

****Title:****

Office of the Ombudsman-Mindanao v. Martel and Guiñares, G.R. No. 224621

****Facts:****

Martel, the Provincial Accountant, and Guiñares, the Provincial Treasurer, both served on the Provincial Bids and Awards Committee (PBAC) of Davao del Sur in 2003. They approved a recommendation by the Provincial General Services Officer (PGSO) to directly purchase service vehicles for the Governor and Vice-Governor without public bidding.

The Office of the Ombudsman-Mindanao investigated after receiving a complaint from a concerned citizen regarding the lack of public bidding. The Ombudsman found Martel and Guiñares, along with other PBAC members, guilty of grave misconduct and gross neglect of duty, and imposed the penalty of dismissal from service. Martel and Guiñares filed for reconsideration but were denied. They then appealed to the Court of Appeals (CA), which modified their penalty to one year suspension without pay, considering their length of service as a mitigating factor. The Ombudsman, through a petition for review on certiorari, sought to reverse this CA decision, arguing that length of service should not automatically mitigate the penalty.

****Issues:****

1. Did the CA err in considering length of service as a mitigating circumstance to reduce the penalty imposed on Martel and Guiñares?
2. Were Martel and Guiñares guilty of grave misconduct and gross neglect of duty?
3. Were other procurement laws and circulars violated in the acquisition of the vehicles?
4. Was there substantial evidence proving their active participation in the illegal procurement?

****Court's Decision:****

1. ****Length of Service as a Mitigating Circumstance:**** The Supreme Court ruled that length of service is not automatically a mitigating factor and must be weighed against the specifics of each case. For Martel and Guiñares, their long tenure should have made them more knowledgeable and vigilant about procurement laws, thereby rendering their misconduct more egregious. The CA's rationale for mitigating the penalty was thus erroneous.

2. ****Grave Misconduct and Gross Neglect of Duty:**** The Court held that Martel and Guiñares' acts constituted grave misconduct and gross neglect of duty. They failed to conduct a public bidding, approved direct purchases without legal justification, and actively

participated by signing disbursement vouchers for the illegally procured vehicles. Their actions showed a willful intent to violate procurement laws.

3. **Violation of Procurement Laws:** Martel and Guiñares committed several violations:

- They bypassed the mandate for public bidding as provided by R.A. No. 9184 and R.A. No. 7160, engaging in direct purchase without justification.
- They specified vehicle brand names in the purchase request, violating Section 18 of R.A. No. 9184.
- They allowed the purchase of multiple service vehicles for the governor, contravening COA Circular No. 75-6.

4. **Evidence of Active Participation:** The records provided substantial evidence that Martel and Guiñares approved the procurement modes and signed the disbursement vouchers, confirming their active participation in the procurement process.

Thus, the Supreme Court reinstated the Ombudsman's decision to dismiss Martel and Guiñares from service.

Doctrine:

- Public procurement must follow competitive bidding as the default mode. Exceptions require strong justification.
- Length of service is not automatically a mitigating factor in administrative cases; it can aggravate culpability depending on case specifics.
- Specificity in procurement regarding brand names is prohibited to ensure fair competition and prevent undue preference.

Class Notes:

- **Grave Misconduct and Gross Neglect of Duty:** Acts demonstrating willful violation of law or rules, including unauthorized procurement methods.
- **Failure to Conduct Public Bidding:** Violates R.A. No. 9184 (Government Procurement Reform Act) and R.A. No. 7160 (Local Government Code).
- **Brand Name Specification:** Section 18, R.A. No. 9184 states procurement should specify characteristics, not brand names.
- **Single Motor Vehicle Rule:** COA Circular No. 75-6 prohibits officials from using more than one government-owned vehicle.

Historical Background:

The case occurred within the context of rigorous efforts to enforce procurement laws in the

Philippines to ensure transparency and accountability in government transactions. The rigorous implementation of R.A. No. 9184, enacted in 2003, aimed to curb corruption and promote the judicious use of public funds. The Court's ruling reaffirmed the non-negotiable nature of these procurement laws, emphasizing strict compliance and highlighting the serious professional consequences of their breach.