

GERARDO R. VILLASEÑOR, PETITIONER, VS. THE HONORABLE OMBUDSMAN, RESPONDENT.

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

THE CASE

This is a Petition for Review[1] under Rule 43 of the Revised Rules of Court, assailing the Joint Decision[2] dated 17 June 2003, and Order[3] dated 25 February 2013, both issued by the Office of the Ombudsman in OMB-ADM-0-01-0376 (OMB-0-01-0659), the respective decretal portions of which read:

17 June 2003 Joint Decision

"WHEREFORE, premises considered, we rule and so hold as follows:

1) OMB-ADM-0-01-0376

- a) The instant complaint against WENCESLAO R. ROMERO, PATRICIO L. DURLAO, and DONATO C. RIVERA, Quezon City Fire District II Station Commander, former Chief Business Permits and License Office and former Building Official, respectively, is DISMISSED FOR BEING MOOT AND ACADEMIC;
- b) The instant complaint against respondents ROMUALDO C. SANTOS, SEVERINO T. MARIANO, REYNALDO R. SIMPAO, MANUEL S. BADURIA, SR., CARLITO S. ROMERO, RICARDO D. LEMENCE, and TEODORO S. GARCIA is DISMISSED for insufficiency of evidence;
- c) Respondents ALFREDO MACAPUGAY, RAFAEL I. GALVEZ, ROMEO M. MONTALLANA, and GERARDO M. VILLASEÑOR, are hereby found GUILTY of CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE and GROSS NEGLIGENCE OF DUTY, and for which they are hereby meted the penalty of DISMISSAL FROM THE SERVICE WITH ALL ITS ACCESSORY PENALTIES.

2) OMB-ADM-0-01-0390

- a) The instant complaint against respondents JOSE CALUAG, JULIUS F. VILLANUEVA, WINSTON ANGELES, WILLY JEREZ, ERNESTO S. MADRILEJO, ARNEL PINCA, RODOLFO ESPINA, VOLTAIRE PADILLA, GODFREY COLET, and LUIS MANUEL SOL, JR., is DISMISSED for insufficiency of evidence; and
- b) Respondents MARIO E. SAN DIEGO and RODEL A. MESA are hereby found GUILTY of CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE for which they are hereby meted the penalty of ONE (1) YEAR SUSPENSION WITHOUT PAY, pursuant to Section 10, Rule III, Administrative Order No. 07, s. 1990, in relation to Section 25, Republic Act No. 6770.

The Honorable Mayor of Quezon City, and the Honorable Secretary of the Department of Interior and Local Government are hereby directed to implement this Decision upon finality thereof and in accordance with law.

SO ORDERED."

25 February 2013 Order:

"WHEREFORE, the Motion for Reconsideration of respondent Gerardo R. Villaseñor is DENIED.

SO ORDERED."

THE FACTS

On 18 August 2001 at around 4:12 a.m., a fire engulfed the Manor Hotel located at 122 Kamias Road, Barangay Malaya, Quezon City. Seventy-four (74) persons died and countless others were injured.

On 20 August 2001, The Fact-Finding and Intelligence Bureau (FFIB) Office of the Ombudsman, conducted an investigation relative to the said tragedy and made the following discovery:

"(a) When fire struck Manor on August 18, 2001, it was operating without a business permit. Its existing business permit (was) valid (only) up to June 30, 2011;

(b) From 1995 up to year 2000, the Electrical Division of Quezon City Government did not conduct an annual inspection of the electrical systems of Manor. It (did) not even have a wiring plan;

(c) The Bureau of Fire Protection did not conduct an annual inspection of Manor from 1992 up to 1999;

(d) Manor was issued business permits for (the) years 1992, 1993, 1994, 1995, 1999, 2000, and 2001 even without completing the requirements, viz: Fire Safety Certificate from the Bureau of Fire Protection, Certificate of Electrical Inspection from the Bureau of Fire Protection, Certificate of Electrical Inspection from the Electrical Division, Quezon City Government, and Certificate of Occupancy from the Building Official, Quezon City Government;

(e) There is no record which will show that business permits were issued to Manor in 1996 and 1998;

(f) The Quezon City Fire Station, Bureau of Fire Protection conducted an inspection in August 2000, and deficiencies were noted but (no action was taken) to enforce compliance;

(g) Building permits and Certificate of Occupancy were issued to Manor even without satisfying xxx the requirements of the National Building Code on Safety."

The FFIB, thereafter, filed administrative cases for Grave Misconduct, Conduct Grossly Prejudicial to the Best Interest of the Service, Gross Negligence, and Violation of Section 4, Republic Act No. 6713 (OMB-ADM-0-01-0376) against herein petitioner Gerardo R. Villaseñor (Electrical Inspector II, Electrical Division), Alfredo Macapugay (City Engineer and Local Building Official), Donato C. Rivera, Jr. (former Building Official), Romualdo Santos (Senior Building Inspection Officer, Department of Engineering), Severino T. Mariano (Chief, Sanitary and Plumbing Division), Rafael I. Galvez (former OIC, Chief, Business Permits and License Office), Romeo M. Montallana (former Acting Chief, Electrical Division), Patricio L. Dumlaog (former Chief, Business Permits and License Office), F/LTC. Wenceslao R. Romero (Station Commander, Quezon City Bureau of Fire Protection [BFP], District II), Reynaldo R. Simpao (Chief, Fire Prevention and Inspection Division, QC II); Sr. Supt. Manuel S. Baduria, Sr., Supt. Carlito S. Romero, C/Insp. Ricardo D. Lemence, and SFO3 Teodoro S. Gaeta.

SPO1 Demonsthenes Rebancos, and PO2 Pedrito Miranda (representing the People of the Philippines) likewise filed charges for Violation of Section 4, Republic Act No. 6713 (OMB-ADM-0-01-0390) against petitioner Gerardo R. Villaseñor, Rafael I. Galvez (Chief, Business License and Permit Office), Godfrey Colet, Jose Caluag, and Voltaire Padilla (License Inspector II of the Business Permit and License Office, Quezon City), Willy Jerez (Utility Worker, BPLO-QC), Alfredo Macapugay (City Engineer and Building Official), Julius Villanueva (Chief,

Industrial Safety Division, City Engineering Office), Romualdo Santos (Annual Building Inspector, City Engineering Office), Romeo Montallana (Former Acting Chief, Electrical Division), Rodel A. Mesa (Inspector, Electrical Engineering Office), Ernesto S. Madrilejo (Chief, Annual Building Inspection Office), Winston Angeles (Annual Building Inspector, City Engineering Office), Luis Manuel Sol, Jr. (Annual Building Inspector, Quezon City), C/Insp. Mario E. San Diego (OIC, District Fire Marshall, Fire District II), C/Insp. Ricardo Lemence (Fire Marshall), SPO4 Rodolfo Espina (Fire Inspector), and SPO1 Arnel Pinca (Fire Inspector, Fire Marshall District II, BFP-QC).

The two cases, OMB-ADM-0-01-0376 and OMB-ADM-0-01-0390 were later consolidated and joint proceedings were held.

On 17 June 2003, after due proceedings, Rolando B. Zoleta (Graft Investigating Officer II), Ulysis S. Calumpad (Investigating Officer II), and Vivian H. Magsino (Investigating Officer I) of the Preliminary Investigation and Administrative Adjudication Bureau (PIAAB), Office of the Ombudsman, rendered the herein assailed Joint Decision, which, among others, found petitioner Gerardo M. Villaseñor guilty of the charges of Conduct Prejudicial to the Best Interest of the Service, and Gross Neglect of Duty. Consequently, petitioner was meted with a penalty of dismissal from the service.

Petitioner seasonably moved for a reconsideration of the aforesaid adverse Joint Decision but the same was denied by Sylvia A. Severo, Graft Investigation and Prosecution Officer II of the Office of the Ombudsman in the herein assailed 25 February 2013 Order.

Hence, this Petition.

ASSIGNMENT OF ERRORS

Petitioner assigns the following errors on the part of the Office of the Ombudsman:

- "1. PETITIONER HAD BEEN DEPRIVED OF DUE PROCESS OF LAW IN THE ADMINISTRATIVE PROCEEDINGS TAKEN AGAINST HIM;
2. RESPONDENT, WITH ALL DUE RESPECT, COMMITTED GRAVE ABUSE OF DISCRETION IN RESOLVING PETITIONER'S MOTION FOR RECONSIDERATION ONLY AFTER ALMOST NINE (9) LONG YEARS, RESULTING TO HIS UNDESERVED PREJUDICE, BECAUSE HIS BASIC RIGHT TO SPEEDY TRIAL HAS BEEN VIOLATED;
3. RESPONDENT HAS UNDULY SHUNTED ASIDE CERTAIN VERIFIABLE CIRCUMSTANCES THAT, IN EFFECT, NEGATED HIS ALLEGED GROSS NEGLIGENCE RELATIVE TO THE OCCURRENCE OF THE FIRE AT MANOR HOTEL IN QUEZON CITY; and
4. RESPONDENT GRAVELY ERRED IN IMPOSING THE SEVERE PENALTY OF DISMISSAL FROM THE SERVICE, WITH ALL ITS ACCESSORIES, BASED ON PETITIONER'S ALLEGED GROSS NEGLIGENCE, DESPITE THE FACT THAT HE WAS NOT THE ONE WHO CERTIFIED THE SAFE CONDITION OF THE ELECTRICAL INSTALLATION IN THE MANOR HOTEL AND WAS MERELY TASKED TO SERVE THE NOTICE TO PAY THE ANNUAL ELECTRICAL FEE FOR THE YEAR 2001."

THIS COURT'S RULING

We resolve in seriatim.

Petitioner prefatorily bewails the fact that he was unable to personally examine the witnesses against him during the administrative investigation conducted by the Office of the Ombudsman. He adds: "the right to confront the

witnesses xxx is part and parcel of due process, even in administrative cases." [4] Thus, he concludes, he was denied of due process in the questioned proceedings.

The contention fails.

Due process does not always require a trial type proceeding and is satisfied where a person is notified of the charge against him and given an opportunity to explain or defend himself. Personal confrontation is not always necessary as litigants may be heard through pleadings, written explanation, position papers, memoranda or oral arguments. [5]

In the case at bar, the Investigating Panel of the Office of the Ombudsman conducted a preliminary conference on 24 January 2002. The parties were thereafter given the option to submit their respective Memoranda to establish and amplify their causes. Petitioner was afforded ample opportunity to refute the charges against him. He was likewise able to file his Counter-Affidavit, and Motion for Reconsideration. For that matter, even the submission of the instant case before this Court, for review, is part of due process. Thus, his claim of denial of due process is bereft of any factual or legal anchor.

Petitioner next maintains that his right to speedy trial has been violated as it purportedly took the Office of the Ombudsman nine (9) years to resolve his Motion for Reconsideration.

To digress, a person's right to the speedy disposition of his case is guaranteed under Section 16, Article III of the 1987 Philippine Constitution which provides:

"SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

This constitutional right is not limited to the accused in criminal proceedings but extends to all parties in all cases, be it civil or administrative in nature, as well as all proceedings, either judicial or quasi-judicial. In this accord, any party to a case may demand expeditious action to all officials who are tasked with the administration of justice.

However, it must be stressed that the right to speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient. [6] Jurisprudence dictates that the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. [7]

Withal, petitioner failed to show that the proceedings conducted by the Investigating Panel of the Office of the Ombudsman were attended by vexatious, capricious, and oppressive delays. But more significantly, and as correctly argued by the Office of the Solicitor General (OSG), there were numerous respondents in the case, each one of whom posited separate and varying defenses. The evidence submitted before the Investigating Panel had to undergo careful review and evaluation.

In view of the foregoing, We believe that the right of petitioner to speedy trial was not infringed. It is well-settled that although the conduct of an investigation may hold back the progress of a case, it is necessary so that the individual's right will not be compromised or sacrificed at the altar of expediency. [8]

Petitioner ultimately questions the factual findings of the Investigating Panel adjudging him guilty of the charges of Conduct Prejudicial to the Best Interest of the Service, and Gross Neglect of Duty, which, in effect, led to his dismissal from the service.

Petitioner's defense was synthesized in the assailed 17 June 2003 Joint Decision as follows:

"GERARDO VILLASEÑOR alleges that he is a mere "Electrical Inspector II" and only one (1) of the twelve (12) electrical inspectors in the Electrical Division of Quezon City Engineer's Office. For inspection purposes and as an internal practice, an inspection of electrical installations of any building may be performed only when specifically required by the Chief Inspector. Accordingly, the 12 inspectors are on a rotation basis and herein respondent(s) have never been assigned, much less instructed by his superior to inspect the Manor except in 2001[9] when he was tasked to serve the Annual Notice to Manor,[10] (xxx which notice must be presented to the Office of the Electrical Engineer, Quezon City, for payment of the electrical fees xxx). Respondent avers that the said notice only serves as basis for the payment of the annual electrical fees and from its face, it was a certain Edgardo M. Merida who certified as to the safe condition of the electrical installations in the Manor Hotel."

Petitioner argues that while it is true that prior to said tragedy, the Electrical Division, Engineering Department of Quezon City conducted an inspection on the electrical systems and load of the said hotel, he had no direct participation therein as the actual inspection was conducted by Electrical Engineer and Master Electrician, Edgardo Merida. In fact, petitioner adds, in the Annual Notice dated 15 February 2001, it was Edgardo Merida who certified that the "electrical installations and equipments (in Manor Hotel) have been inspected/tested and found to be in a safe condition." Petitioner further maintains that his participation during the said inspection was limited to listing in the Annual Notice the electrical installations and equipment found at Manor Hotel, which, in turn, served as the basis for the hotel's payment of electrical fees for the year 2000. Thus, petitioner, denies any liability in the fire that engulfed the Manor Hotel and claimed the lives of 74 people.

Petitioner's contention is bereft of merit.

Gross neglect of duty or gross negligence refers to negligence 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. It is the omission of that care which even inattentive and thoughtless men never fail to give to their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.[11]

In the case at bar, the findings of the Office of the Ombudsman clearly establish the negligence of petitioner in the performance of his duties as Electrical Inspector II.

Contrary to petitioner's claim, his functions as Electrical Inspector II is not merely ministerial and perfunctory. As noted by the Investigating Panel of the Office of the Ombudsman, petitioner was tasked "to process and evaluate application for electrical permit, undertake annual inspection of existing electrical installation, recommend approval and disapproval of electrical installation, and issue illegal installation notices to owners of structures in violation of P.D. 1096,[12] Quezon City Revenue Code," and related ordinances. As correctly pointed out by the Investigating Panel, by affixing his signature on the Annual Notice, petitioner, in effect guaranteed that the veracity of the contents thereof, specifically, that the electrical installations in Manor Hotel have been inspected/tested and found to be in a safe condition.

The scope and significance of petitioner's responsibility as an electrical inspector may further be gleaned from Section 3 (B) of Ordinance No. SP-33, S-92, or the "Ordinance Creating an Electrical Division Under the Engineering Department of Quezon City and Providing for its Personnel Requirements, Duties and Functions, as well as Appropriating the Necessary Funds Therefor." The said ordinance defines the duties and functions of the Electrical Division, of which herein petitioner belongs. The provision reads:

"Section 3. The Electrical Division shall have the following duties and functions:

- A. Formulate, evaluate and supervise the electrical aspects of the construction projects undertaken by the city;
 - B. Inspect the electrical installations of the newly constructed structures in the City and undertake annual inspections of existing electrical installations;
 - C. Evaluate and process applications for wiring permits and electrical certificates; and
 - D. Perform other related functions as may be required by the practice of Electrical Engineering as per requirements of the Philippine Electrical Code, the R.A. 184 and other related laws and ordinances."
- (Emphasis supplied)

Petitioner's insistence that he merely listed the electrical installations and equipment found at Manor Hotel, in fact even aggravates his culpability as he was specifically mandated to inspect the electrical connections and installations therein. Petitioner is guilty of gross negligence for he refused to act when it was his duty to act. Clearly, the seriousness of petitioner's neglect cannot be more glaring than in the instant case. 74 people are dead. Many more were injured.

In the same vein, petitioner's aforesaid inaction may also be considered prejudicial to the best interest of the service. The Civil Service law and rules do not give a concrete description of what specific acts constitute conduct prejudicial to the best interest of the service, but the Supreme Court had occasion to define such an offense in the case of *Ito v. De Vera*[13] as acts or omissions that violate the norm of public accountability.

Corollarily, in *Government Service Insurance System v. Mayordomo*,[14] the High Tribunal further declared that the administrative offense of conduct prejudicial to the best interest of the service need not be related to or connected with the public officer's official functions. As long as the questioned conduct tarnishes the image and integrity of his public office, the corresponding penalty may be meted on the erring public officer or employee. Withal, if petitioner had only performed the task incumbent upon him and properly inspected the electrical installations of Manor Hotel before affixing his signature, together with Master Electrician Edgardo Merida, in the Annual Notice of 2001, then the excess electrical load as well as the jumper connections found in the aftermath of the tragedy would have been earlier discovered and the fatal accident, the proximate cause of which was electrical overload, could have been prevented. As it now stands, petitioner's inaction tarnished the image and integrity of his public office.

Suffice it to state that in this jurisdiction the well-settled rule is that the findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authority. It is settled that it is not for the appellate court to substitute its own judgment for that of the administrative agency on the sufficiency of the evidence and the credibility of the witnesses. Administrative decisions on matters within their jurisdiction are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud or error of law.[15] For this reason, this Court finds no cogent reason to reverse the findings of the Office of the Ombudsman.

It may not be amiss to reiterate that a public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[16] As a public servant, petitioner is tasked to provide efficient, competent, and proper service to the public. Public officials and employees are under obligation to perform the duties of their offices honestly, faithfully, and to the best of their ability.[17] In the case at bar, petitioner undoubtedly failed to perform his duties as a public servant.

All told, the Petition fails.

WHEREFORE, the Petition is DISMISSED. The Joint Decision dated 17 June 2003, and the Order dated 25 February 2013, both issued by the Office of the Ombudsman are hereby AFFIRMED insofar as Petitioner Gerardo R. Villaseñor is concerned.

SO ORDERED.

Veloso, V.S.E., (Chairperson) and, Antonio-Valenzuela, N.G., JJ., concur.

[1] Rollo, pp. 08-27

[2] Id., pp. 39-114

[3] Id., pp. 154-157

[4] Id., p. 17

[5] See *Libres v. NLRC* (G.R. No. 123737, 28 May 1999)

[6] *Enriquez v. Office of the Ombudsman*, (G.R. Nos. 174902-06, 15 February 2008)

[7] *Roquero v. Chancellor of UP-Manila*, (G.R. No. 181851, 09 March 2010)

[8] See *Albert v. Sandiganbayan* (G.R. No. 164015, 26 February 2009)

[9] Erroneously printed in the OSG's Memorandum as 2011

[10] Dated 15 February 2001

[11] *Civil Service Commission v. Rabang*, (G.R. No. 167763, 14 March 2008)

[12] The National Building Code

[13] 540 Phil. 23, 34 (2006)

[14] G.R. No. 191218, 31 May 2011)

[15] *Medina v. Commission on Audit (COA)*, (G.R. No. 176478, 04 February 2008)

[16] *Montallana v. Office of the Ombudsman*, (G.R. No. 179677, 15 August 2012); citing the Constitution, Art. XI, Sec. 1.

[17] *Narvasa-Kampana v. Josue* (A.M. No. 2004-09-SC, 30 June 2004)

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