CARMENCITA A. BANAGAN, PETITIONER, VS. CIVIL SERVICE COMMISSION AND ROSARIO CIELITO F. ALZOLA, RESPONDENTS

Ponente: BUESER, J.

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BUESER, J.:

Before this Court is a Petition for Review seeking the annulment and reversal of the rulings of the Civil Service Commission ("CSC") in the present administrative complaint filed by private respondent Rosario Cielito F. Alzola ("Private Respondent") against petitioner Carmencita A. Banagan ("Petitioner"), as follows:

(1) The Decision No. 100089 dated October 6, 2010[1] finding petitioner guilty of grave misconduct and gross neglect of duty, the dispositive portion reads in this wise:

> "WHEREFORE, Carmencita A. Banagan is hereby found GUILTY of Grave Misconduct and Gross Neglect of Duty. Accordingly, she is imposed the penalty of dismissal from service with the accessory penalties of cancellation of eligibility, bar from taking civil service examinations, forfeiture of retirement benefits and perpetual disqualification from employment in the government service."

(2) The Resolution No. 1201940 dated November 5, 2012[2] denying the motion filed by petitioner for reconsideration of the said Decision.

The Facts

The pertinent facts and antecedent proceedings, as borne by the records, are undisputed.

Petitioner is the incumbent Municipal Treasurer of the Municipality of Mauban, Quezon having been appointed to such position on March 1, 1990.

Sometime in the last part of October until the early part of November 1995, Typhoon Rosing hit the Philippines ravaging the Municipality of Mauban. Among the properties adversely affected by the typhoon was the Municipality's eight-hectare coconut land situated in Sitio Tejero, Lual. Said coconut land was then being rented by Andres Geguinto.

Since the typhoon damaged some of the coconut trees in said plantation, Geguinto put into good use the felled trees and sold them as coco lumber for which he had earned the sum of Nine Thousand Pesos (P9,000.00). Pursuant to the agreement between the Municipality and Geguinto to equally divide any income from the plantation, the latter remitted the sum of Four Thousand Five Hundred Pesos (P4,500.00) to the petitioner, in her capacity as Municipal Treasurer. However, instead of issuing an official receipt, petitioner issued a temporary receipt in favor of Geguinto.

On August 5, 1999, private respondent filed a complaint before the Office of the Provincial Prosecutor against petitioner for malversation of public funds. Finding no proof that petitioner used the disputed funds for her own benefit, the Provincial Prosecutor issued an Order dated July 7, 2000 recommending the dismissal of the complaint.[3] The Office of the Ombudsman concurred with the Provincial Prosecutor and approved the latter's recommendation.[4]

Undaunted by the dismissal of the criminal complaint, private respondent filed the present complaint with the CSC accusing petitioner of grave misconduct and gross neglect of duty. The allegations made therein were centered on the failure of the petitioner to issue an official receipt for the amount that she had received from Geguinto on November 15, 1995, the similar failure on her part to issue official receipts in favor of Geguinto between the years 1995 to 1998 and her alleged erroneous computation of municipal licenses that the municipality had levied against certain corporations to the prejudice of its coffers.[5]

Refuting the administrative charges, petitioner countered that the same is but a mere repetition of the criminal charges filed against her for malversation of funds. On this note, aside from the fact that the certification of non-forum shopping had been a gross misrepresentation on the part of the private respondent, petitioner asserted that the dismissal of said criminal complaint negates the sufficiency of the present administrative charges.

In support of her defense, petitioner asserted that she issued a temporary receipt since the former mayor had instructed her to use the disputed remittance for emergency purchases in light of the devastation caused by Typhoon Rosing. Petitioner further presented the official receipts and certificates of first domestic purchase of copra in evidence to prove that the charges against her were fabricated. Specifically, petitioner presented Official Receipt No. 9473515 dated October 5, 1999 as proof of her substantial compliance with the rules on issuance of official receipts.[6]

Finding prima facie evidence that petitioner committed the acts as alleged in private respondent's administrative complaint, the CSC formally charged her on December 20, 2002.[7]

In its assailed Decision dated October 6, 2010, the CSC found petitioner guilty of the charges against her, charges that constitute grave misconduct and gross neglect of duty. As a result, petitioner was meted the penalty of dismissal from service with accessory penalties as aforequoted. It was ruled that petitioner's failure to issue an official receipt for the disputed November 15, 1995 collection is in clear violation of Section 451, Chapter 3 of the Government Accounting and Auditing Manual (GAMM) (Volume II). [8]The CSC found untenable petitioner's defense that she had been instructed by the former mayor to utilize the disputed funds for emergency purchases in 1995 to address the effects of the calamity, the same being without factual basis.

Moreover, the CSC noted the discrepancies in the amount reflected in the supposed Mauban Marketing Cooperative (MMC) official receipts issued to Geguinto and the official receipts belatedly issued and presented in evidence by petitioner. The CSC also found merit in the allegation that petitioner committed acts that led to the under-collection of municipal license fees.

In its Resolution No. 1201940 dated November 5, 2012, the CSC denied petitioner's motion for reconsideration of the said Decision.

Hence, the instant recourse.

The Issue

The main issue to be resolved in the present petition is whether the administrative complaint filed against petitioner for grave misconduct and gross neglect of duty is substantiated by the facts and evidence on record.

The Court's Ruling

We find the petition devoid of merit.

Faulting the factual and legal disquisitions of the CSC, petitioner posits that although she had admittedly issued an official receipt only after almost four (4) years from the disputed November 5, 1995 remittance, this belated issuance remains a substantial compliance with the requirement of Section 451 of the GAMM. She also insists

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that essentially, the discrepancies between the MMC receipts and the official receipts issued by the Municipality are permissible and should likewise be considered as substantial compliance with the GAMM provisions.

We are not persuaded.

As the records readily reveal, petitioner, in her capacity as Municipal Treasurer, was brazenly remiss in her duty to promptly issue official receipts for the remittances made by Geguinto. The lapse of almost four (4) years with respect to the November 5, 1995 remittance is far from being permissible. This, coupled by the repeated delay that attended the issuance of official receipts for the other disputed copra remittances are glaring and inexcusable acts of misconduct and neglect of duty.

Besides, the lapse of almost four (4) years from November 5, 1995 to October 5, 1999 is far from being prompt and falls short of what petitioner espouse as substantial compliance with Section 451 of the GAMM. It cannot be denied that the filing of the criminal charges against her prompted petitioner to issue said official receipt. It was a mere afterthought on her part, which glaringly bespeaks of her proclivity to transgress rules and betray the trust reposed upon her.

Needless to state, as treasurer of the municipality, it is petitioner’s duty to perform her responsibilities diligently, faithfully, and efficiently. It behooves her to exercise the highest degree of care over the custody, management, and disbursement of municipal funds.[9] Sadly, petitioner failed to fulfill her fundamental duty and betrayed the trust reposed upon her by the State.

Without doubt, petitioner’s failure to issue the official receipt for the November 5, 1995 remittance as required by law and the delay and the discrepancies in the official receipts for the copra remittances render her administratively liable for grave misconduct and gross neglect of duty.

Truth be told, such delay and discrepancies are already competent proof that petitioner had been remiss in her duties. Whether official receipts had belatedly been issued and the amounts represented therein had been remitted to the Municipality, breach of what was incumbent of her under Section 451 of the GAMM had already been consummated.

What is more, contrary to her misplaced supposition, the fact that petitioner personally reimbursed the Municipality’s coffers of the amount of P4,500 just so to end the present controversy condemns her more, as it serves as an admission on her part. As aptly observed by the CSC, petitioner should have stood her ground if she indeed believed that her omission is justified by reason of the former mayor’s supposed instruction in this regard.

Considering the fiduciary nature of her position as Municipal Treasurer, nothing but strict compliance with the rules is expected of her. Aside from the fact that the same has no bearing in the present case, the defense espoused by petitioner, i.e. the supposed directive of the former mayor for her to use the P4,500.00 for emergency purchases, does not justify the flagrant dereliction of duty on her part.

Regardless of whether the same is justified or done in good faith, petitioner’s failure to promptly issue official receipts and remain faithful to her office suffice to hold her administratively liable. If not penalized, failure to promptly issuance of official receipts, ripe opportunity for fraud and corruption can be expected.

We likewise find no persuasion in petitioner’s postulation that the dismissal of the malversation complaint against her has the effect of absolving her of administrative liability. It bears stress that the criminal complaint was dismissed for lack of proof that petitioner had personally benefited from public funds. Still, this in itself does not undo petitioner’s grave misconduct and gross neglect of duty in relation to the performance of her duties.

As it is, the criminal aspect of the charges against her is separate and distinct from the administrative liability that

arises out of the acts constituting said charges. 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 criminal proceedings.[10]

Prescinding from the foregoing, We agree with the CSC in finding merit in the administrative charges against petitioner. A long line of cases has defined misconduct as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer." It is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be proved by substantial evidence."[11] This is applicable in the present case in light of petitioner's indifference and blatant disregard to legal rules and procedures.

Indeed, the evidence on record demonstrates a pattern of gross negligence and grave misconduct on the part of the petitioner. This fully satisfies the standard of substantial evidence, which is the quantum of proof necessary for a finding of guilt in administrative cases.[12] Substantial evidence is such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[13]

Pursuant to Section 52, Rule IV of the Civil Service Rules, gross misconduct is a grave offense punishable with dismissal for the first offense.[14] True, the Supreme Court has refrained from strictly imposing the penalties provided by the law in several administrative case considering mitigating factors such as the offending employee's length of service, acknowledgment of his or her infractions and feeling of remorse, family circumstances, advanced age, and other equitable considerations.[15] However, this is unavailing in the present case.

Seeking mitigation of her penalty, petitioner finds refuge in her length of service. While in most cases, length of service is considered in favor of the erring public officer, it is not considered where the offense committed is found to be serious or grave or when the length of service helped the offender commit the infraction.[16]

Considering the factual antecedents herein, petitioner's reliance on the mitigating circumstance of length of service is misplaced, as it is unfounded. Instead of feeling remorse, petitioner stands firm in her belief that she is free from blame. Also, it took the filing of the criminal charges against her to compel her to finally issue the official receipt for the November 5, 1995 remittance.

Certainly, if the restitution was half-hearted and was certainly neither purely voluntary nor made because of the exercise of good conscience; it was triggered, more than anything else, by fear of possible administrative penalties, appreciation of mitigating circumstances is not warranted.[17]

Perforce, as discussed, there is no error on the part of the CSC in finding petitioner guilty of the charges against her. The CSC aptly held her administratively liable and imposed upon her the penalty of dismissal as warranted under the circumstances.

Verily, factual findings of administrative agencies, such as the CSC are conclusive and are accorded with great respect because administrative agencies have acquired expertise in their jurisdiction.[18] In the absence of substantial showing that such findings are made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.[19]

One final point, the Supreme Court minced no words in enunciating that when an officer or employee is disciplined, the object sought is not the punishment of that officer or employee, but the improvement of the public service and the preservation of the public's faith and confidence in the government. Petitioner herein is reminded that "the Constitution stresses that a public office is a public trust and public officers 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. These constitutionally-enshrined principles, oft-repeated in our case law, are not mere rhetorical flourishes or idealistic sentiments. They should be taken as working standards by all in the public service."[20]

WHEREFORE, the foregoing considered, the instant petition is hereby DENIED and the assailed Decision No. 100089 dated October 6, 2010 and Resolution No. 1201940 dated November 5, 2012 AFFIRMED in toto. No costs.

IT IS SO ORDERED.

Bruselas, Jr., A. D., Chairman, and [*]Paredes, V. I. A., JJ., concur.

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[*] Acting Junior Member for 15 working days only from February 24-March 16, 2015 per Office Order No. 55-15-ABR dated February 23, 2015.

[1] Rollo, pp. 45-57.

[2] Id. at pp. 58-61.

[3] Id. at pp. 64-67.

[4] Id. at pp. 68-69.

[5] Id. at pp. 71-72.

[6] Id. at pp. 92-97.

[7] Id. at pp. 90-91.

[8] Section 451. Official Receipts. – For proper accounting and control of collections, collecting officers shall promptly issue official receipts from all monies received by them. Official receipts may be in the form of numbered receipts (GR 13-A), stamps and tickets.

[9] Hallasgo vs. Commission on Audit, G.R. No. 171340, September 11, 2009.

[10] Villaseñor vs. Sandiganbayan, G.R. No. 180700, March 4, 2008.

[11] GSIS vs. Mayordomo, G.R. No. 191218, May 31, 2011.

[12] Filoteo vs. Calago, A.M. No. P-04-1815, October 18, 2007.

[13] Hallasgo vs. Commission on Audit, Supra.

14 Under CSC Resolution No. 99-1936 dated 31 August 1999 (the "Uniform Rules in Administrative Cases in the Civil Service"), which took effect on 27 September 1999, the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service. Similarly, Section 10, Rule III of the Rules of Procedure of the Office of the Ombudsman, as amended by Administrative Order No. 17, provides that "the penalty of dismissal from the service shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service, unless otherwise provided in the decision."

[15] Tan vs. Sermonia, A.M. No. P-08-2436, August 4, 2009.

[16] Civil Service Commission vs. Cortez, G.R. No. 155732, June 3, 2004.

[17] Duque III vs. Veloso, G.R. No. 196201, June 19, 2012. 18 Cabalitan vs. Department of Agrarian Reform, G.R. No. 162805, January 23, 2006.

[19] Fernandez vs. Commission on Elections, G.R. No. 171821, October 9, 2006.

[20] Civil Service Commission v. Cortez, G.R. No. 155732, June 3, 2004.

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