

MARIETTA B. BANGAWAN, PETITIONER, V. SONNY C. PACUNLA AND OFFICE OF THE OMBUDSMAN, RESPONDENTS.

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GALAPATE-LAGUILLES, J:

Before this Court is a Petition for Review[1] under Rule 43 of the Rules of Court assailing, viz: 1.) the Decision[2] dated 27 May 2009 in OMB-L-A-07-0679-I of the respondent Office of the Deputy Ombudsman for Luzon, Office of the Ombudsman (hereinafter Ombudsman), finding petitioner Marietta B. Bangawan (hereinafter Ombudsman) guilty of the administrative offense of Serious Dishonesty and imposing upon her the penalty of dismissal from the service; 2.) the Resolution[3] dated 27 May 2009 in OMB-L-C-07-0838-I of the Ombudsman finding probable cause to hold petitioner criminally liable for Falsification of Public Documents; and 3.) the Joint Order[4] dated 26 July 2010 of the Ombudsman denying petitioner's Motion for Reconsideration.

The following are the facts:

Petitioner was the former Municipal Treasurer of the Municipality of Diffun, Province of Quirino while respondent Sonny C. Pacunla (hereinafter respondent) is the Municipal Agricultural Technologist of the Office of the Municipal Agriculturist of the said municipality.

Sometime on the third week of March 2006, respondent went to the Office of the Disbursing Officer of the Municipality of Diffun, Quirino to claim his salary for March 1 to 15, 2006 in the amount of Three Thousand Seven Hundred Pesos (Php 3,700.00).[5] Aida A. Sabigan (hereinafter Sabigan), the Disbursing Officer II of the Municipal Treasurer's Office, failed to give him the said salary as the same was already drawn by petitioner.[6] He was only paid the said amount on April 4, 2006.[7]

Sometime on the last week of June 2006, respondent reported for work after his sick leave from May 27 to June 27, 2006.[8] He then went to the Office of the Disbursing Officer of the Municipality of Diffun, Quirino to claim his salary for June 1 to 15, 2006 in the amount of Four Thousand Six Hundred Pesos (Php 4,600.00).[9] Sabigan informed him that petitioner had already drawn the said salary and affixed her (petitioner) initial on the payroll opposite his name.[10] Despite repeated demands, the said salary was not paid.[11]

By reason of the foregoing incidents, respondent filed a Complaint-Affidavit[12] dated 25 July 2006 against petitioner and Sabigan before the Grievance Committee of the Municipality of Diffun, Quirino for Dishonesty, Falsification, Grave Misconduct and Graft and Corruption.[13] Petitioner and Sabigan then executed their respective Counter-Affidavits, both dated 15 August 2006.[14] Thereafter, respondent executed his Consolidated Reply-Affidavit dated 5 September 2006.[15]

Respondent also wrote a letter[16] to the Auditor General of the Province of Quirino requesting for the latter to conduct an audit investigation on the utilization and accounting of the cash advances of petitioner which were drawn purposely for the salaries for March 1 to 15, 2006 and June 1 to 15, 2006.[17] Giving due cognizance to the said request, the Office of the Team Leader of the Commission on Audit, Cabarroguis, Quirino conducted an audit investigation on 24 August to 26 September 2006.[18]

Meanwhile, the Grievance Committee of the Municipality of Diffun, Quirino convened on 5 September 2006 to

amicably settle respondent's Complaint.[19] The committee opted to continue with the case despite the absence of petitioner as she was on official business in Metro Manila. In its Committee Report,[20] it resolved to elevate the said case to the "higher concerned authority" since there was no amicable settlement reached.[21]

In its undated Report,[22] the Audit Team made the following recommendation:

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Stop Petitioner from making illegitimate drawings of cash from the accountable officers of Diffun without prejudice to the institution of administrative and criminal actions against her as the circumstances may warrant for deliberately causing the falsification of the date of O.R. No. 9689249 B if only to pave the way for the insertion of the date June 26, 2006 on O.R. No. 9689250 B to make it appear that the cash of P 4,600.00, representing the unpaid claim of Sonny Pacunla was returned to her on June 26, 2006 so as to conceal her illegitimate receipt of the amount.

X X X

Thereafter, Check No. 409865 dated 5 January 2007 was issued to respondent covering his salary for June 1 to 15, 2006.[23]

Respondent then filed a Complaint[24] dated 26 September 2007 against petitioner before the Ombudsman for Dishonesty, Grave Misconduct, Malversation of Public Funds, Falsification of Document, Perjury and Violation of R.A. 3019, docketed as OMB-L-A-07-0679-I and OMB-L-C-07-0838-I.

On 27 May 2009, the Ombudsman rendered a Decision[25] in OMB-L-A-07-0697-I with respect to the administrative aspect of respondent's Complaint against petitioner for alleged Dishonesty and Gross Misconduct, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding the respondent MARIETTA BANGAWAN, guilty of SERIOUS DISHONESTY. This not being the first offense of the respondent MARIETTA BANGAWAN, she is hereby meted out the penalty of DISMISSAL from the service, pursuant to Sec. 10, Rule III, Administrative Order No. 07, as amended by Administrative Order No. 17, in relation to Sec. 25 of R.A. 6770, with cancellation of civil service eligibility, forfeiture of retirement benefits and perpetual disqualification for re-employment in the government service.

The Honorable Secretary, Department of Finance is hereby directed to implement this DECISION immediately upon receipt thereof pursuant to Sec. 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."

On even date, the Ombudsman issued a Resolution[26] in OMB-L-C--7-0838-I pertaining to the criminal aspect of respondent's Complaint against petitioner, finding probable cause to hold the latter liable for Falsification of Public Document. The decretal portion of the Resolution reads:

"WHEREFORE, premises considered, it is respectfully recommended that a criminal information for Falsification of Public Document be filed against respondent, MARIETTA BANGAWAN, with the proper court.

SO RESOLVED."

Aggrieved, petitioner moved for reconsideration[27] of the aforesated Decision and Resolution, but the same was denied by the Ombudsman in its Joint Order[28] dated 26 July 2010.

Hence, the instant Petition for Review raising the following issues[29] for the Court's resolution, viz:

(a)

THE OMBUDSMAN ERRED TO DETERMINE THAT THE CONTROVERSY AND ISSUES INVOLVED WERE ALREADY SETTLED BEFORE THE GRIEVANCE COMMITTEE OF THE LOCAL GOVERNMENT UNIT TO OUST THE JURISDICTION AND INVESTIGATION OF THE OFFICE OF THE OMBUDSMAN AS THE DOCTRINE OF PRIMARY JURISDICTION APPLIES;

(b)

THE OMBUDSMAN ERRED IN CONSIDERING THE EVIDENCES (sic) OF HEREIN RESPONDENT/PETITIONER THAT THE DELAY IN THE PAYMENT OF SALARIES INVOLVED WAS JUST A REGULAR PROCESS OF THE GOVERNMENT ACCOUNTING SYSTEM;

(c)

IF ONLY THE HONORABLE OMBUDSMAN CONSIDERED THE NEWLY DISCOVERED EVIDENCE THAT IS THE AFFIDAVIT OF MARIA FATIMA GOTONG RUNAS, IT WOULD HAVE CHANGED ITS VIEW AND WOULD HAVE EXONERATED RESPONDENT/PETITIONER MARIETTA BANGAWAN; AND

(d)

THE PENALTY OF DISMISSAL IS TOO HARSH AGAINST RESPONDENT/PETITIONER MARIETTA BANGAWAN.

From the foregoing, We reduce the issues to the following:

1.) Whether or not the Ombudsman erred in taking cognizance of the Complaint of respondent; 2.) Whether or not the Ombudsman erred in finding petitioner administratively liable for Serious Dishonesty and imposing upon her the penalty of dismissal from the service; and 3.) Whether or not the Ombudsman erred in finding probable cause to hold petitioner criminally liable for Falsification of Public Documents.

The Petition must fail.

On the first issue, petitioner argues that the controversy was already resolved at the level of the Municipal Government of Diffun, Quirino through its Grievance Committee which first acquired jurisdiction over the controversy. The resolution of the said committee should have been respected for the same ousts the Ombudsman of its jurisdiction over the matter pursuant to the doctrine of primary jurisdiction.[30]

The argument has no merit.

The Ombudsman has defined prosecutorial powers and possesses adjudicative competence over administrative disciplinary cases filed against public officers.[31] It was created by no less than the Constitution.[32] It is tasked to exercise disciplinary authority over all elective and appointive officials, save only for impeachable officers.[33]

The fundamental law has named the Ombudsman and his Deputies as the protectors of the people who shall act promptly on complaints filed in any form or manner against public officials or employees of the government.[34] To fulfill this mandate, R.A. No. 6770, or the Ombudsman Act of 1989, was enacted.[35] Section 21 of R.A. No. 6770 clearly provides, viz:

“Section 21. Official Subject to Disciplinary Authority; Exceptions. — The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or

controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.”

Expounding on the powers of the Office of the Ombudsman, the Supreme Court declared in the case of *Office of the Ombudsman v. De Leon*[36] that:

x x x Indeed, the power of the Office of the Ombudsman to investigate extends to all kinds of malfeasance, misfeasance, and non-feasance that have been committed during his tenure of office by any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. The Office of the Ombudsman also has the power to act on all complaints relating, but not limited, to acts or omissions that (1) are contrary to law or regulation; (2) are unreasonable, unfair, oppressive or discriminatory; (3) are inconsistent with the general course of an agency’s functions, though in accordance with law; (4) proceed from a mistake of law or an arbitrary ascertainment of facts; (5) are in the exercise of discretionary powers but for an improper purpose; or (6) are otherwise irregular, immoral or devoid of justification. At the same time, the Office of the Ombudsman, in the exercise of its administrative disciplinary authority, can impose the penalty of removal, suspension, demotion, fine, censure, or prosecution of a public officer or employee found to be at fault. The exercise of all such powers is well founded on the Constitution and on Republic Act No. 6770.

x x x

...(T)he Ombudsman under the 1987 Constitution and R.A. No. 6770 is intended to play a more active role in the enforcement of laws on anti-graft and corrupt practices and other offenses committed by public officers and employees. The Ombudsman is to be an "activist watchman," not merely a passive one. He is vested with broad powers to enable him to implement his own actions.

The Ombudsman has concurrent jurisdiction over administrative cases which are within the jurisdiction of the regular courts or administrative agencies.[37] Any act or omission of a public officer or employee occupying a salary grade lower than 27 is within the concurrent jurisdiction of the said office and of the regular courts or other investigative agencies.[38]

In administrative cases involving the concurrent jurisdiction of two or more disciplining authorities, the body where the complaint is filed first, and which opts to take cognizance of the case, acquires jurisdiction to the exclusion of other tribunals exercising concurrent jurisdiction.[39]

Here, the Ombudsman and the Municipal Government of Diffun, Quirino exercise concurrent administrative disciplinary jurisdiction over petitioner. It will be noted that respondent’s Complaint[40] against petitioner dated 25 July 2006 was initially filed with the Grievance Committee of the Municipality of Diffun, Quirino. However, a careful reading of the Grievance Committee Report[41] on the hearing that was conducted on 5 September 2006 would reveal that the said committee resolved to terminate the said case and elevate the same to the “higher concerned authority” since there was no amicable settlement reached.[42] Thereafter, respondent filed his Complaint dated 26 September 2007 before the Ombudsman.

Irrefutably, the Ombudsman took cognizance of respondent’s case only after the termination of the proceedings before the Municipal Government of Diffun, Quirino and only upon the filing of respondent’s Complaint before it. Hence, it is not barred from opting to take cognizance of the said case. Its exercise of jurisdiction over the same case is to the exclusion of other administrative bodies, including the Municipal Government of Diffun, Quirino. To hold otherwise would be tantamount to abdicating its salutary functions as the guardian of public trust and accountability.[43]

Furthermore, assuming for the sake of argument that respondent also filed an identical complaint with the

Ombudsman during the pendency of his case against petitioner before the grievance committee, the Ombudsman is not precluded from exercising its discretion to take cognizance of the criminal aspect of the complaint. It is still within its broad discretion to determine whether or not to conduct an investigation on the said complaint pursuant to its authority and duty as provided under the Constitution and Republic Act No. 6770.[44] Therefore, the Ombudsman properly took cognizance of respondent's Complaint.

Petitioner next avers that she is not liable for the administrative offense of serious dishonesty. She reasons out that the Ombudsman erred in considering the pieces of evidence presented by her which showed that the delay in the payment of the salaries of respondent was just a regular process based on the New Government Accounting System (NGAS). The said system requires the return of unused cash to the government coffers. She asserts that respondent had already received his unpaid salaries through disbursement vouchers.[45]

The contention rings hollow.

The Supreme Court defined Dishonesty, as follows:

"Dishonesty is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness." [46]

Dishonesty is a malevolent act that puts serious doubt upon one's ability to perform his duties with the integrity and uprightness demanded of a public officer or employee.[47] It is a serious offense which reflects on a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity.[48] It is also considered a grave offense for which the extreme penalty of dismissal from the service of an employee found guilty of such offense is prescribed even for the first offense.[49]

The records of the case clearly show that the following facts, among others, were duly established warranting the finding by the Ombudsman that petitioner is guilty of the offense of Serious Dishonesty: a) petitioner unlawfully withdrew the salaries of respondent from Sabigan, the Disbursing Officer of the Municipality of Diffun, Quirino; b) petitioner misrepresented entries on the Reports of Disbursements and Payrolls for the Municipal Agriculturist Office for March 1 to 15 and June 1 to 15, 2006 showing that respondent's salaries were timely paid; and c) petitioner falsified O.R. No. 9689249 B and O.R. No. 9689250 B to make it appear that a refund of respondent's unpaid salary for June 1 to 15, 2006 was made by Sabigan to her.

The foregoing unlawful acts could not have been easily committed by petitioner were it not for her official position as Municipal Treasurer. She was an accountable officer, a position which carries with it the highest degree of trust, confidence, honesty and integrity. She was in charge of public funds and was responsible for their collection, management, disbursement and safekeeping.[50] She was held to strict accountability as regards the funds entrusted to her in a fiduciary capacity.[51] She perpetrated these dishonest acts in the course of her official duties by taking undue advantage of the position that she held. Her unwarranted conduct is tantamount to a betrayal of the trust reposed upon her by law.

In the administrative charge for Serious Dishonesty against petitioner, the quantum of evidence required by law to hold her liable for the said offense is substantial evidence, or that such amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.[52]

Section 27 of The Ombudsman Act of 1989 specifically provides that the findings of fact by the Ombudsman when supported by substantial evidence are conclusive. Indubitably, the finding by the Ombudsman that petitioner

is guilty of Serious Dishonesty is sufficiently supported by the quantum of evidence required by law to hold her administratively liable for the offense. This Court finds no reason to disturb the same.

Petitioner also laments that the penalty of dismissal imposed upon her was too harsh. She reasons out that she had served the government her whole life and was about to retire when respondent instituted the Complaint against her before the Ombudsman.[53]

We are not persuaded.

Serious dishonesty is a grave offense punishable by dismissal from service even if the offense was committed for the first time.[54] Section 52, Item A, Number 1 of the Uniform Rules on Administrative Cases in the Civil Service provides, to wit:

“Section 52. 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.

A. The following are grave offenses with their corresponding penalties:

1.

Dishonesty

“1st offense – Dismissal”

Section 58, Item (a) of the above-mentioned Rules provides for the accessory penalties and administrative disabilities that are attached to the imposition of the penalty of dismissal, to wit:

“Section 58. Administrative Disabilities Inherent in Certain Penalties.

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.”

Section 53 of the same Rules provides that the attendant circumstances enumerated therein may either be considered as mitigating, aggravating or alternative circumstances[55] by the disciplining body. The Ombudsman, as the disciplining authority, is given the discretion to consider the circumstances attendant to the commission of the offense in the imposition of the appropriate penalty.[56]

Length of service can either be a mitigating or an aggravating circumstance depending on the factual milieu of each case.[57] While it can sometimes help mitigate the penalty, it can also justify a more serious sanction.[58] Length of service, in other words, is an alternative circumstance.[59]

In the instant case, petitioner’s assertion of long years of government service cannot be considered by the Ombudsman as a mitigating circumstance and relieve her from the full consequences of her dishonest acts. Her long years in public position, among others, helped her in the commission of the offense.[60] Her years of service earned her the position she was in (as Municipal Treasurer) and the trust she enjoyed through which she unlawfully took the salaries of respondent, misrepresented documents and falsified receipts to conceal her illicit acts.[61]

Although in most cases length of service is favorably considered, it cannot be appreciated to moderate the penalty of dismissal of petitioner because the offense of dishonesty that she committed, on account of her being the Municipal Treasurer entrusted to handle public funds, is serious or grave.[62] By reason of the gravity of the offense which she had committed, it cannot be invoked as a mitigating circumstance.

Therefore, with these circumstances and the substantive merits of this case, the Ombudsman properly imposed

upon her the ultimate administrative penalty of dismissal from service.

Lastly, the petitioner bewails the finding of probable cause by the Ombudsman to hold her liable for the crime of Falsification of Public Documents. She asserts that she did not falsify any document because her intention was not well established as to why her signature appeared on the documents adduced in evidence. Besides, respondent had already received his salary, the damage to him ceased to exist. Ergo, there is no case to speak of against her (petitioner).[63]

Petitioner's argument is puerile.

To reiterate, the Constitution and R.A. No. 6770 endowed the Office of the Ombudsman with wide latitude, in the exercise of its investigatory and prosecutory powers, to pass upon criminal complaints involving public officials and employees.[64] Specifically, the determination of whether probable cause exists[65] is a function that belongs to the Office of the Ombudsman. Whether a criminal case, given its attendant facts and circumstances, should be filed or not is basically its call.[66]

In a criminal proceeding before the Ombudsman, the Ombudsman merely determines whether probable cause exists, i.e., whether there is a sufficient ground to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof.[67] A finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge.[68]

In the case at bar, the evidence on record satisfactorily establish that there is probable cause that the crime of Falsification of Public Documents was committed and that petitioner committed such crime, and should be held for trial. Upon this point, We echo with approval the findings of the Ombudsman, viz:

X X X

The records of the case clearly showed that the photocopy of the original receipt of O.R. No. 9689249 B with Joey Alfaro as the payor, was dated July 31, 2006. Whereas the duplicate copy of O.R. No. 9689249 B showed that the receipt was dated June 27, 2006. The COA Audit Team found that the respondent (petitioner) deliberately caused the falsification of the date in Official Receipt (O.R.) No. 9689249 B, to pave the way for the insertion of the date June 26, 2006 in O.R. No. 9689250 B. In so doing, the respondent (petitioner) made it appear that the amount of P 4,600, representing the unpaid claim (salary) of Mr. Pacunla (respondent) was returned to her (the respondent [petitioner]) on June 26, 2006. It seems irregular that O.R. No. 9689250 B was issued on June 26, 2006 or one (1) day ahead than the issuance of O.R. No. 9689249B on June 27, 2006.

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When the respondent (petitioner) altered in its duplicate copy the date in the Receipt (O.R.) No. 9689249 B, to pave the way for the insertion of the date June 26, 2006 in O.R. No. 9689250B, she committed falsification. This is gross dishonesty which could not be countenanced, considering that the respondent (petitioner) was an accountable officer and occupied a very delicate position. By engaging in such act, she jeopardized the public trust.

Moreover, the receipt after the alteration no longer expressed the truth. It is true that if the alteration of a date does not affect the integrity of the document, it does not constitute the crime of falsification. However, such rule has no application when the act is committed, not by ignorance or by mistake, but rather to prevent the discovery of an illegal act by petitioner in paving the way for the insertion of the date 26 June 2006 in O.R. No. 9689250B to make it appear that the amount of P4,600.00, representing the unpaid claim (salary) of Mr. Sonny Pacunla was legitimately returned/transferred to her (the respondent [petitioner]) on the said date.[69]

x x x

Clearly, the established facts and the pieces evidence adduced by respondent in this case rule out any arbitrariness on the part of the Ombudsman in its determination of probable cause to hold petitioner liable for Falsification of Public Documents. Whether the evidence before the Ombudsman will be sufficient to procure a conviction is a different matter that must await the trial of the criminal case.[70]

Perforce, no cogent reason exists to disturb the factual findings of the Ombudsman that petitioner is guilty of the administrative offense of Serious Dishonesty and imposing upon her the penalty of dismissal from the service; and that there is probable cause to hold her criminally liable for Falsification of Public Documents, as it was in the best position to determine the value and weight of the evidence presented by the parties and there is no showing that it failed to consider certain facts of substance and value, which if considered, might affect the result of the case.[71]

On a final note. It is well to quote the exhortation of the Supreme Court on the essence of public service in the case of *Civil Service Commission v. Cortez*,[72] viz:

“Respondent should be reminded that a public servant must exhibit at all times the highest sense of honesty and integrity for no less than the Constitution mandates that a public office is a public trust and 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. This 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. In addition, the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713) enunciates the State Policy of promoting a high standard of ethics and utmost responsibility in the public service.

To end, it must be stressed that dishonesty and grave misconduct have always been and should remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public’s faith and confidence in the government.”

WHEREFORE, the instant Petition for Review is DISMISSED for lack of merit. The assailed Decision and Resolution, both dated 27 May 2009, of the Office of the Ombudsman in OMB-L-A-07-0679-I and OMB-L-C-07-0838-I, respectively, are hereby AFFIRMED. The Joint Order dated 26 July 2010 of the Office of the Ombudsman denying the Motion for Reconsideration of petitioner Marrieta B. Bangawan is also AFFIRMED.

SO ORDERED.

Punzalan Castillo and Cruz, [*] JJ., concur.

[*] Vice Justice Amy C. Lazaro-Javier per Office Order No. 198-14-ABR dated May 9, 2014

[1] Rollo, pp. 7-21.

[2] Id., p. 34-45, Annex “B” to the Petition.

[3] Id., p. 46-54, Annex “C” to the Petition.

[4] Id., p. 22-32, Annex “A” to the Petition.

[5] Id., p. 56, p. 134 and p. 141.

- [6] Id., p. 134 and p. 141.
- [7] Id., p. p. 79, p. 88, p. 101 and p. 144.
- [8] Id., p. 75, p. 80, p. 84, p. 88, p. 93 and p. 94.
- [9] Id., p. 141.
- [10] Id., p. 81, p. 88, p. 134 and p. 142.
- [11] Id., p. 64, p. 81, p. 85 and p. 89.
- [12] Id., pp. 74-76.
- [13] Id., p. 141.
- [14] Id., p. 78-82 and p. 83-86.
- [15] Id., p. 87-91.
- [16] Id., p. 67.
- [17] Id.
- [18] Id., p. 98 and pp. 174-177.
- [19] Id., p. 68 and p. 141.
- [20] Id., p. 68 and p. 180.
- [21] Id., p. 68; See also Minutes of the Dialogue, id., p. 163-168.
- [22] Id., p. 100-108.
- [23] Id., p.139, p. 147, p. 148 and p. 169.
- [24] Id., p. 56-60, Annex “D” to the Petition.
- [25] Id., pp. 34-45, Annex “B” to the Petition.
- [26] Id., p. 46-55, Annex “C” to the Petition.
- [27] Id., p. 154-162.
- [28] Id., p. 22-33, Annex “A” to the Petition.
- [29] Id., p. 14.
- [30] Id., p. 15.
- [31] Gupilan-Aguilar, et al. v. Office of the Ombudsman, G.R. No. 197307, February 26, 2014.
- [32] Alejandro v. Office of the Ombudsman Fact-Finding and Intelligence Bureau, G.R. No. 173121, April 3, 2013.
- [33] Id.
- [34] Laxina, Sr. v. Office of the Ombudsman, et al., G.R. No. 153155, September 30, 2005.
- [35] Id.

[36] G.R. No. 154083, February 27, 2013

[37] *Alejandro v. Office of the Ombudsman Fact-Finding and Intelligence Bureau*, *supra*.

[38] *Id.*

[39] *Id.*, citing *Civil Service Commission v. Alfonso*, G.R. No. 179452, June 11, 2009, 589 SCRA 88.

[40] *Rollo*, p. 141.

[41] *Id.*, p. 68 and p. 180.

[42] *Id.*, p. 68 and p. 180; See also *Minutes of the Dialogue*, *id.*, p. 163 and p. 173.

[43] *Office of the Ombudsman v. De Chavez, et al.*, G.R. No. 172206, July 3, 2013

[44] *Cf.*, *Office of the Ombudsman v. Court of Appeals, et al.*, G.R. No. 159395, May 7, 2008.

[45] *Rollo*, pp. 15-16.

[46] *Balasbas v. Monayao*, G.R. No. 190524, February 17, 2014, citing *Japson vs. Civil Service Commission*, G.R. No. 189479, April 12, 2011, 648 SCRA 532, 543-544.

[47] *Gupilan-Aguilar, et al. v. Office of the Ombudsman*, *supra*, citing *Civil Service Commission vs. Sta. Ana*, A.M. No. OCA-01-5, August 1, 2002, 386 SCRA 1, 11-12.

[48] *Anonymous v. Curamen*, Court Interpreter I, Municipal Trial Court, Rizal, Nueva Ecija, A.M. No. P-08-2549, June 18, 2010, citing *OCA v. Bermejo*, A.M. No. P-05-2004, 14 March 2008, 548 SCRA 219.

[49] *Retired Employee, Municipal Trial Court, Sibonga, Cebu, v. Manubag*, Clerk of Court II, Municipal Trial Court, Sibonga, Cebu, A.M. No. P-10-2833, December 14, 2010, citing *Ramos v. Mayor*, A.M. No. P-05-1998, October 24, 2008, 570 SCRA 22, 31.

[50] *Rollo*, p. 78.

[51] *Office of the Ombudsman v. Zaldarriaga*, G.R. No. 175349, June 22, 2010

[52] *Gupilan-Aguilar, et al. v. Office of the Ombudsman*, *supra*, citing *Office of the Ombudsman v. Bernardo*, G.R. No. 181598, March 6, 2013 and *Picardal v. Lladas*, No. L-21309, December 29, 1967, 21 SCRA 1483.

[53] *Rollo*, p. 18.

[54] *Office of the Court Administrator v. Acampado*, Clerk of Court II, Municipal Trial Court, Taft, Eastern Samar, A.M. Nos. P-13-3116 & P-13-3112, November 12, 2013, citing *Revised Rules on Administrative Cases in the Civil Service* [2011], Rule 10, Sec. 46.

[55] Section 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. – In the determination of the penalties imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered. The following circumstances shall be appreciated: a. Physical illness, b. Good faith, c. Taking undue advantage of official position, d. Taking undue advantage of subordinate, e. Undue disclosure of confidential information, f. Use of government property in the commission of the offense, g. Habituality, h. Offense is committed during office hours and within the premises of the office or building, i. Employment of fraudulent means to commit or conceal the offense, j. Length of service in the government, k. Education, or Other analogous circumstances; *Re: Habitual Tardiness of Cesare. Sales*, Cash Clerk III, Metropolitan Trial Court, Office of the Clerk of Court, Manila, A.M. No. P-13-3171 [formerly A.M. OCA IPI No. 11-11-116-MeTC],

January 28, 2014, citing CSC Memorandum Circular No. 19, s. 1999, Section 53.

[56] *Olivan v. Rubio*, Deputy Sheriff IV, Office of the Clerk of Court Regional Trial Court, Naga City, Respondent, A.M. No. P-12-3063 [Formerly A.M. OCA IPI No. 09-3082-P], November 26, 2013.

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

[58] *Re: Habitual Tardiness of Cesare. Sales*, Cash Clerk III, Metropolitan Trial Court, Office of the Clerk of Court, Manila, *supra*, citing *Mariano v. Nacional*, A.M. No. MTJ-07-1688, February 10, 2009, 578 SCRA 181, 188.

[59] *Id.*

[60] *Cf.*, *Civil Service Commission v. Cortez*, *supra*.

[61] *Id.*

[62] *Id.*

[63] *Rollo*, p. 16.

[64] *Casing v. Hon. Ombudsman, et al.*, G.R. No. 192334, June 13, 2012, citing *PCGG v. Hon. Desierto*, 445 Phil. 154 (2003); *Quiambao v. Hon. Desierto*, 481 Phil. 852 (2004).

[65] *Casing v. Hon. Ombudsman, et al.*, *supra*, citing *Esquivel v. Hon. Ombudsman*, 437 Phil. 702 (2002).

[66] *Casing v. Hon. Ombudsman, et al.*, *supra*, citing *Presidential Commission on Good Government v. Desierto*, G.R. No. 139296, November 23, 2007, 538 SCRA 207.

[67] *Casing v. Hon. Ombudsman, et al.*, *supra*, citing Rule 112, Section 3(C)

[68] *Casing v. Hon. Ombudsman, et al.*, *supra*, citing *Metropolitan Bank and Trust Company v. Gonzales*, G.R. No. 180165, April 7, 2009, 584 SCRA 631; and *Quiambao v. Hon. Desierto*, 481 Phil. 852 (2004).

[69] *Rollo*, pp. 52-53.

[70] *Casing v. Hon. Ombudsman, et al.*, *supra*, citing *Metropolitan Bank and Trust Company vs. Gonzales*, *Metropolitan Bank and Trust Company vs. Gonzales*, G.R. No. 180165, April 7, 2009, 584 SCRA 631 and *Quiambao vs. Hon. Desierto*, 481 Phil. 852 [2004].)

[71] *Abarquez v. People*, G.R. No. 150762, January 20, 2006.

[72] *Supra*.

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