

**MA. MARTHA B. ROMASOC AND LIEZLE B. ANONGOS, PETITIONERS,
VS. HONORABLE DEPUTY OMBUDSMAN FOR LUZON AND PHILIPPINE
HEALTH CORPORATION, REPRESENTED BY MA. LOURDES
MENDOZA, RESPOND...**

Ponente: SABIO, JR., J.

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SABIO, JR., J.:

As long as substantial evidence support the ombudsman ruling, his decision will not be overturned (Salvador vs. Desierto, 420 SCRA 76).

In this petition for review under Rule 43 of the Rules on Civil Procedure, petitioners seek the reversal and setting aside of the decision and order of the Deputy Ombudsman for Luzon and the dismissal of the Complaint for Dishonesty and Falsification of public documents against the former.

The material antecedents as portrayed in petitioner's petition, thus:

- Petitioner MARTHA ROMASOC is the Development Management Officer IV of the PhilHealth Regional Office-Cordillera Administrative Region (hereinafter referred to PHILHEALTH-CAR, for brevity) while Petitioner LIEZLE B. ANONGOS is the is Training Specialist II of the same office;

- In connection with the LINGAP PARA SA MAHIHIRAP and INDIGENT PROGRAMS of the government, the petitioners participated in the launching and orientation of the said programs in the different parts of the Cordillera Administrative Region, particularly in the provinces of Abra, Mt. Province, Benguet, Ifugao, Apayao, Kalinga and the City of Baguio;

- In support of the said programs, cash advances were made and subsequently liquidated. Upon post-audit, however, several of the supporting receipts totaling P105, 876.50 were disallowed by the Commission on Audit. The petitioners submitted their Joint Affidavit explaining their side. (Please see the Joint Affidavit as Annex "B" of this Petition)

- In order to buy peace and despite their previous good faith and convincing explanations, the petitioners and their co-employees at PHILHEALTH-CAR including Assistant Vice President Elvira Ver, who were involved in the said programs, decided to reimburse to the government the disallowed amount of P198,271.00 from their own pockets thereby spending their own money for the said government programs at no expense on the part of the government---despite the fact that said programs were successfully implemented in the Cordilleras--- just because of the allegations that the receipts were falsified and that the programmed amounts for said projects were not actually spent by them without taking into account the improbability of the duplicate copies of the said receipts allegedly in the possession of the issuers;

Attached as Annex "C" of this Petition is the Letter of Vice President Elvira Ver of PHILHEALTH-CAR informing the COA that she has refunded the disallowed amount of P198,271.00. and the copies of the officials receipts evidencing refund of the amount of P198,271.00 and the copies of the officials receipts evidencing refund of the amount of P198,271.00 as Annexes "C-1, "C-2", "C-3, "C-4" and "C-5", respectively.

- However, despite their explanations and payment of amount of P198,271.00 to the government even if the disallowed amount was only P105,876.50, the petitioners, together with Elvira Ver, Vice President Philhealth Regional Office-CAR, and Imelda Villamar, the Philhealth-Car Accountant, were administratively charged of dishonesty and falsification of public documents [against the petitioners] and gross neglect of duty [against the Vice President and Accountant] before the Office of the Deputy Ombudsman for Luzon;

Attached hereto is a copy of the Affidavit-Complaint as Annex “A” and made an integral part of this petition.

- As required by the Deputy Ombudsman for Luzon, the petitioners filed their Counter-Affidavit;

Attached hereto are copies of the Counter-Affidavit of the Petitioners as Annexes “D” and “E” of this Petition.

- Thereafter, the petitioners and their co-respondents before the Office of the Deputy Ombudsman for Luzon were required to submit their Position Paper with the affidavits of their witnesses, if they be any. Both petitioners complied;

Attached hereto are copies of the Position Papers of the petitioners as Annexes “F” and “G” of this Petition.

- On February 15, 2005, the respondent Deputy Ombudsman for Luzon issued his Decision dismissing the complaint as against respondents Elvira Ver and Imelda Cristeta Villamar while concluding that the petitioners were guilty of dishonesty and Falsification of Public Document and meted the penalty of SUSPENSION FOR ONE (1) YEAR WITHOUT PAY. The said Decision were received by the petitioners on March 16, 2005;

Attached hereto is a copy of the Decision as Annex “H” and an integral part hereof.

- On March 19, 2005, the petitioners filed their Motion for Reconsideration of the afore-said Decision.

Attached hereto is a copy of the Motion for Reconsideration as Annex “I” and made an integral part hereof.

- On May 26, 2005, the respondent Deputy Ombudsman for Luzon issued an Order denying petitioner's Motion for reconsideration. Said Order was received by the petitioners through counsel on July 7, 2005.

Attached hereto is a copy of the Order as Annex “J” and made an integral part hereof.

Considering that the Decision and Order of the respondent Deputy Ombudsman for Luzon is contrary to the evidence on record as well as our existing laws and jurisprudence, the petitioners were left with no other recourse but to come to this Honorable Court for succor.”

(Rollo, pp. 14-16)

To justify the instant petition for review, petitioner's argue on the following assignment of errors, to with:

“ASSIGNMENT OF ERRORS

I

THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ERRED IN IMPOSING THE PENALTY OF ONE (1) YEAR SUSPENSION WITHOUT PAY TO THE PETITIONERS DESPITE HIS FINDINGS THAT THEY ACTED IN GOOD FAITH OR LACK OF INTENTION IN TAKING ADVANTAGE OF SAID TRANSACTION FOR THEIR PERSONAL GAIN.

II

THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ERRED IN IMPOSING THE PENALTY OF ONE (1) YEAR SUSPENSION WITHOUT PAY TO THE PETITIONERS DESPITE HIS FINDINGS THAT THE AMOUNT REFLECTED IN THE OFFICIAL RECEIPTS (WHICH WERE ALLEGEDLY FALSIFIED) TALLIED WITH THE EXPECTED COST CORRESPONDING TO THE NUMBER OF REGISTERED

PARTICIPANTS.

III

THE DEPUTY OMBUDSMAN FOR LUZON GRAVELY ERRED IN IMPOSING THE PENALTY OF ONE (1) YEAR SUSPENSION WITHOUT PAY TO THE PETITIONERS DESPITE HIS FINDINGS THAT IT WOULD BE MATHEMATICALLY UNBELIEVABLE IF THE REAL COST OF THE MEALS AND SNACKS OF ALL THE PARTICIPANTS WERE THE ONES REFLECTED IN THE DUPLICATE COPY OF THE ISSUING ESTABLISHMENTS.”

(Rollo, p. 17)

Petition denied.

Records will disclose that the decision of Graft Investigation and Prosecution Officer I Alvin Joseph P. Porte, dated February 21, 2005 which was approved by the Deputy Ombudsman for Luzon per recommendation of Director Emilio A. Gonzalez, raciocinated in this manner:

“The substantive issue before us is whether or not respondents are administratively liable for dishonesty.

CSC Resolution No. 94-4794, provides: “Dishonesty consists of an intentional violation of truth. It must be evident that there is a disposition on the part of the respondent to misrepresent and defraud. There must at least be a showing of deliberate intent to commit falsehood.”

It is already been established through the COA Audit Observation Memorandum (AOM) and the findings of the Fact-Finding and Administrative Investigation Department (FFAID) of PhilHealth that, indeed, respondents submitted official receipts that are falsified. The said findings/observations were, however, not contested by the respondents. In fact, they justified it by submitting the affidavits of their witnesses corroborating their previous defenses as to the number of registered participants to whom the cash advances were spent.

Respondents committed dishonesty by concealing the true amount of the official receipts as reflected in the duplicate copies maintained by the business establishments. They could have reported the transaction in any other manner that the law allows on case where official receipts are not available. Their defenses/explanations could have been best used before the COA Auditor during the liquidation process instead of submitting the bloated official receipts.

Their act constitutes misrepresentation; the intention to defraud is attending and the same violates the solemn purpose of the long-standing policy of government transparency and public accountability.

However, with respect to respondents Ver and Villamar, we are of the opinion that the evidence proffered are not sufficient to hold respondents liable for Gross neglect of Duty taking into account the observance of the required procedure they observed during the liquidation process.

Notably, respondents, by mere looking on the face of the official receipts, could not be expected to ascertain/notice that the same were falsified/tampered. Verily, COA itself has to verify/compare said receipts with the duplicate copy kept by the issuing establishments, thus, in the absence of evidence to show that respondent committed gross neglect of duty, regularity in the performance of duty is presumed.

In sum, the evidence adduced are substantial enough to evince respondents' (Romasoc and Anongos) administrative liability for Dishonesty and Falsification of the Public Documents. However, it bears emphasis that respondents have no intention of appropriating the cash advance for their personal use/benefit when they bloated/added the same to the submitted official receipts. In fact, the amount reflected in the official receipts tallied with the expected cost corresponding the number of registered participants. The same would be

mathematically unbelievable if the real cost of the meals and snacks of all the participants were the ones reflected in the duplicate copy of the issuing establishment. We took notice of respondents' good faith or their lack of intention in taking advantage of said transaction for their personal gain. Accordingly, said "Good Faith" on the part of respondents could thus be taken into consideration to mitigate their liability and in effect, lower the imposable penalty of the offense committed."

(Rollo, pp. 124-126)

In their motion for reconsideration on the Ombudsman's ruling, petitioners argued on the following:

"GROUNDS FOR THE MOTION FOR RECONSIDERATION

A

CONSIDERING THAT THE HONORABLE OFFICE FOUND THAT THE RESPONDENTS-MOVANTS WERE IN GOOD FAITH AND THAT THEY HAD NO INTENTION OF FALSIFYING THE DOCUMENTS FOR PERSONAL GAIN, THEY SHOULD NOT BE HELD ADMINISTRATIVELY LIABLE.

B

CONSIDERING THE FINDING OF THE HONORABLE OFFICE THAT THE HEREIN RESPONDENTS-MOVANTS DID NOT COMMIT FALSIFICATION IN ORDER TO APPROPRIATE THE AMOUNTS REPRESENTING THE DIFFERENCES OF THOSE IN THE ORIGINAL AND DUPLICATE RECEIPTS BUT TO REFLECT THE REAL AMOUNT SPENT FOR THE PROGRAM, RESPONDENTS-MOVANTS SHOULD NOT BE HELD ADMINISTRATIVELY LIABLE.

C

CONSIDERING THE FINDING OF THE HONORABLE OFFICE THAT THE SAID RECEIPTS REFLECTED THE REAL AND ACTUAL COST OF THE PROJECT AND THAT THEY HAD REIMBURSED THE AMOUNT OF p198,271.00, THEY SHOULD NOT BE HELD ADMINISTRATIVELY LIABLE AND THAT THE SAID AMOUNT OF p198,271.00 BE REIMBURSED TO THEM BY THE GOVERNMENT. OTHERWISE, THE GOVERNMENT WOULD HAVE SPENT NOTHING FOR THE SAID PROGRAM THOUGH ACTUALLY IMPLEMENTED WHICH RESULTED IN THE CORDILLERA ADMINISTRATIVE REGION (CAR) THE BEST PERFORMING REGION FOR THAT SPECIFIC PROGRAM."

(Rollo, pp. 130-131)

The motion for reconsideration was denied on the basis of these findings, to wit:

"The issue before us is whether or not there is merit in the instant Motion for Reconsideration filed by the respondent-movants.

Upon a thorough perusal of the arguments and grounds relied upon by the respondent-movants, this Office finds no compelling reasons to set aside the recommendations of the Hearing Office.

It is to be stressed that under Section 8, Rule III of Administrative Order No. 07 as amended by Administrative Order No. 17, a motion for reconsideration may only be entertained if filed within ten (10) days from receipt of the decision or order on the basis of any of the following grounds:

- New evidence had been discovered which materially affects the order, directive or decision;
- Grave errors of facts or laws or serious irregularities have been committed prejudicial to the interest of the movant.

The Motion for Reconsideration filed by the respondent-movants is not anchored on any of the above-cited grounds in order that the same may be given due course. Most of the issues and arguments raised therein are nothing but mere rehash or reiteration of the contents of their counter-affidavit as well as Position Paper which have already been considered by the Hearing Officer in the resolution of the complaint. No new evidences or matters have been put forward by them which would warrant the setting aside of the contested Decision. Stated otherwise, the Motion for Reconsideration constitutes nothing but a pro forma motion which should be denied.

WHEREFORE, PREMISES CONSIDERED, it is most respectfully recommended that the Motion for Reconsideration filed by the respondent be DENIED.

SO ORDERED.”

(Rollo, pp. 139-140)

Based on the foregoing factual milieu, it is very clear that the Ombudsman's decision is founded on substantial evidence, and under Sec. 27 of Republic Act No. 6770, findings of fact by the ombudsman are conclusive as long as it is supported by substantial evidence (*Almanzor vs. Felix* 419 SCRA 641).

It ought to be stressed that the Investigation Report made by Philippine Health Insurance Corporation, (p. 64 to 69, Rollo) recommended, based on its findings and conclusion, that petitioner be charged for Dishonesty and Falsification of public document, punishable by dismissal for the first offense. And yet the Ombudsman, after a careful consideration of the defenses put up by petitioners, meted out a penalty of only one (1) year suspension without pay.

WHEREFORE, foregoing premises considered, the petition for review is hereby DENIED DUE COURSE and ordered DISMISSED. With costs to petitioners.

SO ORDERED.

Asuncion-Vicente and Villon, JJ., concur.

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