

HONORIO L. CASTILLO, PETITIONER, VS. HONORABLE OFFICE OF THE OMBUDSMAN, AND IGMEDIO L. CASTILLO, RESPONDENTS.

Ponente: CORALES, J.

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CORALES, J.:

This is a Petition for Certiorari[1] under Rule 65 of the Rules of Court assailing the June 30, 2011 Decision[2] of the Office of the Deputy Ombudsman for Luzon (OMB) in Case No. OMB-L-A-09-0281-F which found petitioner Honorio L. Castillo (Honorio) guilty of simple dishonesty and imposed on him the penalty of fine equivalent to his one (1) month salary.

The Antecedents

At the time material to the controversy, Honorio was employed by the Department of Interior and Local Government (DILG) with a rank of Local Government Operations Officer V and assigned as Cluster Head in the provincial office of DILG-Tarlac, Tarlac City. He and private respondent Igmedio L. Castillo (Igmedio) are brothers.

During the lifetime of Honorio and Igmedio's parents, they built a residential house on a parcel of land owned by Aurora Sta. Romana (Aurora) located in Barangay Sanbermecristi, Cabanatuan City. However, they and their mother, Anselma, were later on ordered by the Municipal Trial Court in Cities (MTCC), Branch 1, Cabanatuan City to surrender possession of the aforesaid lot to Aurora who won in the ejectment case docketed as Civil Case Nos. 13262-13301.[3] Allegedly, Honorio approached Aurora and offered to purchase the lot through the PAG-IBIG housing program so that he could save the ancestral house of his parents from the demolition order. Aurora accepted the offer and gave Honorio one (1) year to process the PAG-IBIG loan, otherwise, she would cause the demolition of the house. Thereafter, Honorio caused the cancellation of Anselma's Tax Declaration No. 107-08-070-01-212B1 and transferred it in his name by virtue of a notarized Waiver of Rights[4] dated November 5, 2006.

On May 28, 2009, Igmedio, filed a complaint[5] for dishonesty and grave misconduct against Honorio. He alleged that the signatures of their nine (9) other siblings in the Waiver of Rights were forged and no record of such document exists in the Office of the Clerk of Court, Regional Trial Court, Cabanatuan City. Honorio was presumed to be the author of the falsification because he was in possession of the forged document and the only person who benefited from it. Worse, Honorio bought the parcel of land, where the residential house is situated, through a PAG-IBIG loan without the knowledge of his siblings. When Igmedio questioned Honorio of the foregoing dealings, the latter convinced him to assume the PAG-IBIG loan by paying the amortizations due and returning the P100,000.00 equity. Igmedio paid the first 13 amortizations in favor of Honorio and five (5) in favor of the Home Development Mutual Fund, but Honorio refused to honor his obligation of assigning the PAG-IBIG loan.

In his defense, Honorio insisted that the Waiver of Rights was executed with good intentions and for the sole purpose of securing the approval of the PAG-IBIG loan which would save the ancestral house from the

demolition order. In fact, he already executed on May 20, 2009 another Waiver of Rights in favor of all the immediate heirs of her mother in order to show his sincerity and preserve their ancestral house. However, Igmedio wanted to acquire the lot and started telling lies to their other siblings. Igmedio claimed that he and Honorio had a verbal agreement on the assumption of mortgage and that he would supposedly return to Honorio the measly sum of P100,000.00, which is less than the true purchase price of the subject property. On July 23, 2009, Igmedio locked the house and denied Honorio entry thereto. Honorio argued that the complaint was a malicious attack against him and Igmedio already filed a criminal case for falsification of public document, thus, the OMB could no longer proceed with the administrative case.[6]

The Ruling of the OMB

In its June 30, 2011 Decision,[7] the OMB found Honorio guilty of simple dishonesty pursuant to Civil Service Commission (CSC) Resolution No. 060538. The OMB took into consideration Honorio's good faith in executing the Waiver of Rights without the knowledge or consent of his siblings and the fact that the falsified document has no connection with his official function. Citing the case of Remolona v. Civil Service Commission,[8] the OMB stressed that the private life of an employee cannot be segregated from its public office and dishonesty inevitably reflects on the fitness of the employee to continue in office. The dispositive portion of the Decision reads:

WHEREFORE, from the foregoing, judgment is hereby rendered finding HONORIO L. CASTILLO guilty of Simple Dishonesty. Respondent HONORIO L. CASTILLO is hereby meted the penalty of Fine equivalent to his salary for one (1) month pursuant to Section 10, Rule III, Administrative Order No. 07 as Amended by Administrative Order No. 17 in relation to Section 25 of Republic Act No. 6770.

The Honorable Secretary, Department of Interior and Local Government, is hereby directed to implement this DECISION immediately upon receipt thereof pursuant to Section 7, Rule III of Administrative Order No. 07, as amended by Administrative Order No. 17 (Ombudsman Rules of Procedure) in relation to Memorandum Circular No. 1 series of 2006 dated 11 April 2006 and to promptly inform this Office of the action taken thereon.

SO DECIDED. (Emphasis appears in the original text of the Decision)

Feeling aggrieved, Honorio filed the instant petition for certiorari premised on the following grounds:[9]

- THE HONORABLE OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION IN RULING THAT PETITIONER IS GUILTY OF SIMPLE DISHONESTY DESPITE ITS FINDINGS THAT PETITIONER ACTED IN GOOD FAITH.
- THE HONORABLE OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION IN RELYING ON THE CASE OF REMOLONA VS. CIVIL SERVICE COMMISSION IN SUPPORT OF HER FINDING THAT PETITIONER IS GUILTY OF SIMPLE DISHONESTY.
- THE HONORABLE OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION IN IMPOSING TO THE PETITIONER THE PENALTY OF FINE EQUIVALENT TO THE LATTER'S ONE MONTH SALARY.

Honorio contends that the OMB's finding of good faith on his part runs contrary to the nature of simple dishonesty – one who is in good faith cannot be dishonest at the same time because good faith requires honesty of intention. He imputes grave abuse of discretion on the part of the OMB for relying on the Remolona case[10] despite the different factual milieu of the said case. He claims that the Remolona case involved a public document wherein the Waiver of Rights was purely private and its execution was not attended by either the elements of corruption or

the intent to violate the law. He further asserts that the fine imposed on him was too harsh considering his honest intention and good faith in executing the Waiver of Rights plus the consequential benefits of his action which did not cause damage to the government and even saved the ancestral house.[11]

Required to comment, Igmedio counters that Honorio's alleged good faith is belied by his own acts, particularly the execution of the Waiver of Rights and Deed of Sale over the lot even before the MTCC issued a writ of demolition. He claims that the assailed decision is a "toothless decision equivalent to a mere slap on petitioner's wrist" and prays that Honorio be dismissed from service due to serious dishonesty.[12]

This Court's Ruling

The petition fails to persuade Us.

In administrative cases, the findings of facts of the OMB are conclusive when supported by substantial evidence and are accorded due respect and weight. In reviewing administrative decisions, it is beyond the province of this Court to weigh the conflicting evidence, determine the credibility of witnesses, or otherwise substitute its judgment for that of the administrative agency with respect to the sufficiency of evidence. It is not the function of this Court to analyze and weigh the parties' evidence all over again except when there is serious ground to believe that a possible miscarriage of justice would thereby result or there is grave abuse of discretion by the OMB. Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. To warrant this judicial intervention, petitioner must be able to show that the OMB's exercise of power has been done in an arbitrary or despotic manner which was so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[13]

There is nothing in the instant petition which shows that the OMB's Decision was tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. Notably, Honorio did not dispute the fact that he forged the signatures of his siblings in the Waiver of Rights. He only contends that such act could not be categorized as a simple dishonesty and the imposition of the penalty of fine equivalent to one (1) month salary is too harsh considering his good faith in executing the said document. These issues had been properly addressed by the OMB and We found no cogent reason to deviate from its findings which are well supported by substantial evidence and in conformity with the pertinent law.

Forgery of Waiver of Rights Constitutes Simple Dishonesty Under CSC Resolution No. 06-0538

Dishonesty is the intentional making of a false statement in any material fact or the disposition to lie, cheat, deceive or defraud.[14] Honorio's preparation and use of the Waiver of Rights are clear acts of dishonesty because he made it appear that his siblings signed the document when they did not actually do so. From the start, he fully knew that his siblings did not participate in the execution of the assailed instrument but it did not detract him from using the document to effect the transfer of Anselma's tax declaration in his name. Honorio definitely made a false statement when he submitted the Waiver of Rights before the Assessor's Office.

However, considering that the Waiver of Rights was private in character and its execution has no direct relation to his duties and responsibilities, the dishonest act would only be categorized as simple dishonesty pursuant to Section 5 of CSC Resolution No. 06-0538 dated April 4, 2006, viz.:

Section 5. The presence of any of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Simple Dishonesty:

- a. The dishonest act did not cause damage or prejudice to the government;
- b. The dishonest act has no direct relation to or does not involve the duties and responsibilities of the

respondent;

c. In falsification of any official document, where the information falsified is not related to his/her employment;

d. That the dishonest act did not result in gain or benefit to the offender; and e. Other analogous circumstances. (Emphasis supplied)

Thus, even without applying the ruling in the Remolona case,[15] the OMB's findings of simple dishonesty was in accord with law.

We also note that despite the OMB's use of the word "good faith", it actually referred to Honorio's lack of intention to deceive or defraud his siblings, not to his lack of intent to make a false statement. To stress, dishonesty is a malevolent act that puts serious doubt upon one's ability to perform duties with the integrity and uprightness demanded of a public officer or employee[16] and Honorio obviously lacks this character when he knowingly used a falsified document.

Penalty: Properly Imposed

Under Section 2, subparagraph C of CSC Reso. No. 06-0538, simple dishonesty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense, six (6) months and one (1) day to one (1) year for the second offense, and dismissal for the third offense. In relation thereto, Section 19, Rule XIV of the Omnibus Civil Service Rules and Regulations states that the penalty of fine instead of suspension from one (1) day to one (1) year may also be imposed in the alternative.[17]

In this case, the OMB already took into consideration Honorio's lack of intent to deceive his siblings and the fact that it was his first infraction when it imposed the penalty of fine equivalent to his one (1) month salary which We find reasonable and just under the prevailing circumstances. It also bears stressing that the Court favors the practicality of a fine equivalent to one (1)-month salary instead of one (1)-month suspension considering that the employee's work would be left unattended by reason of his absence.[18]

WHEREFORE, the instant petition is hereby DENIED. The June 30, 2011 Decision of the Office of the Deputy Ombudsman for Luzon in Case No. OMB-L-A-09-0281-F is AFFIRMED in toto.

SO ORDERED.

Villon, J., Chairperson and Zalameda, JJ., concur.

[1] Rollo, pages 4-21.

[2] Penned by Graft Investigation and Prosecution Officer I Jane T. Javier-Garzon, *ibid.*, pages 24-42.

[3] See September 16, 2005 Decision in Civil Case Nos. 13262-13301, penned by Judge Renato D. Pinlac, *ibid.*, pages 43-53.

[4] *Ibid.*, page 64.

[5] *Ibid.*, pages 65-67.

[6] See Answer, *ibid.*, pages 69-76.

[7] *Supra*, at note 2.

[8] G.R. No. 137473. August 2, 2001.

[9] See *Petition for Certiorari*, supra, at note 1.

[10] Supra, at note 8.

[11] See *Petition for Certiorari*, supra, at note 8.

[12] See Comment, rollo, pages 124-136.

[13] See *Dagan v. Office of the Ombudsman*, G.R. No. 184083. November 19, 2013.

[14] See *Seville v. Commission on Audit*, G.R. No. 177657. November 20, 2012, citing *NAPOCOR v. Olandesca*, G.R. No. 171434. April 28, 2010.

[15] Supra, at note 8.

[16] See *Gupilan-Aguilar v. Office of the Ombudsman*, G.R. No. 197307. February 26, 2014.

[17] See *Judge Labis, Jr. v. Estañol*, A.M. No. P-07-2405 (Formerly Oca I.P.I No. 05-2342-P). February 27, 2008.

[18] See *Mariñas v. Florendo*, A.M. No. P-07-2304. February 12, 2009.

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