

VIOLETA S. SANCHEZ, RETIRED SG8, SUPPLY OFFICER/PROPERTY OFFICER III, ADMINISTRATIVE SERVICE DEPARTMENT, BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS. OFFICE OF THE OMBUDSMAN AND...

Ponente: LOPEZ, J.

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LOPEZ, J.:

This petition for review assails the August 22, 2014 Decision and October 20, 2014 Order of the Office of the Ombudsman finding Violeta Sanchez, retired Supply Officer/Property Officer III of the Bangko Sentral ng Pilipinas (BSP), guilty of Conduct Prejudicial to the Best Interest of the Service.

The antecedents are of record.

On March 25, 2013, Alejandro Nieva filed an administrative complaint against Sanchez before the Office of the Ombudsman (Ombudsman) for violation of R.A. 6713[1], Dishonesty and Willful Failure to Pay Just Debts.

Nieva alleged that he met Sanchez in 2006, who informed him that she has the capacity to secure visas for the United States of America (USA) and Canada. Nieva was enticed to ask Sanchez for assistance and paid her the processing fee but she failed to acquire a Canadian Visa. In 2009, Sanchez' secretary, Melissa German, called Nieva and told him that Sanchez knows somebody who can surely obtain a USA Immigrant Visa for P400,000.00. Nieva went to Sanchez' office at the BSP and gave her P200,000.00 in cash and the remaining P200,000.00 through check. Sanchez issued a receipt and a note that she "will assume responsibility if there will be any failure"[2]. After three years, no Visa was obtained so Nieva asked for the return of his money. Sanchez issued a check but it was dishonored for insufficiency of fund.[3] Nieva informed Sanchez about the bouncing check but she ignored him. Nieva then sent a Demand Letter[4] but it was also ignored, hence the complaint.[5]

Sanchez denied the allegations in her Counter-Affidavit and Position Paper. She claimed that although the transaction took place in her office, the agreement to acquire the visa was between Nieva and a certain Margarita Del Rosario. She only introduced Nieva to Del Rosario and was not privy to their agreement.[6] In fact, on November 16, 2012, she and Nieva jointly filed a complaint against Del Rosario before the Office of the City Prosecutor of Manila for her failure to return the P300,000.00 paid by Nieva.[7] Furthermore, the administrative complaint should be dismissed. According to Sanchez, Nieva filed a criminal complaint for estafa and violation of B.P. 22 at approximately the same time the administrative complaint was filed.[8] However, the criminal complaint was dismissed based on Nieva's affidavit of desistance stating that the criminal case arose out of a misunderstanding which he and Sanchez had already settled.[9]

On August 22, 2014, the Ombudsman rendered a Decision dismissing the charges of Violation of R.A. 6713, Dishonesty and Willful Failure to Pay Just Debts. However, Sanchez was found guilty of Conduct Prejudicial to the Best Interest of Service pursuant to Sections 46 B(8)[10] and 49(b)[11] of Revised Rules on Administrative Cases in the Civil Service (RRACCS), to wit:

Nonetheless, the dismissal of the charges does not mean that respondent [Sanchez] is already scot-free. From the allegations in the complaint and admissions of respondent, she was involved in the transaction by introducing the alleged perpetrator of the malicious act, Del Rosario, to complainant [Nieva]; she received the money from complainant and issued the corresponding receipts with notations that 'she assumes responsibility in case the transaction fails'; the transaction transpired in her office at the Bangko Sentral ng Pilipinas (BSP) and she issued the check, which bounced, after repeated demand by complainant. These circumstances thus show that the respondent committed Conduct Prejudicial to the Best Interest of the Service.

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The alleged settlement of the amount and the Affidavit of Desistance narrating the misunderstanding between complainant and respondent are mere after-thoughts, done after the integrity of public service has been tarnished.

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However, inasmuch as respondent claims that she was "formerly employed as Property Officer III", of BSP, it appears that the penalty of suspension can no longer be imposed; hence the penalty shall be converted into fine equivalent to eight (8) months salary, payable to the Office of the Ombudsman, and may be deductible from respondent's retirement benefits, accrued leave credits or any receivable from her office.

WHEREFORE, Violeta S. Sanchez is found guilty of Conduct Prejudicial to the Best Interest of the Service. Accordingly, the penalty of eight (8) months suspension from the service without pay is imposed upon her.

In the event that the penalty of suspension can no longer be enforced due to respondent's retirement, resignation or separation from the service for any reason, the penalty shall be converted into fine equivalent to six months salary, payable to the Office of the Ombudsman, and may be deductible from respondent's retirement benefits, accrued leave credits or any receivable from his (sic) office. Accordingly, let the dispositive portion of this Decision be reflected in the 201 Files of respondent Violeta Sanchez.

SO ORDERED.[12]

Aggrieved, Sanchez filed a Motion for Reconsideration, claiming that her right to due process was violated for having been found guilty of an offense that was not included in the complaint. She was never charged with Conduct Prejudicial to the Best Interest of the Service; hence, she never interposed any defense for that offense. Sanchez avers that her conduct in connection with the subject transaction was done in good faith and not for any corrupt motive. Her intention was to help someone in need, thereby, preserving the good name of her employer, the Bangko Sentral ng Pilipinas.[13]

The Ombudsman denied Sanchez' motion reasoning that it is not the caption of the pleading but the allegations that are controlling, and that the allegations and admissions of the parties show that the offense committed is Conduct Prejudicial to the Best Interest of the Service.[14]

Sanchez then filed the instant petition, reiterating that the Ombudsman erred in finding her guilty of an offense which she was not charged; and in ruling that the act complained of constitutes Conduct Prejudicial to the Best Interest of the Service.[15]

The Ombudsman, through the Office of the Solicitor General (OSG), asked for an extension of time to file Comment which is granted, and the Comment filed is admitted.[16] No Comment was filed by Nieva.[17] Incidentally, the Reply and Correction of Errors filed by Sanchez are noted.[18] With the filing of these responsive pleadings, the case is now submitted for decision.

The petition lacks merit.

First, Sanchez' argument that she was denied due process when the Ombudsman found her guilty of Conduct Prejudicial to the Best Interest of the Service is erroneous. The rule is well-established that the designation of the offense or offenses with which a person is charged in an administrative case is not controlling and one may be found guilty of another offense, where the substance of the allegations and evidence presented sufficiently proves one's guilt.[19]

Although Sanchez was charged with violation of R.A. 6713, Dishonesty and Willful Failure to Pay Just Debts, Nieva alleged in his Affidavit Complaint that: (1) in 2006, Sanchez represented that she has the capacity to secure a Canadian Visa but failed to acquire one for him; (2) in 2009, Sanchez' secretary called and told Nieva that Sanchez knew someone who can obtain an Immigrant Visa to the USA; (3) Nieva went to Sanchez' office at the BSP and paid her P400,000.00 for the processing of the visa; (5) three years had lapsed but Nieva did not acquire the visa; (6) Nieva demanded the return of his money and Sanchez issued a check which was dishonored due to insufficient funds; (7) Nieva demanded that the check be replaced but Sanchez ignored him until the complaint was filed.[20] We find these allegations efficient complaint for Conduct Prejudicial to the Best Interest of Service considering that they tend to tarnish the image and integrity of Sanchez' public office.[21]

It is of record that Sanchez received a copy of the Affidavit Complaint. She answered Nieva's allegations and propounded her defenses through her Counter-Affidavit and Position Paper with their attachments. She even filed a Motion for Reconsideration of the Ombudsman's Decision. Due process mandates that a party be afforded reasonable opportunity to be heard and to submit any evidence he may have in support of his defense. In administrative proceedings, due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.[22] In light of these, Sanchez was clearly accorded due process.

We emphasize the basic legal tenet that findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authority. 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.[23] Here, We find no justifiable reason to set aside the Ombudsman's findings.

Public office is a public trust. Any act that would tarnish the image and integrity of the public office may constitute Conduct Prejudicial to the Best Interest of the Service.[24] The basis for liability under this offense is Section 4(c) of R.A. 6713[25] which commands that public officials and employees shall at all times respect the rights of others, and shall refrain from doing acts contrary to public safety and public interest.[26] Sanchez' actuations fell short of this standard. Sanchez contacted Nieva twice, in 2006 and 2009, to offer her services in facilitating his acquisition of USA or Canadian Visa. Twice, she failed. Worse, she introduced Nieva to Del Rosario, whose qualification in acquiring the visa is unclear and who defrauded him. The alleged fraudulent transaction transpired in her office at the BSP. Subsequently, she issued a check that bounced after Nieva repeatedly demanded the return of his money.

Sanchez' claim that her sole intention was to help a friend in need is not credible since she was the one who offered her services in acquiring a visa for Nieva in 2006 and 2009. She was also the one who received Nieva's payment. Besides, out of the P400,000.00 paid by Sanchez, the January 23, 2013 Resolution of the Office of the City Prosecutor of Manila insinuated that only P300,000.00 was given to Del Rosario. Although Sanchez subsequently returned the P400,000.00, she apparently intended to profit from the transaction before the administrative complaint was filed.

Finally, Sanchez' insistence that the administrative case should be dismissed, since Nieva executed an affidavit of desistance in the criminal complaint he filed against her, is specious. Suffice it to say that the Affidavit of Desistance was executed after the integrity and image of the public service was already tarnished. Besides, the dismissal of the criminal case will not necessarily result in the dismissal of the administrative case. The Supreme Court has stressed the distinct and independent character of these types of cases as follows:

Significantly, there are three kinds of remedies available against a public officer for impropriety in the performance of his powers and the discharge of his duties: (1) civil, (2) criminal, and (3) administrative. These remedies may be invoked separately, alternately, simultaneously or successively. Sometimes, the same offense may be the subject of all three kinds of remedies.

Defeat of any of the three remedies will not necessarily preclude resort to other remedies or affect decisions reached thereat, as different degrees of evidence are required in these several actions. In criminal cases, proof beyond reasonable doubt is needed, whereas a mere preponderance of evidence will suffice in civil cases. In administrative cases, only substantial evidence is required.

It is clear, then, that criminal and administrative cases are distinct from each other. The settled rule is that criminal and civil cases are altogether different from administrative matters, such that the first two will not inevitably govern or affect the third and vice versa. Verily, administrative cases may proceed independently of the criminal proceedings.[27] [Underscoring omitted.]

FOR THESE REASONS, the petition for review is DENIED. The August 22, 2014 Decision and October 20, 2014 Order of the Office of the Ombudsman is AFFIRMED.

SO ORDERED.

Tijam, Chairperson and Garcia-Fernandez, JJ., concur.

[1] Code of Conduct and Ethical Standards for Public Officials and Employees.

[2] Rollo, p. 46.

[3] Id., p. 47. Landbank Check No. 0131281 dated December 31, 2012 for P400,000.00.

[4] Id., p. 49. Demand Letter dated January 14, 2013. A portion of the Demand Letter states:

Rest assure[d] that I am not inclined to press any legal action against you, I simply wanted you to pay me the afore-cited amount within five (5) days from receipt hereof. However, if you will disregard my heed (sic) for you and refuse to pay me, I shall be constrained to file appropriate legal actions against you in order to protect my rights and interests under the law.

[5] Id., pp. 44-45.

[6] Id., pp. 53-54, 62-63. Counter-Affidavit and Position Paper.

[7] The January 23, 2013 Resolution of The Office of the City Prosecutor of Manila states:

Complainants [Violeta Sanchez and Alejandro Nieva] alleged that from April 2009 to December 2010 the respondent [Jesusa Nadal Quiamson, alias Margarita Del Rosario] went to the former's offices at the Bangko Sentral and illegally misrepresented herself to have the capacity to secure immigrant Visa from the United States of America (USA). Believing her, the complainant inquired from her about the requirements and she told them to pay the total amount of P900,000.00 in exchange for the immigrant visa. Complainants paid to her the total

amount of P900,000.00. After three (3) years no action was taken by her so complainants demanded the return of their payments and she issued the following four (4) checks drawn against the Eastwest Bank, Salcedo Branch, Legaspi Village, Makati City, to wit:

Check No. Date Amount Payee

0337233 16 February 2012 P300,000.00 Violeta Sanchez

0337234 16 February 2012 P300,000.00 do

0337240 March 12, 2012 P150,000.00 Alejandro Nieva

0337241 March 12, 2012 P150,000.00 do

When presented for payment upon their maturity, said checks were, however, dishonored and refused payment by the drawee bank for the reason DAIF (Drawn Against Insufficient Funds) and despite alleged notice of dishonor and demand for payment the said checks remained unpaid.

Under the foregoing uncontroverted evidence of the complainants (the respondent failed to appear despite subpoena). The undersigned finds probable cause against respondent for Estafa, it appearing that she falsely and fraudulently misrepresented/pretended to the complainants that she possessed power, influence, qualifications, etc. to obtain U.S.A. Visas for them if they paid her the total amount of P900,000.00 (which complainants did, in fact, paid to her) when in truth and in fact she did not have so, as shown by the fact that she was not able to obtain and deliver to them any U.S.A. Immigrant Visa. [Id., p. 42, emphasis Ours.]

[8] Id., p. 56. Affidavit-Complaint filed before the Office of the City Prosecutor of Manila on March 12, 2013.

[9] Id., p. 58. The June 6, 2013 Resolution of the Office of the City Prosecutor of Manila states:

After this case was submitted for resolution, complainant filed an affidavit of desistance stating that after a careful evaluation of the facts and circumstances surrounding the case, he came to a conclusion that the filing of the instant case aroused (sic) out of a misunderstanding which they had already settled. He further states that he is no longer interested in criminally prosecution (sic) respondent. Finally, he prayed that [illegible] complaint be dismissed.

WHEREFORE, premises considered it is most respectfully recommended that the instant complaint be dismissed based on the affidavit of desistance of the complainant.

[10] Section 46. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

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B. The following grave offenses shall be punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense:

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8. Conduct prejudicial to the best interest of the service; 11Section 49. Manner of Imposition. – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

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b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.

[12] Rollo, pp. 24-28.

[13] Id., pp. 35-40. Motion for Reconsideration.

[14] Id., pp. 30-33. October 20, 2014 Order.

[15] Id., p. 7. Petition for Review.

[16] The Motion for Extension of Time prayed for an additional period of thirty days from December 25, 2014 or until January 24, 2015 within which to file Comment. The Comment was filed on January 26, 2015 since January 24, 2015 was a Saturday.

[17] Rollo, p. 123. Court of Appeals Case Management Information System (CMIS) Verification.

[18] Id., pp. 108-117, 120-121.

[19] Eugenio R. Avenido v. Civil Service Commission, G.R. No. 177666, April 30, 2008 citing Dadubo v. Civil Service Commission, G.R. No. 106498, 28 June 1993, 223 SCRA 747, 754.

[20] Rollo, pp. 44-45. Affidavit Complaint.

[21] Under the Civil Service law and rules, there is no concrete description of what specific acts constitute Conduct Prejudicial to the Best Interest of the Service. [Government Service Insurance System v. Mayordomo, G.R. No. 191218, May 30, 2011.] Acts may constitute Conduct Prejudicial to the Best Interest of the Service as long as they tarnish the image and integrity of his/her public office. [Eugenio R. Avenido v. Civil Service Commission, supra.]

[22] Eugenio R. Avenido v. Civil Service Commission, supra, citing National Police Commission v. Inspector Bernabe, 387 Phil. 819, 827 (2000).

[23] Id., citing Dadubo v. Civil Service Commission, G.R. No. 106498, 28 June 1993, 223 SCRA 747, 752-753.

[24] Id.

[25] Code of Conduct and Ethical Standards for Public Officials and Employees.

[26] See Priscilla Hernando v. Juliana Y. Bengson, A.M. No. P-09-2686, March 28, 2011 (Formerly OCA I.P.I No. 06-2441-P) citing Largo v. CA, G.R. No. 177244, November 20, 2007, 537 SCRA 721.

[27] Office of the Ombudsman v. Victorio N. Medrano, G.R. No. 177580, October 17, 2008 quoting Gerardo R. Villaseñor and Rodel A. Mesa v. Sandiganbayan and Louella Mae Oco-Pesquerra (Office of the Special Prosecutor, Ombudsman), G.R. No. 180700, March 4, 2008. Vide Paredes v. Court of Appeals, G.R. No. 169534, July 30, 2007, 528 SCRA 577, 587-592; Barillo v. Gervacio, G.R. No. 155088, August 31, 2006, 500 SCRA 561, 571-574; Ocampo v. Office of the Ombudsman, 379 Phil. 21 (2000); Paredes, Jr. v. Sandiganbayan, 322 Phil. 709, 730-731 (1996); Tan v. Commission on Elections, 237 Phil. 353, 359 (1994).

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