

FRANCISCO T. CAPARAS, PETITIONER, VS. NESTOR PALOMANIA, ALEXANDER M. CATURAO AND FIELD INVESTIGATION OFFICE, OFFICE OF THE OMBUDSMAN, RESPONDENTS.

Ponente: YBAÑEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/357eb7f2c04b/>

YBAÑEZ, J.:

Before Us is a petition for review[1] under Rule 43 of the 1997 Revised Rules of Court seeking to reverse and set aside the Decision[2] penned by GIPO I Clarisa V. Tejada of the Field Investigation Office of the Office of the Ombudsman dated 12 May 2011 finding petitioner guilty of Grave Misconduct and Dishonesty. Also, assailed in this petition is the Memorandum[3] dated 12 August 2012 penned by Acting Director Manuel T. Soriano which recommends that the 12 May 2011 Decision be maintained.

The Facts

The facts of the case, as may be culled from the records, are as follows:

The issue in the instant case sprung from a complaint initiated by private respondents against several government officials of the Province of Bataan, including herein petitioner, for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

On 08 June 2005, Provincial Agriculturist Imelda D. Inieto requested from the provincial government of Bataan a Patrol Boat equipped with a 6 cylinder gas engine.[4] Thereafter, an invitation to apply for eligibility and to bid was issued by the Bids and Awards Committee (BAC) of the provincial government of Bataan.[5] When no bidders applied for eligibility, the BAC resorted to limited source of bidding otherwise known as selective bidding.[6] The contract to build the patrol boat was eventually awarded to Ernesto Asistin, Jr.[7]

On 05 January 2006, Provincial Agriculturist Imelda Inieto issued a Justification that a 4 cylinder engine will be used for the patrol boat instead of a 6 cylinder engine.[8]

On 18 January 2006, the patrol boat was delivered and the Provincial Agriculturist requested from the provincial government of Bataan to send representatives for the inspection of the patrol boat.[9]

On 23 January 2006, herein petitioner came with Supply Officer Pedro Baluyot and M.A.A. Angelina Villanueva to Barangay Wawa, Orion, Bataan where they conducted the inspection of the patrol Boat.[10]

On 16 February 2006, the payment for the patrol boat was released to Ernesto Asistin, Jr.[11]

On 03 August 2006, private respondent Nestor Palomania wrote Provincial Agriculturist Imelda Inieto inquiring about the whereabouts of the supposed patrol boat that was procured or bought by the provincial government of Bataan.[12] Inieto immediately replied on the query and told Palomania that the patrol boat was based in the station of the Anti-Illegal Fishing Task Force at Wawa, Orion, Bataan.[13]

Not satisfied with the reply of the Provincial Agriculturist, Palomania filed a complaint for Dishonesty, Grave

Misconduct and Conduct Prejudicial to the Best Interest of the Service against several officials of the Province of Bataan which includes herein petitioner. More than two years later, on 29 September 2006, a Supplemental Complaint was filed by Associate Graft Investigation Officer I Eugenio G. Ferrer.[14]

On 12 May 2011, Graft Investigation and Prosecution Officer I (GIPO I) Clarisa V. Tejada rendered the assailed Decision finding petitioner guilty of Grave Misconduct and Dishonesty. But on 17 August 2011, the same GIPO I Clarisa V. Tejada resolved to dismiss the complaint against petitioner as she found no substantial evidence to hold petitioner for the acts leveled against him.[15] However, in a memorandum dated 12 August 2012, the dismissal of the complaint against petitioner was disapproved and the 12 May 2011 Decision was maintained.[16]

Hence, this petition.

ISSUE

WHETHER OR NOT THE DECISION OF THE OFFICE OF THE OMBUDSMAN ORDERING PETITIONER FRANCISCO T. CAPARAS' DISMISSAL FROM THE OFFICE FOR GRAVE MISCONDUCT AND DISHONESTY IS MERITORIOUS.

Our Ruling

At the outset, the only factual issue to determine the guilt of petitioner for grave misconduct and dishonesty is whether there was a delivery of the patrol boat that they inspected on 23 January 2006. The Associate Graft Investigator alleges that there was only a ghost delivery of the patrol but petitioner insists that it did inspect the patrol boat on 23 January 2006.

The petition is impressed with merit.

In the assailed 12 May 2011 Decision and the Order dated 12 August 2012, the Office of the Ombudsman concluded that there was ghost delivery of the patrol boat for the anti-illegal fishing campaign. The Office of the Ombudsman relied on the affidavits of complainants and their witnesses in finding for the suspension of the petitioner from work.

It is well settled that in administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in his complaint. Section 27 of the Ombudsman Act is unequivocal. Findings of fact by the Office of the Ombudsman, when supported by substantial evidence, are conclusive. Conversely, when the findings of fact by the Ombudsman are not adequately supported by substantial evidence, they shall not be binding upon the courts.[17] Here, We find the necessity to review the findings of facts of the Office of the Ombudsman.

The only evidence which purports to support the allegations in the complaint of Nestor Palomania and Alexander Caturao as well as the Supplemental Complaint filed by Associate Graft Investigation Officer I Eugenio G. Ferrer is the affidavit allegedly executed by one Ernesto Asistin, Jr. to whom the contract to build the boat was awarded.

After a careful perusal of the affidavits allegedly executed by one Ernesto Asistin, Jr. that was utilized in support of the complaint in the instant case, We find questionable veracity in the execution of the said affidavits. There was no proper identification of the affiant.[18] A perusal of the said affidavits show that they were merely notarized but no identification of the affiant was stated at the notarial acknowledgement portion of the affidavit.

It is well to emphasize that a notary public should not notarize a document unless the person who signs it is the

same person who executed it, personally appearing before him to attest to the contents and the truth of what are stated therein. This is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act.[19]

Section 1, Public Act No. 2103, otherwise known as the Notarial Law states:

"The acknowledgement shall be before a notary public or an officer duly authorized by law of the country to take acknowledgements of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgement shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, acknowledged that the same is his free act and deed. The certificate shall be made under the official seal, if he is required by law to keep a seal, and if not, his certificate shall so state."

Such requirement of affiant's personal appearance was further emphasized in Section 2 (b) of Rule IV of the Rules on Notarial Practice of 2004 which provides that:

"A person shall not perform a notarial act if the person involved as signatory to the instrument or document –"

'(1) is not in the notary's presence personally at the time of the notarization; and

(2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules."

As compared to the affidavit[20] executed by one Ernesto Asistin, Jr. on the 25 January 2006, where he stated that he already built a boat for the Anti-Illegal Fishing Task Force through the request of Provincial Agriculturist Inieto, with that of the affidavits[21] utilized in the complaint, the 25 January 2006 affidavit has the appearance of due execution for having a proper identification of the affiant. Moreover, a careful examination of the records would reveal that there is a discrepancy in the signature in the affidavits[22] utilized in the complaint from the signatures of one Ernesto Asistin, Jr. in all the documents[23] pertaining to the procurement of the patrol boat. It can easily be observed that the signatures of one Ernesto Asistin, Jr. appearing in the documents pertinent to the procurement of the patrol boat has a "Jr." at the rear portion of the signature while in the signature appearing in the affidavits utilized in the complaint do not bear a "Jr." at the rear portion of the signature. From the foregoing observations, We find questionable veracity in the affidavits utilized in the complaints in the instant case. In the case of Civil Service Commission vs. Ledesma,[24] the Supreme Court once stated that:

"xxx As the Court of Appeals observed, peculiar circumstances surrounding the execution of complainants' affidavits cast doubt on their credibility.

xxx xxx xxx

In administrative proceedings, the burden is on the complainant to prove by substantial evidence the allegations in his or her complaint. Obviously, the credibility of the complainant should be considered in judging whether the standard of evidence was met or not. Although less than preponderant, substantial evidence is not just any scrap or scintilla of evidence. Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

The standard was not met in this case. Taken as a whole, the circumstances surrounding this case and the execution of the complaint-affidavits against Ledesma would raise doubts in a reasonable mind.

xxx xxx xxx

We have previously held that the standard of substantial evidence is not met by affidavits of questionable veracity. xxx”

From the foregoing, We find that the reliance of the complaint on the affidavit of one Ernesto Asistin, Jr., which is of questionable veracity, do not constitute substantial evidence for the finding of guilt in administrative cases.

It is well settled that only substantial evidence is required to sustain a finding of guilt in an administrative case.[25] Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.[26] It is more than a mere imputation of wrongdoing or violation that would warrant a finding of liability against the person charged.[27]

In the instant case, there was no substantial evidence presented by private respondents that there was a ghost delivery of the subject patrol boat. The questionable veracity of the purported affidavits of one Ernesto Asistin, Jr. utilized in the complaint cannot merit substance in order to support the allegations against the petitioner. From these, the complaint against petitioner becomes mere allegation and the basic rule that mere allegation is not evidence cannot be disregarded.[28]

It must be noted that the instant case arose from a suspicion of private respondents that, in reality, no patrol boat was delivered to the Anti-Illegal Fishing Task Force. However as things stand, when private respondent Palomania inquired about the patrol boat, Provincial Agriculturist Inieto immediately revealed the whereabouts of the patrol boat that it was docked at the station of the Anti-Illegal fishing Task Force in Wawa, Orion, Bataan. If there was really no patrol boat delivered, private respondents could have easily verified it since they have already obtained copies of the documents pertaining to the procurement of the said patrol boat.

The documents covering the procurement and inspection of the patrol boat were properly executed as public documents. Nothing in the face of said documents bears any irregularity that may lead to suspicion. Any allegation against petitioner that there was no patrol boat that he inspected on 23 January 2006 is a serious accusation that must be supported by clear and convincing proof. Otherwise, the presumption of regularity in the performance of the official functions of petitioner shall stand, because well entrenched in jurisprudence is the time honored principle that the law bestows upon a public official the presumption of regularity in the discharge of one's official duties and functions.[29] In the case of *Gatmaitan v. Gonzales*,[30] the Supreme Court held that:

“xxx public respondents have in their favor the presumption of regularity in the performance of official duties

which petitioners failed to rebut when they did not present evidence to prove partiality, malice and bad faith. Bad faith can never be presumed; it must be proved by clear and convincing evidence. No such evidence exists in the case at bar. xxx”

Finally, this Court rules that the Office of the Ombudsman erred in maintaining the 12 May 2011 Decision holding petitioner guilty for Grave Misconduct and Dishonesty in the face of allegations not supported by substantial evidence. It is imperative to note that even Graft Investigation and Prosecution Officer I Clarisa V. Tejada who penned the 12 May 2011 Decision was not convinced that there is substantial evidence to hold petitioner liable for the acts leveled against him that is why she subsequently issued the Order dated 17 August 2011 dismissing the complaint against petitioner for want of substantial evidence. Clearly, petitioner cannot be held liable for Grave Misconduct and Dishonesty for lack of substantial evidence.

WHEREFORE, the petition is hereby GRANTED. The assailed Decision dated 12 May 2011 and the Memorandum dated 12 August 2012 issued by the Office of the Ombudsman are REVERSED and SET ASIDE with respect to petitioner Francisco T. Caparas. Accordingly, Francisco T. Caparas is EXONERATED from the administrative charges against him for lack of substantial evidence.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, pp. 3-16

[2] Ibid., pp. 17-45

[3] Ibid., p. 115-123

[4] Ibid., p. 141

[5] Ibid., pp. 143-146

[6] Ibid., p. 147

[7] Ibid., pp. 154-159

[8] Ibid., p. 161

[9] Ibid., pp. 162-165

[10] Ibid., p. 166

[11] Ibid., pp. 168-169

[12] Ibid., p. 218

[13] Ibid., p. 219

[14] Ibid., pp. 124-139

[15] Ibid., pp. 227-240

[16] Supra, note 3

[17] Ongjoco vs. Hon. Juan Q. Enriquez, et. al., A.M. OCA IPI No. 11-184-CA-J, January 31, 2012 (citing Marcelo vs. Bungubung, 552 SCRA 589)

[18] Rollo, pp. 171-176

[19] Isendhardt vs. Real, A.C. No. 8254 (Formerly CBD Case No. 04-1310), February 15, 2012

[20] Ibid., p. 189

[21] Supra, pp. 173 and 176

[22] ibid

[23] Rollo, pp. 160, 169 and 189

[24] G.R. No. 154521, September 30, 2005

[25] Office of the Ombudsman v. Santos, G.R. No. 166116, March 31, 2006, 486 SCRA 463.

[26] Marcelo vs. Bungubung, G.R. No. 175201, April 23, 2008.

[27] Rubrico v. Macapagal-Arroyo, G.R. No. 183871, February 18, 2010, 613 SCRA 233.

[28] Supra, note 25

[29] Gatmaitan vs. Gonzales, G.R. No. 149226, June 26, 2006, 492 SCRA 591.

[30] Supra, note 28 (citing Fernando v. Sto. Tomas, G.R. No. 112309, July 28, 1994, 234 SCRA 546)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.