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## SECOND DIVISION

[ G.R. No. 208976. February 22, 2016 ]

**THE HONORABLE OFFICE OF THE OMBUDSMAN, PETITIONER, VS. LEOVIGILDO DELOS REYES, JR., RESPONDENT.**

## RESOLUTION

**LEONEN, J.:**

This resolves the following motions and manifestation filed before this court: 1) Motion for Reconsideration<sup>[1]</sup> dated December 22, 2014 filed by counsel for respondent Leovigildo Delos Reyes, Jr. (Delos Reyes) assailing this court's Resolution<sup>[2]</sup> dated October 13, 2014; and 2) Manifestation and Motion for Clarification<sup>[3]</sup> dated February 26, 2015 filed by counsel for the Philippine Charity Sweepstakes Office (PCSO).

In the Resolution dated October 13, 2014, we granted the Petition for Review on Certiorari<sup>[4]</sup> assailing the Court of Appeals Decision<sup>[5]</sup> dated March 1, 2013 and Resolution<sup>[6]</sup> dated August 29, 2013, and consequently dismissed Delos Reyes from service.<sup>[7]</sup> The dispositive portion of our Resolution reads:

**WHEREFORE**, the petition is **GRANTED**. The Court of Appeals' decision dated March 1, 2013 and resolution dated August 29, 2013 are **REVERSED and SET ASIDE**. The Office of the Ombudsman's decision dated June 10, 2006 and order dated November 15, 2007 are **REINSTATED**. Respondent Leovigildo Delos Reyes, Jr. is **DISMISSED** from service, which includes the accessory penalties of cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification for re-employment in the government service.

**SO ORDERED.**<sup>[8]</sup>

The facts of this case, as summarized in our October 13, 2014 Resolution, are:

To generate more funds in line with its mandate, the Philippine Charity Sweepstakes Office (PCSO) maintains On-line Lottery Terminals in its main office and in provincial district offices. The Marketing and Online Division of PCSO's Central Operations Department (COD) manages the terminals in the main office under Agency Number 14-5005-1. Respondent Leovigildo Delos Reyes, Jr. (Delos Reyes) served as the COD Division Chief.

On June 13, 2001, PCSO auditors submitted a consolidated report based on a surprise audit conducted on June 5, 2001. The auditors found that the cash and cash items under Delos Reyes' control were in order. However, the auditors recommended that the lotto proceeds be deposited in a bank the next working day instead of Delos Reyes keeping the lotto sales and proceeds in a safe inside his office.

On June 5, 2002, COD Manager Josefina Lao instructed OIC-Division Chief of the Liaison and Accounts Management Division Teresa Nucup (Nucup) to conduct an account validation and verification to reconcile accounts due to substantial outstanding balances as of May 31, 2002. On August 16, 2002, Nucup reported that Agency No. 14-5005-1 had unremitted collections in the amount of P428,349.00 from May 21, 2001 to June 3, 2001. The amount was subsequently reduced to P387,879.00 excluding penalties.

Nucup also found that "there was a deliberate delay in the submission of the periodic sales report; that the partial remittance of total sales were made to cover previous collections; and that the unremitted collections were attributed to Cesar Lara, Cynthia Roldan, Catalino Alexandre Galang, Jr., who were all employed by [PCSO] as Lottery Operations Assistants II, and Elizabeth Driz, the Assistant Division Chief."

After conducting its own investigation, the PCSO Legal Department recommended filing formal charges against Delos Reyes and Elizabeth Driz (Driz) for dishonesty and gross neglect of duty. The PCSO Legal Department found that the Lottery Operations Assistants turned over the lotto proceeds and lotto ticket sales reports to Delos Reyes as the Division Chief. In case of his absence, the proceeds and reports were turned over to Driz. Driz would then deposit the proceeds in the bank. If both Delos Reyes and Driz were absent, the proceeds would be placed in the vault under Delos Reyes' control and deposited the next

banking day.

On May 14, 2003, formal charges were filed against Delos Reyes and Driz, with the cases docketed as Administrative Case Nos. 03-01 and 03-02, respectively. Delos Reyes and Driz were preventively suspended for 90 days.

On June 8, 2004, PCSO filed an affidavit-complaint with the Office of the Ombudsman. Delos Reyes and Driz were criminally charged with malversation of public funds or property under Article 217 of the Revised Penal Code, and administratively charged with dishonesty and gross neglect of duty under Section 46(b)(1) and (3) of Book V of Executive Order No. 292.

After the submission of the parties' pleadings, the Office of the Ombudsman rendered the decision dated June 10, 2006 in OMB-C-A-04-0309-G finding Delos Reyes and Driz guilty of grave misconduct and gross neglect of duty, and ordering their dismissal from service. The dispositive portion of the decision reads:

**WHEREFORE**, premises considered, respondents, Leovigildo T. Delos Reyes, Jr. and Elizabeth G. Driz, are found guilty for Grave Misconduct and Gross Neglect of Duty, and are thus imposed the penalty of DISMISSAL from the service, including all the accessory penalties of, cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification for reemployment in the government service.

The complaint for Dishonesty filed against the respondent is however Dismissed for insufficiency of evidence.

The Honorable Rosario Uriarte, Chairman and General Manager of the Philippine Charity Sweepstakes Office, is hereby directed to implement immediately this decision pursuant to Memorandum Circular No. 01, Series of 2006.

**SO ORDERED.**

Delos Reyes' partial motion for reconsideration was denied on November 15,

2007. He then filed before the Court of Appeals a petition for certiorari docketed as CA-G.R. SP No. 117683 under Rule 65 of the Rules of Court.

On March 1, 2013, the Court of Appeals granted the petition and reversed and set aside the Office of the Ombudsman's decision and resolution, thus:

**WHEREFORE**, the petition is **GRANTED** and the assailed June 10, 2006 *Decision* and November 15, 2007 *Order*, finding petitioner Leovigildo T. Delos Reyes, Jr. guilty of grave misconduct and gross neglect of duty, are **REVERSED** and **SET ASIDE**. The Philippine Charity Sweepstakes Office (PCSO) is ordered to **REINSTATE** petitioner as Chief of the Marketing and On-Line Division, Central Operations Department (COD) of the PCSO, with full backwages, retirement benefits and emoluments, and without diminution as to his seniority rights from the time of his dismissal from office until his reinstatement.

**SO ORDERED.**

....

The Office of the Ombudsman and PCSO filed their respective motions for reconsideration. These were denied by the Court of Appeals in its resolution dated August 29, 2013.<sup>[9]</sup>

On October 13, 2014, this court rendered its Resolution.

Delos Reyes filed his Motion for Reconsideration<sup>[10]</sup> assailing this court's findings in the October 13, 2014 Resolution. Meanwhile, PCSO filed a Manifestation and Motion for Clarification<sup>[11]</sup> dated February 26, 2015.

On April 22, 2015, this court required the parties to comment on PCSO's Manifestation and Motion.<sup>[12]</sup> We also required the Office of the Ombudsman to file a comment on Delos Reyes' Motion for Reconsideration within 10 days from notice.<sup>[13]</sup> We noted the parties' separate Comments in our Resolutions dated July 15, 2015<sup>[14]</sup> and August 24, 2015.<sup>[15]</sup>

In his Motion for Reconsideration, Delos Reyes prays that the court reconsider its ruling

based on the following grounds: first, there is no substantial evidence to warrant the finding that he is guilty of grave misconduct and gross neglect of duty;<sup>[16]</sup> and second, the Court of Appeals was correct “in allowing the petition for certiorari in the interest of substantial justice.”<sup>[17]</sup>

As to the first ground, Delos Reyes argues that the Office of the Ombudsman committed gross misapprehension of facts as it was Elizabeth Driz (Driz), the Assistant Division Chief, who misappropriated the lotto sales proceeds through lapping of funds.<sup>[18]</sup> It was Driz who had the control and custody of the proceeds.<sup>[19]</sup> Delos Reyes argues that “while it is true that [his] ‘duty was to monitor, check, and reconcile reports and daily remittances of lotto sales submitted by the tellers assigned at the Main Office (where the subject unremitted collections originated) and San Marcelino Outlets,’ it is likewise true that after [he] had monitored, checked, and reconciled reports and daily remittances of lotto sales submitted by the tellers, the sales proceeds were turned over to [Driz] for subsequent deposit to the bank[.]”<sup>[20]</sup> The lapping of funds occurred “after [he] had already reconciled the cash reportsf.”<sup>[21]</sup>

Moreover, the duty of detecting the discrepancies as to the lotto sales proceeds fell beyond the responsibilities of Delos Reyes as PCSO’s Chief of the Marketing and On-line Division of the Central Operations Department.<sup>[22]</sup> The duty of checking the deposit of the lotto proceeds belonged to the Liaison and Accounts Management Division of the PCSO, particularly when “there were no clear-cut rules or internal control measures implemented by PCSO ... for remittance for outlets maintained by PCSO [in the] Head Office”<sup>[23]</sup> at that time. “[I]f there is no duty then there can be no neglect of duty, much less gross neglect of duty.”<sup>[24]</sup>

Similarly, Delos Reyes did not intentionally nor deliberately violate any rule or law since he did not have any duty to verify the deposits made by Driz.<sup>[25]</sup> Delos Reyes merely observed the ordinary parameters of his position.<sup>[26]</sup> Therefore, no grave misconduct can be attributed to Delos Reyes.<sup>[27]</sup> On the contrary, substantial evidence available on record points to his innocence.<sup>[28]</sup>

In any case, assuming *arguendo* that Delos Reyes could be faulted for the acts of Driz, the penalty of dismissal from service is too harsh.<sup>[29]</sup> Delos Reyes’ failure to verify the deposits should, at most, constitute simple neglect of duty.<sup>[30]</sup>

As to the second ground, Delos Reyes argues that the Court of Appeals was correct in giving

due course to the Petition for Certiorari assailing the Decision and Order of the Office of the Ombudsman.<sup>[31]</sup> Technical rules are mere tools to facilitate the administration of the justice system, and the relaxation of rules is necessary when its strict and rigid application would only serve to hinder achieving substantial justice.<sup>[32]</sup> The case deserves a liberal interpretation of the rules since PCSO, “the very institution that initiated this case, sought to exculpate [Delos Reyes] from the administrative charges filed against him[.]”<sup>[33]</sup>

On petitioner’s part, the Office of the Solicitor General argues that Delos Reyes’ arguments are mere “reiteration of the arguments in his Comment dated March 10, 2014[.]”<sup>[34]</sup> The Office of the Solicitor General adds that Delos Reyes’ Motion is a pro-forma motion that should be dismissed outright considering that the issues it raised have already been considered by this court in resolving the case.<sup>[35]</sup>

Moreover, the Office of the Solicitor General argues that there was no grave abuse of discretion in this case.<sup>[36]</sup> There was substantial evidence to support the Office of the Ombudsman’s finding of gross misconduct and gross neglect of duty on Delos Reyes’ part.<sup>[37]</sup> The “[findings of fact [of] the Office of the Ombudsman[, ] when supported by substantial evidence[, ] are conclusive.”<sup>[38]</sup>

Lastly, the Office of the Solicitor General argues that the Court of Appeals should not have entertained Delos Reyes’ Petition for Certiorari as there was an adequate remedy available to him under Rule 43 of the Rules of Court.<sup>[39]</sup>

We deny the Motion for Reconsideration with finality. The issues raised in the Motion were already passed upon in our Resolution dated October 13, 2014.

Respondent Leovigildo Delos Reyes, Jr. relies heavily on PCSO’s Comment<sup>[40]</sup> before the Court of Appeals and on PCSO’s statements that support his innocence of the administrative charges.<sup>[41]</sup> However, he forgets the settled rule that “[findings of fact by the Office of the Ombudsman[, ] when supported by substantial evidence] are conclusive.”<sup>[42]</sup> As we found in our October 13, 2014 Resolution, respondent failed to show arbitrariness on the part of the Office of the Ombudsman to warrant judicial intervention.<sup>[43]</sup> Hence, our ruling in the earlier Resolution affirming the Office of the Ombudsman’s findings, which states:

It is undisputed that as Chief of the Marketing and On-Line Division of the COD, respondent was accountable for the vault and the lotto proceeds placed inside it. As the Division Chief, respondent had the duty to monitor, check, and reconcile

the reports of the daily lotto proceeds. It is true that it was not his job to personally deposit the lotto proceeds with the bank, as this fell under Driz's responsibility. However, it was incumbent upon respondent to ensure that the lotto proceeds deposited in the bank correspond to the reports submitted to him and that the proceeds are deposited promptly.

***Despite such duty, respondent willfully ignored the auditor's recommendations for prompt deposit of the lotto sales proceeds. He disregarded his duty of overseeing the deposit of the proceeds and wholly relied on Driz's representations. Respondent's act constitutes gross neglect of duty.***

***Similarly, records show that petitioner adduced substantial evidence to show how respondent flagrantly disregarded the rules and acted with a willful intent to violate the law, thus, amounting to grave misconduct. The Office of the Ombudsman's investigation revealed that all of the daily lotto remittances went through the hands of respondent. It also found that respondent's authorization and/or approval was required before Driz could deposit the daily lotto proceeds. Driz's alleged manipulation of the bank deposit slips and lapping of funds could not have been missed by respondent had he performed his duties. Respondent could have easily discovered the lapping of funds if he had checked the deposit records with Driz vis-a-vis the reports and lotto sales proceeds he had allegedly reconciled upon turn-over of the tellers to him.***<sup>[44]</sup> (Emphasis supplied)

As acknowledged by respondent,<sup>[45]</sup> to be administratively liable for neglect of duty, the duty need not be expressly included in the respondent's job description.<sup>[46]</sup> Gross neglect of duty is "characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences, insofar as other persons may be affected."<sup>[47]</sup> This omission of care is that which even "inattentive and thoughtless men never fail to give to their own property."<sup>[48]</sup> "In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable."<sup>[49]</sup>

In *Land Bank of the Philippines v. San Juan, Jr.*,<sup>[50]</sup> we found the respondent guilty of gross neglect of duty and ordered his dismissal from the service for failing to ensure that his

subordinates followed the correct office protocols:<sup>[51]</sup>

The respondent further argues that the duties of opening and processing the bank's accounts fell on the shoulders of Ramirez and Amparo and were not part of his specific duties and responsibilities as Acting LBP Manager; thus, he should not be made accountable. We cannot, however, accept this excuse. *As Acting LBP Manager, the respondent had the primary duty to see to it that his employees faithfully observe bank procedures. Whether or not the opening and processing of accounts were part of his job description or not was of no moment because the respondent held a position that exercised control and supervision over his employees.*<sup>[52]</sup> (Emphasis supplied)

Misconduct is the "transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or disregard of established rules, which must be proved by substantial evidence."<sup>[53]</sup> Respondent committed grave misconduct when he intentionally disregarded the Commission on Audit's Memorandum recommending the immediate deposit of the lotto proceeds with the bank. At the risk of being repetitive, respondent, as Chief of the Marketing and On-Line Division of the Central Operations Department, had the duty to ensure that the deposit of the lotto sales proceeds were in order.

We also reiterate our ruling that liberal application of the rules cannot be invoked to justify a flagrant disregard of the rules of procedure.<sup>[54]</sup> Appeals of decisions of the Office of the Ombudsman in administrative disciplinary cases should be appealed to the Court of Appeals under Rule 43 of the Rules of Court.<sup>[55]</sup> It is only when there is grave abuse of discretion on the part of the Office of the Ombudsman that this court will entertain review of the assailed ruling or order.<sup>[56]</sup> The rules and jurisprudence require the dismissal of the petition before the Court of Appeals.

We now resolve the Manifestation and Motion for Clarification dated February 26, 2015 filed by PCSO.

PCSO seeks clarification as to the specific consequences of respondent's dismissal from the service in light of PCSO's payment of his back salaries. PCSO alleges that:



4. While the petitioner filed the present petition before the Court, the PCSO acting in good faith according to the CA rulings, reinstated the respondent effective 10 October 2013 pursuant to Board Resolution No. 260, S. 2013 and Special Order No. 2013-179.
5. Based on the Assumption of Duties and Responsibilities issued by Atty. Roman C. Torres, Manager, PCSO Security Printing and Production Department, the respondent reported for work on 11 November 2013. Further, the PCSO Accounting and Budget Department computed his salaries and other benefits covering the period from 8 November 2008 to 30 November 2013. He was correspondingly paid his back salaries as shown from the Disbursement Voucher and Check No. 0000211427 issued in his name in the amount [of] **Four Million Four Hundred Fifty One Thousand Eight Hundred Ninety Three And 13/100 Pesos (Php4,451,893.13).**
6. However, with the present Resolution, the PCSO has a duty to raise before this Court PCSO's actions and the matter of the respondent's entitlement to back salaries, which was not passed upon in its ruling. PCSO respectfully seeks clarification of this Court's Resolution to establish the respondent's entitlement to back salaries despite his dismissal from service and the reversal of the CA rulings ordering the award of back salaries.<sup>[57]</sup> (Emphasis in the original, citations omitted)

In its Comment<sup>[58]</sup> on the PCSO's Manifestation and Motion for Clarification, the Office of the Solicitor General argues that PCSO had no legal basis to reinstate respondent and award him his salaries.<sup>[59]</sup> "The [D]ecision of the Ombudsman should have been implemented pending respondent's appeal to the Court of Appeals and the Supreme Court[,]"<sup>[60]</sup> as an appeal does "not stop the decision from being executory."<sup>[61]</sup> This is even more so in this case, as respondent availed himself of the wrong remedy before the Court of Appeals.

As to respondent's entitlement to back salaries, the Office of the Solicitor General argues that the general rule is that public officials who do not render any service are not entitled to compensation.<sup>[62]</sup> Back salaries are awarded only if the public official is exonerated of the charge or his or her dismissal is found to be illegal.<sup>[63]</sup>

In his Comment<sup>[64]</sup> on PCSO's Manifestation and Motion for Clarification, respondent argues that PCSO paid his backwages in good faith and under PCSO's findings that he was innocent

of the charges.<sup>[65]</sup> According to respondent:

In sum, when PCSO paid the backwages of [D]elos Reyes, it did so under the directive of the Court of Appeals which reversed the decision of the Office of the Ombudsman. PCSO had acted in utter good faith. On the other hand, Delos Reyes when he accepted the payment of backwages, he was also doing it in good faith because by virtue of the reversal of the decision of the Office of the Ombudsman, he was able to prove his innocence from the administrative charges against him. It was a welcome and much needed break for him and his family, which for seven (7) years had been deprived of his salary and became dependent on the generosity of his wife[.]<sup>[66]</sup>

PCSO invokes this court's ruling in *Civil Service Commission v. Cruz*<sup>[67]</sup> in claiming that respondent was not entitled to back salaries as he was found guilty of the administrative charges.<sup>[68]</sup>

This court in *Bangalisan v. Court of Appeals*<sup>[69]</sup> ruled that payment of back salaries during the period of suspension of a civil service member who is subsequently ordered reinstated is allowed if "[1] he [or she] is found innocent of the charges which caused the suspension and [2] when the suspension is unjustified."<sup>[70]</sup> The two conditions must be complied with to entitle the reinstated employee payment of back salaries. "[I]n case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal"<sup>[71]</sup> if his or her appeal is meritorious.

PCSO claims that the amount of back salaries given to respondent covers the period of November 8, 2008 to November 30, 2013.<sup>[72]</sup> The Decision of the Office of the Ombudsman dismissing respondent from the service was rendered on June 10, 2006.<sup>[73]</sup> The Office of the Ombudsman denied the Motion for Reconsideration on November 15, 2007.<sup>[74]</sup> Respondent should have been dismissed from the service as early as 2006 following the immediately executory nature of the Office of the Ombudsman's Decision.<sup>[75]</sup>

In *Yarcia v. City of Baguio*,<sup>[76]</sup> the Civil Service Commissioner found the petitioner administratively liable for dishonesty and was ordered dismissed from the service.<sup>[77]</sup> The Decision was immediately executory pending appeal to the Civil Service Board of Appeals.<sup>[78]</sup> The Board did not exonerate the petitioner, but it imposed a fine equivalent to six (6) months' pay.<sup>[79]</sup> Undaunted, the petitioner asked for payment of his back salaries for the

period covering his separation up to his reinstatement.<sup>[80]</sup> This court, citing *Villamor, et al. v. Hon. Lacson, et al.*,<sup>[81]</sup> held that:

“[I]t will be noted also that the modified decision did not exonerate the petitioners. And if We take into account the fact that they did not work during the period for which they are now claiming salaries, there can be no legal or equitable basis to order the payment of their salaries. The general proposition is that a public official is not entitled to any compensation if he has not rendered any service. As you work, so shall you earn. And even if We consider the punishment as suspension, before a public official or employee is entitled to payment of salaries withheld, it should be shown that the suspension was unjustified or that the employee was innocent of the charges preferred against him. (F. B. Reyes vs. J. Hernandez, 71 Phil. 397), which is not the case in the instant proceedings.”

. . . Here, the Civil Service Board of Appeals, in affirming the guilt of plaintiff but modifying the penalty of dismissal from the service to a fine equivalent to six (6) months’ pay similarly connoted that although dismissal would be the proper penalty, it considered plaintiff’s separation from work for the period covered of almost three years plus a six months fine as sufficient punishment. *But the appeals board’s modified decision did not exonerate the plaintiff nor did it affect the validity of his dismissal or separation from work pending appeal, as ordered by the Civil Service Commissioner. Such separation from work pending his appeal remained valid and effective until it was set aside and modified with the imposition of the lesser penalty, by the appeals board.*<sup>[82]</sup> (Emphasis supplied)

Unlike the Office of the Ombudsman’s Decision, however, the Court of Appeals Decision and Resolution reinstating respondent in his position and ordering the payment of back salaries and other benefits were not immediately executory, and were subject to appeal to this court via Rule 45 of the Rules of Court.

PCSO’s reinstatement of the respondent is without any basis.

Moreover, in our Resolution dated October 13, 2014, we reversed the Court of Appeals Decision and Resolution and reinstated the Office of the Ombudsman’s Decision and Order, which dismissed respondent from service. We categorically found respondent guilty of the

administrative charges. Thus, it is clear that respondent cannot be considered as reinstated to his position in PCSO and entitled to back salaries during the relevant periods.

It is settled that public officers are entitled to payment of salaries only if they render service.<sup>[83]</sup> “As he [or she] works, he [or she] shall earn. Since [respondent] did not work during the period for which [he is] now claiming salaries, there can be no legal or equitable basis to order the payment of such salaries.”<sup>[84]</sup> Respondent did not perform any work during the period of November 8, 2008 to November 10, 2013.<sup>[85]</sup> The amount he received from PCSO minus the days he reported for work in November 2013 should be returned.

**WHEREFORE**, the Motion for Reconsideration is **DENIED with FINALITY**. The Resolution dated October 13, 2014 is **AFFIRMED with MODIFICATION** in that respondent Leovigildo Delos Reyes is not entitled to payment of back salaries and is hereby ordered to return any amount received as back salaries and benefits covering the period of November 8, 2008 to November 10, 2013 from the Philippine Charity Sweepstakes Office.

**SO ORDERED.**

*Carpio, (Chairperson), Brion, Del Castillo, and Mendoza, JJ., concur.*

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<sup>[1]</sup> *Rollo*, pp. 361-383.

<sup>[2]</sup> *Id.* at 347-360; *Hon. Office of the Ombudsman v. Delos Reyes, Jr.*, G.R. No. 208976, October 13, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/208976.pdf>> [Per J. Leonen, Second Division].

<sup>[3]</sup> *Rollo*, pp. 387-390.

<sup>[4]</sup> *Id.* at 347, Supreme Court Resolution dated October 14, 2014; *Hon. Office of the Ombudsman v. Delos Reyes, Jr.*, G.R. No. 208976, October 13, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/208976.pdf>> 1 [Per J. Leonen, Second Division]. The Petition was filed under Rule 45 of the Rules of Court.

<sup>[5]</sup> *Rollo*, pp. 34-46, The Decision was penned by Associate Justice Hakim S. Abdulwahid (Chair) and concurred in by Associate Justices Marlene Gonzales-Sison and Edwin D. Sorongon of the Sixth Division. The Court of Appeals Decision set aside the Office of the

Ombudsman's Decision (Id. at 51-67; the Decision dated June 10, 2006 was submitted by Graft Investigation and Prosecution Officer-1 Atty. Russell C. Labor and approved by Ombudsman Ma. Merceditas Navarro»Gutierrez) and Order (Id. at 68-72; the Order dated November 15, 2007 was issued by Graft Investigation and Prosecution Officer I Randolph M. Nicolas and approved by Deputy Ombudsman for Luzon Mark E. Jalandoni) in QMB-C-A-04-0309-G, which found respondent Leovigildo Delos Reyes, Jr. guilty of grave misconduct and gross neglect of duty (Id. at 34, Court of Appeals Decision dated March 1, 2013).

<sup>[6]</sup> Id. at 48-50. The Resolution was penned by Associate Justice Hakim S. Abdulwahid (Chair) and concurred in by Associate Justices Marlene Gonzales-Sison and Edwin D. Sorongon of the Sixth Division.

<sup>[7]</sup> *Rollo*, p. 359, Supreme Court Resolution dated October 14, 2014; *Hon. Office of the Ombudsman v. Delos Reyes, Jr.*, G.R. No. 208976, October 13, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/208976.pdf>> 13 [Per J. Leonen, Second Division].

<sup>[8]</sup> Id.

<sup>[9]</sup> *Rollo*, pp. 348-351, Supreme Court Resolution dated October 14, 2014; *Hon. Office of the Ombudsman v. Delos Reyes, Jr.*, G.R. No. 208976, October 13, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/208976.pdf>> 2-5 [Per J. Leonen, Second Division].

<sup>[10]</sup> *Rollo*, pp. 361-383.

<sup>[11]</sup> Id. at 387-390.

<sup>[12]</sup> Id. at 414, Supreme Court Resolution dated April 22, 2015.

<sup>[13]</sup> Id.

<sup>[14]</sup> Id. at 443-444. Respondent's Comment to the PCSO's Manifestation and Motion for Clarification was noted in our Resolution dated July 15, 2015.

<sup>[15]</sup> Id. at 477. The Office of the Solicitor General's Comment to the PCSO's Manifestation and Motion for Clarification and its Comment to respondent's Motion for Reconsideration was noted in our Resolution dated August 24, 2015.

<sup>[16]</sup> Id. at 362, respondent's Motion for Reconsideration.

<sup>[17]</sup> Id. at 378.

<sup>[18]</sup> Id. at 362.

<sup>[19]</sup> Id. at 366.

<sup>[20]</sup> Id. at 366, *citing* Supreme Court Resolution dated October 14, 2011, p. 11.

<sup>[21]</sup> Id. at 367.

<sup>[22]</sup> Id. at 368.

<sup>[23]</sup> Id.

<sup>[24]</sup> Id. at 370.

<sup>[25]</sup> Id. at 372.

<sup>[26]</sup> Id. at 372-373.

<sup>[27]</sup> Id. at 373.

<sup>[28]</sup> Id.

<sup>[29]</sup> Id. at 376-378.

<sup>[30]</sup> Id. at 376-377.

<sup>[31]</sup> Id. at 378.

<sup>[32]</sup> Id. at 379.

<sup>[33]</sup> Id.

<sup>[34]</sup> Id. at 459-460, Office of the Solicitor General's Comment.

<sup>[35]</sup> Id.

<sup>[36]</sup> Id. at 460-461.

<sup>[37]</sup> Id. at 462-463.

<sup>[38]</sup> Id. at 464.

<sup>[39]</sup> Id. at 465-470.

<sup>[40]</sup> Id. at 278-303.

<sup>[41]</sup> Id. at 289-297, PCSO's Comment.

<sup>[42]</sup> Rep. Act No. 6770 (1989), sec. 27. *See Tolentino v. Atty. Loyola, et al.*, 670 Phil. 50, 62 (2011) [Per J. Leonardo-De Castro, First Division].

<sup>[43]</sup> *See Dagan v. Office of the Ombudsman*, G.R. No. 184083, November 19, 2013, 709 SCRA 681, 694 [Per J. Perez, En Banc].

<sup>[44]</sup> *Rollo*, pp. 357-358, Supreme Court Resolution dated October 13, 2014; *Hon. Office of the Ombudsman v. Delos Reyes, Jr.*, G.R. No. 208976, October 13, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/october2014/208976.pdf>> 11-12 [Per J. Leonen, Second Division].

<sup>[45]</sup> *Rollo*, pp. 370-371, respondent's Motion for Reconsideration.

<sup>[46]</sup> *See Philippine Retirement Authority v. Rupa*, 415 Phil. 713, 720 (2001) [Per J. Puno, First Division].

<sup>[47]</sup> *Montallana v. Office of the Ombudsman, et al.*, 692 Phil. 617, 627 (2012) [Per J. Peralta, Third Division].

<sup>[48]</sup> Id.

<sup>[49]</sup> *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37-38 (2013) [Per J. Bersamin, First Division].

<sup>[50]</sup> 707 Phil. 365 (2013) [Per J. Brion, En Banc].

<sup>[51]</sup> Id. at 380.

<sup>[52]</sup> Id. at 378.

<sup>[53]</sup> *Atty. Valera v. Office of the Ombudsman, et al.*, 570 Phil. 368, 385 (2008) [Per C.J. Puno,

First Division].

<sup>[54]</sup> See *Prudential Guarantee and Assurance, Inc. v. Court of Appeals*, 480 Phil. 134, 139-140 (2004) [Per J. Carpio Morales, Third Division].

<sup>[55]</sup> See *Fabian v. Hon. Desierto*, 356 Phil. 787, 804 (1998) [Per J. Regalado, En Banc]; *Namuhe v. The Ombudsman*, 358 Phil. 781, 788-789 (1998) [Per J. Panganiban, First Division]; *Nava v. National Bureau of Investigation*, 495 Phil. 354, 365-366 (2005) [Per J. Tinga, Second Division]; and *Dr. Pia v. Hon. Gervacio, Jr., et al.*, 710 Phil. 196, 203 (2013) [Per J. Reyes, First Division]; RULES OF COURT, Rule 43, sec. 1 provides:

RULE 43. Appeals from the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals  
SECTION 1. Scope — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

<sup>[56]</sup> See *Dagan v. Office of the Ombudsman*, G.R. No. 184083, November 19, 2013, 709 SCRA 681, 694 [Per J. Perez, En Banc]. The case involved a Petition for Certiorari under Rule 65 of the Rules of Court, assailing the Ombudsman's Decision in an administrative case exonerating respondents (Id. at 687).

<sup>[57]</sup> *Rollo*, p. 388, PCSO's Manifestation and Motion for Clarification.

<sup>[58]</sup> Id. at 445-453.

<sup>[59]</sup> Id. at 446.

<sup>[60]</sup> Id. at 447.

<sup>[61]</sup> Id.



<sup>[62]</sup> Id. at 449-450, *citing Civil Service Commission v. Cruz*, 670 Phil. 638, 648 (2011) [Per J. Brion, En Banc].

<sup>[63]</sup> Id. at 450-451, *citing Civil Service Commission v. Cruz*, 670 Phil. 638, 648 (2011) [Per J. Brion, En Banc].

<sup>[64]</sup> Id. at 425-432.

<sup>[65]</sup> Id. at 430.

<sup>[66]</sup> Id.

<sup>[67]</sup> 670 Phil. 638 (2011) [Per J. Brion, En Banc].

<sup>[68]</sup> *Rollo*, pp. 388-389, PCSO's Manifestation and Motion for Clarification.

<sup>[69]</sup> *Bangalisan v. Court of Appeals*, 342 Phil. 586 (1997) [Per J. Regalado, En Banc].

<sup>[70]</sup> Id. at 598, *citing Engr. Miranda v. Commission on Audit*, 277 Phil. 748, 753 (1991) [Per J. Paras, En Banc]; *Abellera v. City of Baguio, et al.*, 125 Phil. 1033, 1037 (1967) [Per J. J. B. L. Reyes, En Banc]; and *Tañala v. Legaspi, et al.*, 121 Phil. 541, 551-552 (1965) [Per J. Zaldivar, En Banc].

<sup>[71]</sup> 1987 Adm. Code, book V, chap. 7, sec. 47(4), *as cited in Civil Service Commission v. Cruz*, 670 Phil. 638, 646 (2011) [Per J. Brion, En Banc].

<sup>[72]</sup> *Rollo*, pp. 388, PCSO's Manifestation and Motion for Clarification, and 411, respondent's Summary of Salaries/Other Benefits and Deductions from PCSO's Accounting and Budget Department.

<sup>[73]</sup> Id. at 65, Office of the Ombudsman's Decision.

<sup>[74]</sup> Id. at 71, Office of the Ombudsman's Order.

<sup>[75]</sup> *See* OMBUDSMAN, Memo. Circ. No. 01, series of 2006, in relation to Rep. Act No. 6770, sec. 27, par. 1 and RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN, Rule III, sec. 7. Under this Memorandum Circular, all concerned offices are "enjoined to implement all Ombudsman decisions, orders or resolutions in administrative disciplinary cases, immediately upon receipt thereof[.]"

<sup>[76]</sup> 144 Phil. 351 (1970) [Per J. Teehankee, En Banc].

<sup>[77]</sup> Id. at 354-355.

<sup>[78]</sup> Id. at 355.

<sup>[79]</sup> Id.

<sup>[80]</sup> Id. at 356.

<sup>[81]</sup> 120 Phil. 1213, 1219 (1964) [Per J. Paredes, En Banc].

<sup>[82]</sup> *Yarcia v. City of Baguio*, 144 Phil. 351, 358-359 (1970) [Per J. Teehankee, En Banc].

<sup>[83]</sup> *See Yarcia v. City of Baguio*, 144 Phil. 351, 358-359 (1970) [Per J. Teehankee, En Banc]; and *Civil Service Commission v. Cruz*, 670 Phil. 638, 646 (2011) [Per J. Brion, En Banc].

<sup>[84]</sup> *Bangalisan v. Court of Appeals*, 342 Phil. 586, 599 (1997) [Per J. Regalado, En Banc].

<sup>[85]</sup> *Rollo*, p. 388, PCSO's Manifestation and Motion for Clarification. According to PCSO, respondent reported for work on November 11, 2013. However, the computation for back salaries and the corresponding check issued to respondent pertained to the period of November 8, 2008 to November 30, 2013.

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