

MARIA RITA ORTIZ, PETITIONER, VS. OFFICE OF THE OMBUDSMAN-FIELD INVESTIGATION OFFICE, RESPONDENT.

Ponente: BUESER, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9300c0eeb6d4/>

BUESER, J.:

This is a Petition for Review under Rule 43 of the Rules of Court seeking the review of the May 24, 2012 Decision[1] of the Office of the Ombudsman finding Maria Rita Ortiz, herein petitioner, guilty of grave misconduct and conduct prejudicial to the best interest of the service and imposing on her the penalty of dismissal from service, forfeiture of whatever benefits still due to her from the government and disqualification from employment in any branch or instrumentality of the government, including government-owned or controlled corporations, and of the April 30, 2013 Order[2] of the Office of the Ombudsman denying the Motion for Reconsideration of petitioner.

THE ANTECEDENT FACTS

Saint Anthony College of Science and Technology (SACST) decided to offer the Bachelor of Science in Nursing (BSN) program on March 10, 2004. SACST, through its Chairman and President, Atty. Bayani C. Delos Reyes petitioned for the grant of Government Permit to operate the BSN program on April 5, 2004.

A Resolution No. 238-2004 was adopted by the Commission En Banc in its 220[th] Commission meeting held on the 31[st] day of May 2004, which stated among others that the Commission disapproved the applications for Government Permit to offer BSN program effective School Year (S.Y.) 2004-2005 of some Higher Education Institutions (HEI) including SACST of Calapan, Oriental Mindoro in Region IV-B.

Atty. Julito D. Vitriolo, the acting executive director of CHED, in his June 4, 2004 Memorandum[3] addressed to petitioner, Dr. Maria Rita C. Ortiz (Petitioner Ortiz), recommended the issuance of a provisional permit to SACST to offer the 1[st] and 2[nd] year levels of the BSN program for S.Y. 2004-2005 citing the Commission En Banc Resolution (CEB Resolution) No. 238-2004.

Pursuant thereto petitioner Ortiz, who was then Officer-in-Charge, issued a provisional permit to SACST to offer BSN program for the S.Y. 2004-2005.

As stressed by petitioner Ortiz, Atty. Vitriolo, as the acting executive director of CHED, participated in the Commission En Banc while petitioner Ortiz, who was a director, did not.

On June 12, 2007, the Fact-Finding Investigation Team (FIT) created by the Executive Office of CHED conducted an investigation on the irregularities in the issuance of permits and government recognition to SACST to offer BSN program.

According to FIT, the alleged irregularity originated from the application of SACST for government permit to offer the BSN program effective SY 2004-2005. The application letter addressed to petitioner Ortiz was stamped received at CHEDRO IV-B on December 27, 2002 by Maria Elena Gabulac, a co-respondent in the said case,

although it was supposedly made in 2004. That, in CEB Resolution No. 238-2004 dated May 31, 2004, the application of SACST was disapproved by the Commission En Banc. And, despite its disapproval, petitioner Ortiz, in her capacity as former Officer-in-Charge of CHEDRO IV-B, issued Provincial Permit No. 001, S. 2004, allowing SACST to open the First and Second Year Levels of BSN program effective SY 2004-2005.

However, petitioner Ortiz alleged that after she was transferred to CHED Regional Office (CHEDRO) VIII on October 18, 2004, she came across a similar Memorandum[4] from Atty. Vitriolo but this time it was addressed to then Regional Director, CHEDRO VIII, Dr. Isabel Mahler, which also recommended the issuance of provisional permits to San Lorenzo College of Ormoc, Ormoc City and College of Maasin, Maasin City.

Furthermore, petitioner Ortiz said that it was also during her assignment at CHEDRO VIII that she was able to read a copy of CEB Resolution No. 238-2004 during one of her meetings at the Central Office and said resolution actually disapproved the application of SACST.

Consequently, petitioner Ortiz sent on June 3, 2005 a letter[5] to Hon. Carlito Puno, acting chairman of CHED, thru Dr. William C. Medrano, executive director, informing them that her basis for the grant of provisional permit to SACST was the memorandum of Atty. Vitriolo.

However, according to petitioner Ortiz, she never received a response from the office of Hon. Carlito S. Puno.

On August 28, 2007, petitioner Ortiz sent another letter[6] to Dr. William C. Medrano reiterating that her basis for the issuance of the provisional permit to SACST was the June 4, 2004 memorandum of Atty. Vitriolo.

Petitioner Ortiz, thereafter, was instructed by Dr. William C. Medrano to submit her explanation in affidavit form.

On November 21, 2007, petitioner Ortiz submitted her affidavit[7] to Dr. William C. Medrano and also to Chairman Romulo L. Neri, Commissioner Nona S. Ricafort, Commissioner Nenalyn P. Defensor, Commissioner Saturnino M. Ocampo, Jr. and Commissioner Hadja Luningning Misuares-Umar.

On August 11, 2010, unknown to petitioner Ortiz, respondent Field Investigation Office, as represented by Associate Graft Investigation Officer I, Dindo B. Jacinto, filed this Complaint for Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service against petitioner Ortiz as Director III of CHEDRO No. VIII and against two (2) others with the Office of the Ombudsman.

That, petitioner Ortiz was charged because she used Resolution No. 238-2004 dated May 31, 2004, as basis of her issuance of Provisional Permit No. 001 s. 2004 dated 11 June 2004, which actually disapproved the application of SACST for government permit to offer the BSN program effective SY 2004-2005.

On March 2, 2011, the Office of the Ombudsman-Preliminary Investigation and Administrative Adjudication Bureau-E (Bureau-E) issued an Order[8] addressed to petitioner Ortiz as Director III, CHEDRO No. VII at corner Real Street and Calanipawan Road, Sagkahan, Tacloban City, Leyte, which directed her to submit her counter-affidavit.

Then, a second Order[9] to file her counter-affidavit was issued by Bureau-E and sent to the petitioner Ortiz on April 4, 2011 at 907 Barangay 79, Marasbaras, Tacloban City.

On August 18, 2011, Bureau-E issued an Order[10] which directed petitioner Ortiz to submit her verified position paper. The order was addressed to her as Director III, CHEDRO No. VII, at Corner Real Street and Calanipawan Road, Sagkahan, Tacloban City, Leyte.

However, petitioner Ortiz alleged that at the time of the foregoing issuance she was already at her residence in Legazpi City and further alleged that such should have been known to respondent during their investigation.

As a consequence, petitioner Ortiz did not receive any of the orders and did not participate in any investigation.

On May 24, 2012, the Office of the Ombudsman issued a Decision[11] finding petitioner Ortiz guilty of grave misconduct and conduct prejudicial to the best interest of the service for issuing a provisional permit to SACST to offer the BSN program for the S.Y. 2004-2005. She was then imposed the penalty of dismissal from the service with accessory penalties and was likewise declared disqualified from employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

According to petitioner Ortiz, it was sometime in March 2013 that she learned that a case was filed against her before the Office of the Ombudsman and was really surprised to learn that a Decision had already been rendered on May 24, 2012.

On March 14, 2013, petitioner Ortiz filed a Motion for Reinvestigation/Reconsideration[12] with the Office of the Ombudsman, which prayed that the May 24, 2012 Decision be set aside and reconsidered and a new one be rendered dismissing the complaint against her. In the alternative, she prayed that a reinvestigation be conducted.

The same was denied in an Order[13] issued by the Office of the Ombudsman dated April 30, 2013.

Hence, this petition.

ISSUES

1. Whether the petitioner was denied due process considering that she was not duly notified of the complaint filed against her.
2. Whether the petitioner may be held administratively liable for grave misconduct for alleged failure to exercise due diligence to first verify the recommendation of her superior, Atty. Vitriolo, to issue provisional permit to SACST to offer the 1[st] and 2[nd] year levels of the BSN Program for S.Y. 2004-2005.

THE RULING OF THE COURT

The petition is partly meritorious.

On the first issue, petitioner claims that she was denied due process because she allegedly was not notified of the proceedings before the Office of the Ombudsman during the preliminary investigation of this case.

We do not agree.

As clearly observed by the Investigating Prosecutor in the assailed Order dated April 30, 2013, petitioner was not denied her right to due process. The Office of the Ombudsman served her notices at her last known addresses as indicated in her personal data sheet, to wit: petitioner's CHED office in Sangkahan, Tacloban City and at 907 Barangay 79, Marasbaras, Tacloban City.

Also, it is worthy to note that the Supreme Court in a long line of cases held that the essence of due process is a reasonable opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.

In *Trinidad vs. COMELEC*[14], the Supreme Court said:

“x x x. Due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard (*Pepsi Cola Distributors of the Phil. v. NLRC*, G.R. No. 100686, August 15, 1995). One may be heard, not solely by verbal presentation but also, and perhaps many times more creditably and predictable than oral argument, through pleadings (*Concerned Officials of MWSS v. Vasquez*, G.R. No. 109113, January 25, 1995).

In administrative proceedings moreover, technical rules of procedure and evidence are not strictly applied; administrative process cannot be fully equated with due process in its strict judicial sense (Ibid.). Indeed, deprivation of due process cannot be successfully invoked where a party was given a chance to be heard on his motion for reconsideration (Rodriguez v. Project 6 Market Service Cooperative, G.R. No. 79968, August 23, 1995), as in the instant case, when private respondents were undisputedly given the opportunity to present their side when they filed a letter of reconsideration dated June 28, 1989 which was, however, denied in an order of July 12, 1989 of Executive Director Baggayan. In Navarro III vs. Damasco (G.R. No. 101875, July 14, 1995), we ruled that: ‘The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side or an opportunity to seek a reconsideration of the action or ruling complained of. A formal or trial type hearing is not at all times and in all instances essential. The requirements are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice or hearing.’ ” (Underlining supplied)

In the case at bench, petitioner cannot deny that she was given ample opportunity to present her defense when she submitted her Motion for Reinvestigation/Reconsideration filed on March 14, 2013 and her controverting evidence. Further, as explained in the case of University of the Philippines Board of Regents vs. Court of Appeals,[15] due process in administrative context does not require trial type proceedings similar to those in the courts of justice.

We, therefore, rule that due process was observed in the conduct of the administrative proceedings against herein petitioner.

Anent the second issue, petitioner alleged that her issuance of the provisional permit to SACST to offer BSN program for the S.Y. 2004-2005 was pursuant to the June 4, 2004 memorandum of Atty. Vitriolo, the acting executive director of CHED, and on the basis of Commission En Banc Resolution No. 238-2004 dated May 31, 2004.

The findings of the Investigating Prosecutor in finding petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of the service in its assailed Decision dated May 24, 2012 are noteworthy, to wit:

“Based on the unrefuted facts, there is substantial evidence to hold respondents Ortiz, Delos Santos and Gabulac liable, as charged.

Dishonesty is defined as “the concealment or distortion of truth which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and an intent to violate the truth” (CSC Resolution No. 060538, 04 April 2006).

Meanwhile, misconduct is a “transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer” (Salvador O. Echano Jr. vs. Liberty Toledo, G.R. No. 173930, 15 September 2010).

Conduct prejudicial to the Best Interest of the Service, on the other hand, encompasses acts that may tarnish the image and integrity of the public servants’ office, resulting to an undue prejudice to the best interest of the service. (CSC Resolution No. 98-0649, 25 May 1998).

From the foregoing definitions of the administrative charges of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service leveled against public respondents Ortiz and Delos Santos vis-à-vis the factual antecedents of this case, it is clear that they have transgressed some established and definite rule of action and tarnished the image and integrity of the respondents’ office when they took advantage of their positions by knowingly issuing the following documents, viz:

1. Provisional Permit No. 001, series of 2004 issued by respondent Ortiz, purportedly in accordance with Commission En Banc Resolution No. 238-2004 when said resolution already disapproved the application for government permit of SACST to offer the BSN program for school year 2004- 2005;

xxx xxx xxx.”

From the foregoing definition of the administrative charges of dishonesty, misconduct and conduct prejudicial to the best interest of the service and with the factual antecedent of this case, We find that the Investigating Prosecutor erred in finding petitioner guilty for grave misconduct and dishonesty because there was complete absence of concealment or distortion of truth on the part of petitioner. Neither was petitioner grossly negligent in issuing the provisional permit to SACST as she relied in good faith on the memorandum of Atty. Vitriolo.

In fact, an evidence of her good faith in the performance of her duties is her letter dated June 3, 2005 sent to Hon. Carlito Puno, the acting chairman of CHED, upon learning that the Commission En Banc Resolution No. 238-2004 actually disapproved the application of SACST. The letter reads as follows:

“Dear Sir:

Please be informed that the Memorandum from the acting Executive Director Atty. Julito D. Vitriolo dated June 4, 2004 xxx was the basis for granting Provisional Permit to St. Anthony College of Calapan, Oriental Mindoro. For your perusal.”[16]

In the same vein, there is no evidence presented to prove that petitioner had a disposition to defraud, cheat, deceive or betray or at least, an evidence to show petitioner’s intent to violate the truth.

Therefore, it goes without saying, petitioner acted in good faith and with no knowledge that said resolution actually disapproved the application of SACST for government permit to offer the BSN program effective S.Y. 2004-2005.

Good faith is always presumed and upon him who alleges bad faith rests the burden of proof. In *Farolan, et al., vs. Solmac Marketing Corporation, et al.*, the Honorable Supreme Court held:

“Good faith is always presumed and it is upon him who alleges the contrary that the burden of proof lies. In *Abando vs. Lozada*, we defined good faith as referring to a state of mind which is manifested by the acts of the individual concerned. It consists of the honest intention to abstain from taking an unconscionable and unscrupulous advantage of another. It is the opposite of fraud, and its absence should be established by convincing evidence.”[17]

Further, misconduct, as defined in the assailed Decision, “is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.”

However, in the case at bench, We find that there is no unlawful behavior, more so, gross negligence on the part of the petitioner in relying in good faith on the memorandum issued by Atty. Vitriolo, which recommended the grant of a provisional permit to SACST pursuant to Resolution No. 238-2004, since there was no irregularity or illegality on the face of the said memorandum to warrant a reasonable suspicion as to its validity.

With respect to the finding of guilt of petitioner for conduct prejudicial to the best interest of the service, We find the same unsubstantiated. As defined in the assailed Decision, this encompasses “acts that may tarnish the image and integrity of the public servants’ office, resulting to an undue prejudice to the best interest of the service.”

In the case at bench, there is no evidence that shows that petitioner willfully and knowingly acted to the prejudice of the best interest of the service in issuing the provisional permit to SACST.

Administrative proceedings are governed by the “substantial evidence rule”, which is such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[18] The finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the respondent has committed the acts stated in the complaint.[19]

In the case at bench, there exists no substantial evidence which supports the finding of the Office of the Ombudsman that petitioner is administratively liable for grave misconduct and conduct prejudicial to the best interest of the service. Therefore, in the absence of such evidence, the presumption that petitioner has regularly performed her duty prevails.[20]

We are mindful of the rule that the findings of fact of the Office of the Ombudsman are conclusive when supported by substantial evidence and are accorded due respect and weight.[21] However, this is not without exception, as when there is grave abuse of discretion by the Ombudsman. 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.[22]

We find the exception applicable to the instant case. Hence, this reversal.

WHEREFORE, premises considered, the instant Petition for Review is PARTLY GRANTED. Accordingly, the assailed Decision dated May 24, 2012 and the Order dated April 30, 2013 of the Office of the Ombudsman with respect to the finding of guilt of petitioner Maria Rita C. Ortiz for grave misconduct and conduct prejudicial to the best interest of the service are hereby REVERSED and SET ASIDE.

SO ORDERED.

Salazar-Fernando, R. A., (Chairperson) and Inting. S. B.,[*] JJ., concur

[*] Acting Senior Member per Office Order No. 484-14-RSF dated November 24, 2014.

[*] Acting Junior Member per Office Order No. 484-14-RSF dated November 24, 2014.

[1] Rollo, pp. 14-29.

[2] Id., pp. 30-35.

[3] Id., pp. 36-37.

[4] Id., pp. 39-40.

[5] Id., p. 50.

[6] Id., p. 51.

[7] Id., p. 52-54.

[8] Id., pp. 77-78.

[9] Id., pp. 79-80.

[10] Id., pp. 81-82.

[11] Supra see note 1.

[12] Id., pp. 83-88.

[13] Supra see note 2.

[14] G.R. No. 135716, 23 September 1999.

[15] G.R. No. 134625, 31 August 1999.

[16] Supra. see footnote 6.

[17] G.R. No. 83589, March 13, 1991.

[18] Section 5, Rule 133 of Rules of Court; Bascos, Jr. vs. Taganahan, G.R. No. 180666, 18 February 2009.

[19] Office of the Ombudsman vs. Santos, G.R. No. 166116, 31 March 2006.

[20] Viaje vs. Dizon, A.M. No. P-07-2402. 15 October 2008.

[21] Bascos, Jr. vs. Taganahan, G.R. No. 180666, 18 February 2009.

[22] Supra.

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.