

ROBIN PINZON AND SHERYLL MANGUERRA, PETITIONERS, VS. DEPARTMENT OF JUSTICE AND BUREAU OF IMMIGRATION, RESPONDENTS.

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

Subsequent to the Civil Service Commission's verdict on June 27, 2012 towards petitioners' dismissal from service by reason of dishonesty, grave misconduct, conduct grossly prejudicial to the best interest of the service, and gross neglect of duty,[1] the appeal at hand via Rule 43 of the Rules of Court was interposed.[2]

What spawned herein petitioners' recourse were two Sworn Statements dated February 10, 2010[3] and February 17, 2010[4] executed by Rachel Ong, a former Liason Officer of the Bureau of Immigration, and lodged before the Department of Justice.

Ong's grievance revolved on a conspiracy among several immigration officers and personnel in perpetrating illegal acts done in abuse of their positions while stationed at the Diosdado Macapagal Avenue International Airport relative to illegal transactions such as: (a) allowing passengers' entry and exit from the country without E6 visas and other related travel documents, including those with "hold departure order" and under the "watch list", (b) escorting and assisting passengers of illegal recruiters, (c) permitting girls from China and Korea to enter the country as tourists but who actually work as entertainers without the requisite documents; and (d) dating off-loaded female passengers and in permitting them to leave the country even without the required travel documents. These illicit operations of the BI personnel were done in exchange for sexual favors and sums of money denominated by Ong as the "piso kada ulo" and "piso ulit para sa kahon at sa supervisor" system.

As narrated by Ong on her February 10, 2010 Sinumpaang Salaysay:[5]

2.Noong May 2006, ako ay itinalaga bilang Liason Officer sa DMIA. Bilang isang Liason Officer, ako ay nag-aassist ng mga pasahero, tulad ng pag fill-up ng embarkation card sa departure at arrival.

3.Noong May 2008, nagsimula akong mag-assist ng pasahero ni Edelsa Quiambao Romero. Ako ang nag-aassist para sa pagpila sa Departure Immigration Counter kung saan nakatimbre na sa Immigration Officer ang mga pangalan ng pasahero, para wala nang tanong-tanong at malaya na sila makalabas o makaalis.

4.Pagkatapos tatakan ang mga passport, binibilang ng Supervisor na kadalasan sina Robin Pinzon at Rey Hernandez ang mga nakakalusot na pasahero, isa na dito yung mga pasahero ni Edelsa Quiambao Romero.

5.Kadalasan ang singil sa bawat pasahero ay Php3,000.00 hangang Php5,000.00.

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8.Na ang mga tumatanggap ng pera at kontak din ng mga iligal na travel agency, para makaalis na walang problema ang isang pasahero, lalo na sa mga pasahero ni Edelsa Quiambao Romero ay sina:

a. Immigration Officers:

1. Romeo Danug
2. Jose Melendres
3. Ramoncito Barra (nakatalaga na sa NAIA)
4. Rey Hernandez
5. Adonis Fontanilla
6. Evelyn Marinduque

b. Acting Immigration Officers:

1. Misael Tayag
2. Francis Gale Sanglay
3. Jacqueline Miranda
4. Arlyn Mendoza
5. Leo Lugto
6. James Guevarra
7. Cheryl Manguerra
8. Luisito Mercado
9. Chito Nuqui

9.Kaya alam ko lahat ang kinasangkutan ng mga taong nabanggit sa itaas dahil lahat sila ay naka-transaksyon ko na. Dahil sila ang nageestamped ng departure at approval ng mga pasahero.

10.Si Eranio Borja Manalo ay siya ang kauna-unahang kontak ni Edelsa Quiambao Romero para sa pag-papaalis ng mga pasahero (babae o lalaki) papuntang Malaysia, Singapore at Macau. Alam ko ito dahil inu-utusan nila ako (mga immigration officers na nabanggit sa itaas) para i-assist ang mga pasahero ni Edelsa Quiambao Romero at ang iba pa nilang kontak na nag-papa-alis ng mga pasahero kahit kulang ang mga dokumento o peke ang mga ito basta may bayad sila at ito ay kanilang payagan “go” na maka-alis papuntang sa ibang bansa.

11.Yong mga E6 (Entertainer/GRO) papuntang KOREA pinalabas nina James Guevara, Luisto Mercado at Eranio Manaol. Dollars po ang ibinabayad sa kanila ng mga Illegal Recruiters.

12.Yong mga walang OEC (Overseas Employment Contract) na Pilipino ay pinapalipad nila basta bayaran lang yong mga nag-estamped na Immigration Officer dahil ako mismo ang pina-assist at pinapatanggap ng pera nina James Guevara, Romeo Danug, Jose Melendres, Misael Tayag, halos lahat po sila dahil nag mamasahero po sila. Ang usapan dito ay Php3,000.00 kada pasahero.

13.Yong mga foreigners na walang ECC (Emigration Exit Clearance) ay pinapalipad na lang palabas sa bansa basta bayaran na lang ng personal ang mga immigration officers o head supervisors.

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In the subsequent Sinumpaang Salaysay of Ong on February 17, 2010, she elaborated the participation of herein petitioners in the illegal operation of the BI personnel stationed at DMIA:[6]

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5.Ang mga pasahero na may “SOP”, ito ay i-aassist ko dahil na rin sa utos ng head supervisor na si Heranio B. Manalo (a.k.a. Ernie Manalo) o kilala sa alyas na “Kong Ernie”or “Mr. Pogi ng Immigration”.

6.Ititimbre muna kay Ernie Manalo at kapag nag-okay na siya at mag pa-paalam ka at ibibigay ang listahan ng mga pasaherosa duty supervisor at immigration officer on duty.

7.“Piso-kada-ulo” - isang libo ang bayad sa officer na mag i-istamp, piso ulit ang para sa “kahon”, at isang libo ulit para sa supervisor.

8.Ito ay pinag-hahatian nila ng mga head at supervisor, at tuwing linggo (sic), sila ay nag-bibiyakan ng collection.

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14.Si Mesael Tayag o Mezz Tayag ay sikat sa bansang Malaysia at sa airport sa pangalang Mr. Tissue. Dito niya pinapalagay ang mga bayad ng kanyang mga pasahero para hindi mahalata at malinis ang transaksyon sa counter ng Immigration. Pagkatapos ay mag c-c.r. at doon bibilangin ang perang binayad ng pasahero at susunod ang partner at kumpareng Supervisor Mr. Robin Pinzon or Binoy. Astig at malakas ang kapit nito dahil ito ay tinaguriang “sipsip”. Doon sa C.R. mag-hahati ng pera sina Si Tayag at Pinzon, lalo na kapag nagkataon na duty silang dalawa. Mag-kasabwat sila dahil i-isa ang mga kontak nilang recruiters. Sila lang dalawa halos ang nakakaalam sa kanilang mga pasahero.

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27.Mahigpit din nilang binabantayan ang Asian (sic) Airlines kasi dito maraming minors na Koreana ang nagbabayad ng Visa Waiver o WEG. Ito ay mga minors na hindi kasama ang magulang.

28.Dalawang beses ang flight ng Asiana, isa sa umaga at isa gabi, sa oras ng 11 a.m.- 12:30 p.m. at 11:00 p.m. - 12:00 m.n., dito sila nagbabantay at dumadating si Cito Mercado, collecting officer, Sherryl Manguera, James Guevarra, Robin Pinzon at Ernie Manalo para mabantayan ang mga bilang ng mga minors at ma-monitor ang koleksyon ng WEG – P3,020.00 sa Philippine Money, at 80 dollars naman pag walang Philippine Money. Kapag first time at walang supporting document ang mga minor, pinag-mumulta sila kung saan yung iba ay nireresibuhan dahil naghahanap ng resibo, dahil ang iba ay alam na ang tunay Rol sa WEG. Ang iba naman ay walang alam at hindi marunong mag English kaya hindi nila alam kung ano iyon, at iyan na ang paghahatian na naman pagkatapos ng duty. Bago umuwi hahatian na ng collecting officer at ni Manalo ang S.O.P. At sila na ang bahala kung magkano ang ibibgay na share ng bawat immigration personnel.

29.Malaya din na nakakapasok ang may kaso lalo na ang mga Koreano, Chinese, at Indians lalo na kapag may kontak sila sa loob. Itatawag ng “matataas” kay Ernie Manalo at ito ay i-escort pa para malinis ang trabaho. Ilalabas nila ang babae at kinabukasan ay malaya itong nakaka-alis ng may ngiti sa labi.

30.Nakakapasok din ang mga Koreano, Indian, Chinese, Malaysian na mga suspected na terorista at may mga kaso ng maluwa sa bansa natin kasama pa ang mga girlfriend na pinay. Itinatawag ito kay Manalo kung paapsukin at sasaluhin ng CIAC. Ina-assist ni Bong at Richie Nakpil.

31.Ang mga na-offload na mga pasahero ay may kumakausap na security att aalukin kung gusto ba nilang makaalis, at sila na ang bahala. Pagkatapos ay pagbabayaran ang mga pasaherong gustong gusto umalis sa halang (sic) P5,000.00, at ito ay ititimbre na sa duty supervisor at immigration officer sa departure counter. Kapag nag-okay si Eranio Manalo at tapos na ang lahat ng usapan, ito ay makaka-alis ulit kinabukasan. Araw-araw silang nag-offload para araw-araw din may kita.

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33.Ang bawat isa ay nagbabantayan ang head supervisor, bagman, officer, staff. Ayaw ni Eranio Manalo ang may makakalusot at mahigpit ang pagbabantay sa pasaherong VIP or may SOP. Nakabilang sila at kailangan may listahan at agad itong i-reremit kay Ernie Manalo o kung hindi kaya, sa mga supervisor on duty o kay Cito Mercado. “Rahon” ang tawag dito. Bawat isang ulo, isang libo ang patak. SOP ito sa amin sa BI-Clark, kaya pangkaraniwan na lamang ang mga ganitong gawain. Pag gusto nila ang babae lalo na sa tingin nila ay game naman. Tatanungin nila ito ng matagal at tapos i-hold muna at kung anu-ano ang hahanapin sa biktima at pag nagmakaawa sasabihin nila off-load kita sige eto number ko. Ang sasabihin ng duty supervisor at mga officer. Isusulat ang number nila Adonis Fontanilla, Robin Pinzon, Rey Hernandez, Ramon Lapid, Cito Mercado, Hernie Manalo, Dante Aquino. Lito Nuqui, James Guevarra at Leo Lugtu tapos kokontak ang babae at papayag na sa gusto ng immigration officer at kinabukasan ang naka-date or nilabas nilang babae. Maluwag itong

nakakaalis patungo sa kanilang bansang pupuntahan. At yun na ang umpisa. Marami na ang kumukontak sa kanila.

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37.Si Sheryl Manguerra ay acting collecting officer at acting immigration officer. Hawak siya ng dating chief ng DMIA na si Mr. Dime na isang retired BI-Officer. May mga pasaherong pinasisibat na entertainer papuntang Hong Kong gamit ang Cebu Pacific Airlines. Kasabwat siya sa SOP sa BI-Clark at isa rin siya sa malakas tumanggap dahil napaka-sipag sa pagdu-duty, dahil bukod sa anomalya sa counter, mas malaki ang SOP sa resibo.

38.Sina Robin Pinzon, Rey Hernandez, Ramon Lapid at Dante Aquino ay bukod sa duty supervisor ay immigration officer din sila at nag-i-istamp din ng mga pasahero at may mga sariling pasahero si Rey Hernandez. Dait (sic) sa NAIA Terminal nila nakabangga si Sampol Chief ng NAIA tungkol din sa SOP. Siya ay pinatapon sa DMIA at dito naginh supervisor at dito na rin niya pinalalabas ang mga pasahero niya patungong Singapore gamit ang Cebu Pacific Airlines.

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47.Ang sabi ni Heranio Manalo, Cito Mercado, Robin Pinzon, Dante Aquino, James Guevarra, Sheryll Manguerra, Ramon Lapid, Rey Hernandez na kailangan malaki ang koleksyon sa kahon. Kasi bukod sa kanila, may share din ang sa taas, ang pinaka-chief sa BI na nagco-control sa mga tauhan nila. Kailangan pataasan ang lagay sa taas para manatili sa pwesto at kahit ano pa ang bigat o dami ng kaso, dismissed ito dahil malakas ang kapit ni Heranio Manalo sa taas....

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As a result of the foregoing revelations from Ong, the DOJ created an investigative panel composed of members from the National Prosecution Service, National Bureau of Investigation, and Bureau of Immigration to probe the alleged illicit operations at DMIA.

During the investigation, it appeared that there was a criminal complaint filed against Ong for violation of Republic Act No. 9208 or the Anti-Human Trafficking in Persons Act.

The investigation progressed and the BI personnel, including petitioners who were named by Ong, were directed by the Panel to file the Comment with respect to the Complaint instituted by Ong against them. Thereafter, through a Report dated April 14, 2010, the panel recommended the filing of the formal administrative charge for grave misconduct, conduct prejudicial to the best interest of the service, dishonesty and gross neglect of duty and with preventive suspension against the concerned BI personnel for ninety days.

Initially, the findings and recommendations of the panel were reversed by Acting Secretary Alberto C. Agra through the Memorandum dated June 28, 2010. Based on complainant Ong's letter, DOJ Secretary Leila De Lima re-evaluated the evidence submitted and consequently charged the officers and employees of the BID with the concomitant preventive suspension for 90 days on account of illicit activities at the DMIA from May to July, 2008.[7]

A formal hearing was conducted and the prosecution unfurled the testimony of Ong who was subjected to cross-examination by respondents. Thereafter, the DOJ issued the Resolution dated May 13, 2011 which adjudged the guilt of respondents in Administrative Case No. LML-AC-16G10-001 except for Janice De Jesus-Corres and Ramoncito Barro.[8]

After rejection of the Motion for Reconsideration,[9] the Civil Service Commission later agreed with the DOJ on the outcome of the administrative case.[10]

Petitioners averred before Us that they were denied due process since they were supposedly deprived of their right to be informed of the nature and cause of the accusation against them because under the Formal Charge, it was alleged that petitioners had perpetrated illegal acts at DMIA between the months of May, 2008 and July, 2008, although Cebu Pacific commenced operations only on November 8, 2008. Petitioners further claimed that the testimony of the lone witness Ong were replete with inconsistencies and devoid of corroborative evidence.

It is a familiar axiom in law that “the essence of due process in administrative proceedings is the opportunity to explain one’s side or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met. What is offensive to due process is the denial of the opportunity to be heard. The Court has repeatedly stressed that parties who chose not to avail themselves of the opportunity to answer charges against them cannot complain of a denial of due process.”[11]

In the light of the foregoing aphorism, petitioners were never deprived of their right to due process. From the initial stage conducted by the Investigating Panel, petitioners were duly informed of the charges against them and were given the opportunity to be heard. Verily, when petitioners elected for a formal hearing, the panel acceded and conducted several hearings on September 16, 2010, November 8, 19 and 30, 2010, December 10 and 13, 2010 and January 12, 2011.[12] In the course of which hearings, herein petitioners had the chance to confront Ong and cross-examine her.

Neither is there any cogent foundation for petitioners’ argument that they were denied their right to be informed of the nature and cause of accusation against them.

Pursuant to Section 16, Rule 2 of the Revised Uniform Rules on Administrative Cases in the Civil Service,[13] the Formal Charge shall contain a specification of the charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by counsel of his choice.

Consistent with the pronouncement in *Dadubo v. Civil Service Commission*,[14] as cited in *Philippine Amusement and Gaming Corporation v. Ariel Marquez*,[15] the charge against a respondent in an administrative case need not be drafted with precision akin to an Information in a criminal prosecution and it is enough that he is apprised of the substance of the charge against him.

As revealed by the record of this case, the Formal Charge[16] substantially indicated the material and relevant facts of the administrative charges against them. It contained elements of the offense for petitioners’ preparation of their exculpations. Moreover, the affidavits of complainant Ong narrated how petitioners and other BI personnel carried out illegal operations at the DMIA. Thereafter, petitioners were extended the opportunity to submit the necessary pleadings[17] for their defense, and they participated in the formal hearing conducted.

With respect to the claim of petitioners that the Formal Charge failed to state with certainty the date of the commission of the offense, such perceived hiatus will not alter the conclusion of the DOJ and the CSC the since date was not a material ingredient of the offense.[18]

Petitioners likewise submitted that it was erroneous for the CSC and the DOJ to adjudge their guilt solely on Ong’s version as reflected on her affidavits and testimony.

We do not agree.

At this juncture, it is fitting to underscore that as an ‘insider’, complainant Ong presented a detailed narration of facts and circumstances about illegal transactions at the DMIA from the passengers’ queue at the Departure Immigration Counter up to the time the passengers’ traveling documents were processed and were allowed to leave and enter the country in exchange for a substantial consideration. She even intimated how they divide the sum they collected from the illegal transactions. Evidently, these facts were anchored on her personal knowledge and therefore worthy of probative value.[19]

With reference to the aspect of confabulation among Ong, petitioners and the BI personnel, it is a hornbook precept that there is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. While it is mandatory to prove it by competent evidence, direct proof is not essential to show conspiracy — it may be deduced from the mode, method, and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action and community of interest.[20]

Apparently, premised on detailed facts, there was a concerted effort among the BI personnel assigned at DMIA to execute illegal activities such as escorting and assisting passengers of illegal recruiters; allowing OFWs without E6 visas to leave the country without the required overseas employment contract; allowing girls from China and Korea to enter the country as tourists when they will in fact be working as entertainers; dating off-loaded passengers and allowing them to leave the country; and deliberately failing to process 2,080 passengers from different airlines at the DMIA by not encoding the passengers’ pertinent data in the Bureau’s database despite their inclusion in the airline’s final passengers’ manifest and having passed through the immigration counter. All of these matters cannot just be implemented by a single individual and necessarily requires mutual efforts among malefactors. As aptly observed by the CSC:

“Moreover, as to the contention that the conspiracy amongst the respondents and Ong was far-fetched and a product of a fertile imagination, it is against the natural course of events and logic that Ong will be able to carry out all these anomalous transactions which she admits to having done, all by herself. It is commonsensical that a wide network or organized system involving several people should be involved to be able to carry out these “projects”, lest it fails early on. While she herself may have been the subject of criminal complaints, she is precisely credible because she admits to having committed all these acts, and now, she is simply complaining against her co-conspirators who had left her to sacrificed [sic] when no one else, not even the victims of their corruption, would complain, obviously out of fear of reprisal from these unscrupulous employees/officials.”[21]

Concerning petitioners’ contention that Ong’s testimony cannot be relied upon since it was not corroborated by any independent evidence, a finding of guilt based on the testimony of a lone witness is not uncommon. “For although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number and conviction can still be had on the basis of the credible and positive testimony of a single witness. Corroborative evidence is deemed necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observation had been inaccurate.[22]

As described by the DOJ Secretary on the assailed Resolution dated May 13, 2011:[23]

“Records will show that during her testimony, Ms. Ong was able to provide the details on the manner in which the alleged illegal acts were carried out by respondents, the specific names of the participants and the exact location in the airport where the alleged legal transactions were done. Based on this testimony, the respective acts of respondents showed collusion among them to receive some kind of consideration for their participation on the irregular and unlawful immigration procedures at the DMIA. These details are circumstances that are substantial enough to corroborate Ms. Ong’s statements since it was narrated and delivered with confidence and conviction even in the crucible of a thorough cross-examination. It should be emphasized that “the testimony

of a co-conspirators may, even if uncorroborated, be sufficient as when it shown to be sincere in itself, because it was given unhesitatingly and in a straightforward manner and full of details which by their nature could not have been the result of a deliberate afterthought.”

Certainly, Ong’s testimonial evidence presented before the administrative body was adequate for determination by the DOJ and the CSC of petitioners' culpability. Consequently, the conclusions reached by the DOJ and CSC were supported by substantial evidence.

Again, it is apt to reiterate that substantial evidence in an administrative proceeding is such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere scintilla of evidence. The standard of substantial evidence is satisfied when there is a reasonable ground to believe, based on the evidence submitted, that respondent is responsible for the misconduct complained of. It need not be overwhelming or preponderant, as required in an ordinary civil case, or evidence beyond reasonable doubt, as required in a criminal case, but the evidence must be enough for a reasonable mind to support a conclusion.[24]

WHEREFORE, from the foregoing discourse, the Petition for Review on Certiorari is hereby DENIED for lack of merit and the impugned Decision of the Civil Service on June 27, 2012 is hereby AFFIRMED.

SO ORDERED.

De Leon, (Chairperson) and Cruz, JJ., concur.

[1]Rollo, pp. 28-43.

[2]Rollo, pp. 6-27.

[3] Rollo, pp. 125-127.

[4] Rollo, pp. 128-135.

[5] Rollo, pp. 125-127.

[6] Rollo, pp. 128-135.

[7] Rollo, pp. 76-78.

[8] Rollo, pp. 44-56.

[9] Rollo, pp. 115-124.

[10]Rollo, pp. 28-43.

[11] Department of Health v. Phil. Pharmawealth, Inc., G.R. No. 182358, February 20, 2013, citing Flores v. Montemayor, G.R. No. 170146, June 8, 2011, 651 SCRA 396.

[12] DOJ Resolution dated May 13, 2011, pp.5-6, Rollo, pp. 48-49.

[13] MC No. 19, s.1999

[14] G.R. No. 106498, June 28, 1993, 223 SCRA 747, 754.

[15] G.R. No. 191877, June 19, 2013.

[16] Rollo, pp. 76-78.

[17] Rollo, pp. 79-101.

[18] *People of the Philippines v. Romar Teodoro y Vallejo*, G.R. no. 172372, December 4, 2009.

[19] cf. Section 36 of Rule 130, Revised Rules on Evidence; *Miro v. Marilyn Mendoza vda. De Erederos, et al.* G.R. No. 172532 & 172544-45, November 20, 2013.

[20] *People of the Philippines v. Allan Niegas y Fallore*, G.R. No. 194582, November 27, 2013.

[21] Rollo, page 39.

[22] *People of the Philippines v. Joemarie Jalbonian*, G.R. No. 180281, July 1, 2013.

[23] Rollo, pp. 44-56.

[24] *Miro v. Marilyn Mendoza vda de Erederos, et al.*, G.R. No. 172532 and 172544-45, November 20, 2013;

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