

SC Disallows Ombudsman to Intervene for Delayed Filing of Motion

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The Supreme Court (SC) has denied for lack of merit the petition of the Office of the Ombudsman (Ombudsman) questioning the rulings of the Court of Appeals (CA) that disallowed the Ombudsman to intervene for the delayed filing of the motion in a case implicating a Commission on Higher Education (CHED) official on alleged irregularities at the Pamantasan ng Lungsod ng Maynila (PLM).

In an eight-page resolution promulgated on June 3, 2019, the Court's Second Division, through the *ponencia* of Associate Justice Estela M. Perlas-Bernabe, reiterated the settled doctrine that while the Ombudsman has legal standing to intervene in appeals from its rulings in administrative cases, it should, however, move for intervention before rendition of judgment. Unless warranted by certain excepting circumstances, the petition for intervention will be denied. Thus, the SC affirmed the August 17, 2017 decision and January 28, 2019 resolution of the CA.

The case stemmed from the 2011 complaint filed by Oliver B. Felix, a former faculty member of the PLM before the Ombudsman against Julito D. Vitriolo, then Executive Director of CHED, for grave misconduct, gross neglect of duty, incompetence, and inefficiency in the performance of official duties in connection with the alleged irregularities at PLM. Vitriolo allegedly prevented the issuance of a certification that PLM was not authorized by CHED to implement the Expanded Tertiary Education Equivalent Accreditation program (ETEEAP). Felix accused Vitriolo of conspiring with the officials of PLM which he said was a "diploma mill."

The only issue for the SC's resolution in this case was whether or not the CA erred in denying the Ombudsman's Omnibus Motion. It thus highlighted that "since intervention has been disallowed, there is no more need to delve into the merits of the substantive arguments raised by the Ombudsman on Julito D. Vitriolo's administrative liability."

Intervention is the procedural method for the Ombudsman to participate in the case, and with the motion for intervention's denial, the Ombudsman is

technically barred from even passing upon its substantive arguments. Hence, the Court never passed upon the same and consequently, there was no ruling on Vitriolo's administrative liability on the merits.

In affirming the CA rulings, the SC pointed out that "while the Ombudsman had legal interest to intervene in the proceedings in CA-G.R. SP No. 149063, the CA correctly denied the intervention prayed for as records show that the Omnibus Motion was filed only on September 28, 2017, or a month after the promulgation of the CA's decision on August 17, 2017."

The SC further discussed that the rule requiring intervention before rendition of judgment is not inflexible. Jurisprudence is replete with instances where intervention was allowed beyond the period prescribed in the Rules of Court subject to the court's discretion after consideration of the appropriate circumstances, "for after all, Rule 19 of the Rules of Court is a rule of procedure whose object is to make the powers of the court fully and completely available for justice; its purpose is not to hinder or delay, but to facilitate and promote the administration of justice." After a meticulous review of the available records, however, the SC found that none of the excepting circumstances are present in this case, "hence, the general rule provided under Section 2, Rule 19 of the Rules of Court applies."

Thus, with only the issue of intervention having been traversed, the administrative liability of Vitriolo anent the charges hurled against him by Felix has yet to be resolved by the SC. In fact, it is a live issue which is still pending determination in the separate pending case docketed as G.R. No. 237129 entitled "*Oliver B. Felix v. Julito D. Vitriolo*."

(G.R. No. 237582, *Office of the Ombudsman v. Julito D. Vitriolo*, June 3, 2019)

READ the full-text at: <http://sc.judiciary.gov.ph/4952/>