by State Auditors Ely G. Valdez and Ruben Jobil to the Director, COA Regional Office No. IV, Quezon City. They also argued that the complaints were premature, as they timely requested for reconsideration of the audit findings and therefore, the audit report had not yet attained finality and could not be the basis of the instant complaints.

In his reply, Casanova averred that on 20 January 2002, he received a copy of a letter from COA Regional Office No. IV Director Tito Nabua, advising Librado Cabrera that the latter's request for reconsideration had been denied.[5] On 13 May 2002, the petitioners appealed the denial of their request for reconsideration with the COA Head Office.[6]

In a *Joint Resolution* dated 22 March 2002, the Office of the Deputy Ombudsman for Luzon dismissed the charge of Malversation of Public Funds Thru Falsification of Public Documents, holding that there was no sufficient showing to hold the Cabreras liable for the charge.[7] However, on the same *Joint Resolution* said Deputy Ombudsman found sufficient basis to hold the Cabreras and Leonor liable for Section 3(e) of the Anti-Graft and Corrupt Practices Act, which penalizes "causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefit, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith, or gross inexcusable negligence."

The *Joint Resolution* declared improper the reimbursement of the travel expenses of the Cabreras since there was no valid travel order issued by the proper authorities when the Cabreras left their station, in contravention of Section 96(b) of the Local Government Code. Even assuming that the Certification dated 14 December 2000 is valid, the *Joint Resolution* countered, such could not cure the illegality of the travel and the subsequent reimbursement of the unauthorized travel expenses, as it was issued long after the trips were made, and even after the COA audit.[8]

It was also found in the *Joint Resolution* that the subject procurement of medicines was highly irregular, as it was made without public bidding and the medicines were obtained from

only one company which is owned by the relatives of Librado Cabrera.[9] It cited Section 356 of the Local Government Code, which lays the general rule that acquisition of supplies by a local government unit shall be through competitive public bidding. Also noted were that a total payment of Three Hundred Thousand Nine Hundred Thirty-Three Pesos and Fifty-Two Centavos (₱300,933.52) was made even prior to the delivery and acceptance of the purchased medicines, and that the name Leonor, an incumbent Municipal Councilor, appeared on the canvass sheets, purchase orders, sales invoices, official receipts, disbursement vouchers and checks, with Leonor himself actually and personally encashing the checks. [10]

Thus, the *Joint Resolution* recommended the filing before the Sandiganbayan of informations for violations of Section 3(e) of the Anti-Graft and Corrupt Practices Act against petitioners. On 12 July 2002, then Ombudsman Aniano A. Desierto approved the recommendation.[11]

On 23 July 2002, two related informations were filed with the Sandiganbayan against petitioners.[12] Thereafter, petitioners filed two Joint Motions for Reinvestigation with the Sandiganbayan, which it granted on 29 August 2002.[13] The arraignment of the petitioners was deferred pending reinvestigation.

In compliance with the order for reinvestigation, a *Memorandum* dated 30 October 2002 was prepared by Special Prosecution Officers Franco T. Falcon and Jaime C. Blancaflor of the Office of the Ombudsman.[14] They wholly agreed with the earlier recommendation to charge petitioners with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act. They further recommended that the petitioners be indicted also for malversation under Article 217 of the Revised Penal Code.[15] However, on 16 January 2003, Ombudsman Simeon V. Marcelo approved only the maintenance of the original charges against the petitioners, and disapproved the filing of four counts of malversation cases against petitioners.[16]

Hence, the present *Petition for Certiorari*. Petitioners claim that the Ombudsman acted without or in excess of his jurisdiction or with grave abuse of discretion in approving the 22 March 2002 *Resolution* and the 30 October 2002 *Memorandum*. They allege that there is no sufficient basis in fact or in law to charge petitioners with violations of Section 3(e) of the Anti-Graft and Corrupt Practices Act.[17] They also question the reliance made by the Ombudsman on the COA Audit Report, which they point out had not yet become final it being the subject of a pending appeal with the COA head office.[18] They also note that the Ombudsman previously dismissed an administrative complaint lodged by Casanova with the Office of the Ombudsman, involving the same matters.[19]

Anent the charge pertaining to the purchases of medicines, they assert that there was no need for public bidding since, under the Implementing Rules of the Local Government Code, procurement of supplies may be made directly from a duly licensed manufacturer,[20] that there was no duty on their part to canvass prices offered by other manufacturers or dealers of medicine as the canvass should have been conducted by the COA, which failed to do so;[21] that there was no showing of undue injury which resulted from the purchases of medicine;[22] that the participation of Leonor in the purchases was in accommodation of the request of DLI;[23]

and that the payments totaling ₱300,933.52 were actually made after, not prior to, the delivery of medicines.[24]

Petitioners likewise challenge the findings of the Ombudsman regarding the reimbursement of travel expenses. They assert that the Governor of Batangas had authorized their travels, albeit belatedly;[25] and that the rates of reimbursed expenses were in conformity with Executive Order No. 248, which allows reimbursement of actual travel expenses in excess of Three Hundred Pesos (₱300.00) if supported by official receipts and accompanied by a certification that the same were necessary in the performance of official duty.[26]

As a general rule, the Court does not interfere with the Ombudsman's determination of the existence or absence of probable cause.[27] 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. Otherwise, the functions of the courts will be grievously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped if they would be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.[28]

However, this principle of non-interference does not apply when there is a grave abuse of discretion which would authorize the aggrieved person to file a petition for certiorari and prohibition, such as when the Ombudsman does not take essential facts into consideration in the determination of probable cause, among others.[29]

A careful evaluation of the present petition warrants the conclusion that it presents another instance which calls for application of the general rule of non-interference.

Petitioners cannot fault the Ombudsman for relying on the COA *Audit Report*, notwithstanding that it had not yet attained finality. The initial basis for the Ombudsman's investigation was not the COA *Audit Report*, but the complaints filed by Casanova. While the allegations in the complaint happened to be similar with those contained in the COA *Audit Report*, the Ombudsman could very well conduct an independent investigation based on the complaints for the purpose of whether criminal charges should be filed against the petitioners. The Ombudsman is reposed with broad investigatory powers in the pursuit and of its constitutional mandate as protector of the people and investigator of complaints filed against public officials.[30] It is even empowered to request from any government agency such as the COA, the information necessary in the discharge of its responsibilities and to examine, if necessary, pertinent records and documents.[31]

It should be borne in mind that the interest of the COA is solely administrative, and that its investigation does not foreclose the Ombudsman's authority to investigate and determine whether there is a crime to be prosecuted for which a public official is answerable.[32] In *Ramos v. Aquino*, the Court ruled that the fact that petitioners' accounts and vouchers had passed in audit is not a ground for enjoining the provincial fiscal from conducting a preliminary investigation for the purpose of determining the criminal liability of petitioners for

malversation.[33] Clearly then, a finding of probable cause does not derive its veracity from the findings of the COA, but from the independent determination of the Ombudsman.

Petitioners, invoking the previous dismissal by the Ombudsman of the administrative complaint against them on the same charges, assert that if the Ombudsman could not find petitioners administratively liable on the standard of substantial evidence, there is no basis to proceed with the criminal charges considering that the quantum of proof would not be proof beyond reasonable doubt.

An examination though of the *Orders* of the Ombudsman dismissing the administrative complaint reveal that the dismissal was warranted not because the charges had no merit. In disposing of the administrative complaint, the Office of the Ombudsman noted that since Fe Cabrera was no longer the Mayor of Taal, the administrative complaint against her should be dismissed because the Ombudsman could no longer acquire jurisdiction over her person.[34] In the cases of Librado Cabrera and Luther Leonor, it was observed that since both were subsequently reelected to their incumbent positions in 2001, their reelection, concordant to *Aguinaldo v. Santos,*[35] operates as a condonation of whatever administrative infraction or misconduct they may have committed during their previous terms.[36] Clearly then, these complaints were dismissed not because the charges were unfounded, but because of prevailing doctrines peculiar to administrative complaints. Besides, it is well settled that condonation of an officer's fault or misconduct during a previous expired term by virtue of his reelection to office for a new term can be deemed to apply only to his administrative and not to his criminal guilt.[37]

Admittedly, it was noted in the *Order* dated 18 January 2002 dismissing the administrative complaint that the preliminary records did not show that the evidence of guilt on the charge of illegal travel expense reimbursements against the Cabreras was not strong.[38] However, the remark though was made in the context of the discussion on whether the elements to justify preventive suspension of the Cabreras were met. Under Section 24(a) of the Ombudsman Act,[39] the Ombudsman may issue a preventive suspension order only if the evidence of guilt against respondent is strong. Similarly, under Section 63 of the Local Government Code, local government officials may be preventively suspended if the evidence of guilt is strong. However, the standard of strong evidence of guilt, which is sufficient to deny bail to an accused in a criminal case, is markedly higher than the standard of probable cause sufficient to initiate criminal cases against defendants. A conclusion that evidence against the Cabreras is not strong does not equate to a finding of lack of probable cause against them, as the former requires a higher degree of proof than the latter.

Moreover, such comment was made in the disposition of the administrative case, which is a separate proceeding from the investigation on the criminal liability of the Cabreras. The same *Order* also contained an explicit caveat that the dismissal of the administrative complaint was "without prejudice to the outcome of the criminal cases filed against them arising from the same acts complained of."[40]

At the same time, the Office of the Ombudsman should exercise caution when it utilizes findings of the COA in support of its determination of probable cause as the prelude to the filing

of a criminal complaint against a public official. The COA is not the investigatory arm of the Ombudsman; thus, the auditor's preliminary findings of discrepancies do not necessarily equate to a finding of probable cause, which has to be independently established by the Ombudsman. Many conclusions drawn from audit reports hinge on technical matters of appreciation and may be satisfactorily clarified by discussions between the COA and the public officer. The Ombudsman should refrain from committing undue haste in prosecuting public officials based on COA audit reports, and instead make an independent determination of his own on the existence of probable cause that a given public official has committed a penal law violation before proceeding with the institution of the criminal case.

Indeed, the petitioners attempt to demonstrate that the Ombudsman relied solely upon the COA report—which had not yet attained finality—as basis for the filing of the criminal complaints against them. However, a careful examination of the assailed issuances of the Ombudsman shows that there is a *prima facie* case against the petitioners.

It is the Ombudsman's determination that there is probable cause to charge petitioners with violating Section 3(e) of the Anti-Graft and Corrupt Practices Act. The provision reads:

> (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.

The elements of the offense were spelled out in *Sistoza v. Desierto*:[41]

> The elements of the offense are: (a) The accused is a public officer or a private person charged in conspiracy with the former; (b) The public officer commits the prohibited acts during the performance of his or her official duties or in relation to his or her public functions; (c) That he or she causes undue injury to any party, whether the government or a private party; (d) Such undue injury is caused by giving unwarranted benefits, advantage or preference to such parties; and (e) That the public officer has acted with manifest partiality, evident bad faith or gross inexcusable neglect. Evidently, mere bad faith or partiality and negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be *evident* or *manifest*, respectively, while the negligent deed should both be *gross* and *inexcusable.* It is further required that any or all of these modalities ought to result in undue injury to a specified party.[42]

We are convinced that the Ombudsman did not commit a grave abuse of discretion when he found the existence of undue injury, manifest partiality, and evident bad faith, sufficient to establish a *prima facie* case against the petitioners for violation of the Anti-Graft and Corrupt Practices Act.

Under Section 356 of the Local Government Code, the general rule is that the acquisition of supplies by local government units shall be through competitive public bidding.[43] The rule

admits of exceptions, so Section 366 provides. The provision authorizes the procurement of supplies without the benefit of public bidding under any of the following modes: (a) personal canvass of responsible merchants; (b) emergency purchase; (c) negotiated purchase; (d) direct purchase from manufacturers or exclusive distributors; and (e) purchase from other government entities.

It is the fourth exception—direct purchase from manufacturers and exclusive distributors—which petitioners rely upon in submitting that there was nothing irregular in the purchase of medicines from DLI. Petitioners also cite the first paragraph of Article 437(d), Rule XXXV of the Implementing Rules to the Local Government Code, which states that "procurement of supplies or property may be made directly from duly licensed manufacturers in cases of supplies of Philippine manufacture or origin." They argue that since even the Ombudsman concedes that DLI is a duly licensed manufacturer of Philippine manufactured drugs, the procurement without prior public bidding was proper.

Conveniently, petitioners skipped the second paragraph of Article 437(d), Rule XXXV of the Implementing Rules, which states: "In case there are two or more known manufacturers of the required supplies or property, canvass of prices of the known manufacturers shall be conducted to obtain the lowest price for the same quality of said supplies or property." This proviso reiterates Section 370 of the Local Government Code which states:

> Section 370. *Procurement from Duly Licensed Manufacturer*. – Procurement may be made directly from duly licensed manufacturers in cases of supplies of Philippine manufacture or origin and in case there are two (2) or more manufacturers shall be conducted to obtain the lowest price for the quality of the said supplies.

The qualification is consistent with the thrust of the law that ensures the minimization of expenditures of the public fund. In the *Joint Resolution*, it was pointed out that the DLI was located in Diliman, Quezon City, and surely there were several other duly licensed manufacturers of medicines in Quezon City or in Metro Manila.[44] Under such premises, Section 370 imposes a duty that a canvass of the known manufacturers first be conducted before the purchase is made, so as to ensure that the local government would spend the lowest possible price for such purchase. Petitioners concede that no such canvass was conducted before making the purchases from DLI; hence, it follows that the requisites of Section 370 were not met and the direct purchases accordingly tainted with irregularity. Any possible excuse on the failure to observe the process prescribed by Section 370 and the corollary precedent required in Article 437(d), Rule XXXV of the Implementing Rules, would be best evaluated during trial on the facts.

Moreover, as the Ombudsman points out in his *Comment*, competitive public bidding is the primary mode of procurement, and it was thus necessary on the part of the petitioners to show why an alternative mode of procurement was resorted to. This they failed to demonstrate before the Ombudsman, and such failure can be taken along with the other contemporaneous circumstances to establish probable cause. It is incumbent upon a party who invokes coverage under the exception to a general rule to prove the fulfillment of the requisites thereof.[45] The rule is akin to the maxim in criminal law that whenever a person accused of the commission of

a crime claims to be within the statutory exception, it is more logical and convenient that he should aver and prove the fact than that the prosecutor should anticipate such defense, and deny it.[46]

Petitioners insist that their good faith in the procurement of the medicines should be presumed. Yet, the glaring fact is that petitioners made the purchases from DLI, a corporation whose stockholders appear to be relatives of Librado Cabrera and all of whose officers and directors are surnamed Cabrera. Certainly, before this Court, petitioners do not dispute the apparent familial ties between Librado Cabrera, on one hand, and DLI or its stockholders and officers, on the other. That fact is suspicious in itself, and should alert all officers genuinely minded in pursuing good and transparent government not to ignore such fact in their course of action. It bears mention that the Office of the Ombudsman did not predicate the filing of the criminal cases against the petitioners from these purchases made from a corporation owned by their relatives. Still, such fact may be worth noting as a possible motive for the Cabreras' apparent willingness to subvert established procedure and make the purchases from DLI.

The further discovery that the procurements were made by the petitioners from DLI without them first ensuring that the local government would be acquiring the medicines at the lowest possible price is sufficient to negate any presumption of good faith, especially since such failure *prima facie* constitutes a contravention of the Local Government Code.

It is also argued that Leonor, the Municipal Councilor, had no financial or pecuniary interest in the business or transaction with DLI as the latter had merely requested his assistance in the collection of accountabilities of the municipality.[47] Suffice it to say, as found by the Ombudsman, all the checks for payment were made payable to DLI or Leonor and the latter actually encashed the same.[48]

The Ombudsman also cited the findings of the COA that Leonor's name and signature appeared on the canvass sheets, purchase orders, sales invoices, official receipts and disbursement vouchers.[49] There is little doubt that Leonor had somehow facilitated the transactions engaged with DLI, transactions which are already attendant with irregularity as earlier noted. Thus, we cannot find fault with the conclusion of the *Joint Resolution* evincing strong belief that Leonor had connived and conspired with Cabrera in relation to the purchases with DLI.[50]

Petitioners also dispute the conclusion of the Ombudsman that the Municipality of Taal, through the Cabreras, made payments up to Three Hundred Thousand Nine Hundred Thirty-Three Pesos and Fifty-Two Centavos (₱300,933.52) prior to the delivery and acceptance of the purchased medicines, as observed by the COA.[51] They claim that the person in charge of receiving the deliveries was indisposed on the day the medicines arrived, and that when said person was actually able to sign the invoices, he had indicated therein the date of his signature, and not the date of receipt of the deliveries. Furthermore, petitioners note that it is not disputed that all the medicines ordered by the municipality were duly delivered, and payments subsequently made for these deliveries.[52]

Assuming that petitioners' version of facts is correct, it would be for the trial court to appreciate the extent of extenuation such explanation would afford the petitioners. Still, this

submission of the petitioners is ultimately irrelevant to the fact that their culpability arises from contracting with DLI in the first place, such that even if their explanation as regards the particular purchases would hold true, their criminal liability for violating Section 3(e) of the Anti-Graft and Corrupt Practices Act in relation to the transactions with DLI would remain unaffected.

As to the charge of violating Section 3(e) of the Anti- Graft and Corrupt Practices Act by way of improper reimbursement of travel expenses, the Cabreras claim that the travels were authorized by Governor Mandanas, albeit belatedly, hence the reimbursement of their travel expenses was proper. On the other hand, the Ombudsman concluded that such travels were not proper as there was no valid travel order issued by proper authorities when they had left their station, in violation of Section 96(b) of the Local Government Code.

The first two paragraphs of Section 96 of the Local Government Code bear quoting:

> SEC. 96. *Permission to Leave Station*. — (a) Provincial, city, municipal, and barangay appointive officials going on official travel shall apply and secure written permission from their respective local chief executives before departure. The application shall specify the reasons for such travel, and the permission shall be given or withheld based on considerations of public interest, financial capability of the local government unit concerned and urgency of the travel.
>
> Should the local chief executive concerned fail to act upon such application within four (4) working days from receipt thereof, it shall be deemed approved.
>
> (b) Mayors of component cities and municipalities shall secure the permission of the governor concerned for any travel outside the province.
>
> . . . .

It is apparent from the provision that those appointive officials enumerated in paragraph (a) are required expressly to secure written permission from their respective local chief executives before departure. The same explicit qualification does not obtain for officials such as the Cabreras who fall under paragraph (b), which merely states that they "shall secure the permission of the governor." Paragraph (b) leaves open the interpretation that subsequent ratification by the governor is within the purview of "permission" under that provision.

Yet, the foregoing observation aside, we are not prepared to set aside the finding of probable cause made by the Ombudsman regarding the unauthorized travel expenses for the reason that it has not been established that the Cabreras had actually secured a valid ratification from Governor Mandanas. We quote the following observation from the assailed *Joint Resolution* on the purported *Certification*.

> . . . . In a belated effort to lend legal color to their unauthorized travels, respondents Cabreras submitted a purported certification from the Governor dated December 14, 2000. **However, when the COA wrote Gov. Mandanas to confirm if he indeed issued the subject certification, the Governor could not categorically confirm. He also stated that the stationery used and the telephone and fax numbers printed**

on it are not those of the Office of the Governor. In view of the foregoing, the COA held that all reimbursement for traveling expenses that were not authorized by the proper authorities are DISALLOWED in audit**. Furthermore, this Office observed that the travels of respondents (3x by respondent Librado and 9x by respondent Fe) were done in 1998 and 1999 yet, however, the alleged certification of Gov. Mandanas was issued only on December 14, 2000, when the COA has already conducted its audit and held an exit conference on December 4, 2000.** Hence, even if, assuming *arguendo* that the purported certification was genuine, we believe that this can not cure the illegality of their travel and the subsequent reimbursement of unauthorized travel expenses.[53]

Clearly then, the matter whether the questioned travels of the Cabreras were made with the permission of their governor even if made belatedly, is still disputed. The Ombudsman took into consideration the coy reply of Governor Mandanas that the stationery used in the *Certification* and the contact numbers stated therein were not those of the Office of the Governor. Such a remark hardly evokes any confidence that Governor Mandanas had indeed ratified the travels of the Cabreras.

As to the Cabreras's claim that the amount of travel expenses they reimbursed falls within the limits set by Executive Order No. 249 even if true, the claim would be of no consequence if it is established that their sojourns were not authorized at all. The Court is also mindful that the Cabreras' evidence on that point, which would likely consist of numerous receipts supported by testimonial evidence, would be best evaluated by a trier of facts who would determine their probative value.

All told, we are satisfied with the finding of probable cause as established by the Office of the Ombudsman, and find no grave abuse of discretion on its part that would warrant the allowance of this petition.

WHEREFORE, the *Petition* is DENIED. Costs against petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

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[1] Rollo, p. 39.

[2] *Id*. at 39-40.

[3] *Id*. at 40.

[4] *Id*. at 41.

[5] *Ibid*.

[6] *Id.* at 13.

[7] *Id.* at 42.

[8] *Id.* at 43.

[9] *Id.* at 44.

[10] *Id*. at 46.

[11] *Id.* at 48.

[12] *Id.* at 14.

[13] *Id.* at 15.

[14] *Id.* at 49-60.

[15] *Id.* at 58-59.

[16] *Id.* at 60.

[17] *Id.* at 19.

[18] *Id.* at 18-19.

[19] *Id.* at 17.

[20] *Id.* at 23.

[21] *Id.* at 22.

[22] *Id.* at 23.

[23] *Id.* at 24.

[24] *Id.* at 25.

[25] *Id.* at 27.

[26] *Id.* at 26.

[27] Sistoza v. Desierto, 487 Phil. 117 (2002); Venus v. Desierto, 358 Phil. 675, 694 (1998).

[28] Venus v. Desierto, *supra* at 695.

[29] Sistoza v. Desierto, *supra* at 129.

[30] *See* Section 12, Article XI, Constitution

[31] *See* Section 13(5), Article XI, Constitution. *See* also Section 15(5), Republic Act No. 6770.

[32] *See* Ramos v. Aquino, 148-A Phil. 574, 585 (1971).

[33] *Ibid*. *See* also Aguinaldo v. Sandiganbayan, 332 Phil. 896, 910 (1996).

[34] Rollo, p. 70.

[35] G.R. No. 94115, 21 August 1992, 212 SCRA 768.

[36] Rollo, p. 70. "Clearly then, the rule is that a public official can not be removed for administrative misconduct committed during a prior term, since his re-election to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him therefor." Aguinaldo v. Santos, *id.,* at 773.

[37] *See* Conducto v. Monsod, 353 Phil. 796, 806 (1998); Salalima v. Guingona, 326 Phil. 847 (1996); Aguinaldo v. Santos, *supra* note 35.

[38] Rollo, p. 70.

[39] Republic Act No. 6770.

[40] Rollo, p. 71.

[41] *Supra* note 27.

[42] *Ibid.*

[43] *See* Sec. 356, Local Government Code.

[44] Rollo, p. 46.

[45] *See e.g*., Rural Bank of Compostela v. Court of Appeals, 337 Phil. 521, 533 (1997).

[46] People v. San Juan, 130 Phil. 515, 519 (1968), *citing* US. v. Chan Toco, 12 Phil. 268 (1980).

[47] Rollo, p. 24.

[48] *Id.* at 46.

[49] *Ibid.*.

[50] *Id.* at 47.

[51] *Id.* at 46.

[52] *Id.* at 25.

[53] Rollo, p. 43.