LEONARDO D. DUROG, MUNICIPAL BUDGET OFFICER, DANGCAGAN, BUKIDNON, PETITIONER, VS. EDITHA PACAMALAN, ASSISTANT MUNICIPAL TREASURER, DANGCAGAN, BUKIDNON, RESPONDENT.

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SANTOS, J.:[1]

This is a Petition for Review under Rule 43 of the Rules of Court filed by petitioner Leonardo D. Durog to assail the 11 February 2013 Decision[2] of the Office of the Ombudsman-Mindanao in OMB-M-A-10-058-B finding him guilty of Simple Dishonesty. The dispositive portion of the assailed Decision reads:

> WHEREFORE, finding substantial evidence that respondent Municipal Budget Officer LEONARDO D. DUROG is guilty of Simple Dishonesty for availing of government vehicles for personal purposes on July 9, 2009 and December 22, 2009 in attending preliminary conference at the CSC-10, Cagayan de Oro City, he is penalized with Suspension for Four (4) Months, pursuant to CSC Resolution No. 1101502 (Revised Rules on Administrative Cases in the Civil Service) promulgated on November 8, 2011. The Honorable Municipal Mayor of Dangcagan, Bukidnon, is hereby directed to immediately implement this decision in accordance with Memorandum Circular No. 1, Series of 2006 of the Ombudsman, proof of compliance to be submitted within ten (10) days.
>
> SO DECIDED.

The Antecedents

Petitioner Leonardo D. Durog is the Municipal Budget Officer of the Local Government Unit (LGU) of Dangcagan, Bukidnon, while respondent Editha R. Pacamalan is the Assistant Municipal Treasurer thereat and was then designated as the Acting Municipal Accountant.

On 12 February 2010, respondent filed an Affidavit of Complaint[3] with the Office of the Ombudsman-Mindanao against petitioner for Serious Dishonesty, Grave Abuse of Authority and Violation of Republic Act 3019 or the Anti-Graft and Corrupt Practices Act, docketed as OMB-M-A-10-058-B.

It appears from the record that respondent's Complaint with the Office of the Ombudsman arose from the administrative complaint she previously filed against petitioner before the Civil Service Commission (CSC), Cagayan de Oro City. In respondent's Affidavit, she alleged that she filed a complaint against petitioner before the CSC Office for Grave Misconduct, Discourtesy and/or Violation of RA 6713. She said that the said complaint with the CSC has nothing to do with the performance of petitioner of his official functions and responsibilities and therefore a "private matter" for which petitioner should be personally liable and the expense of which he should personally assume. However, she alleged that during the Preliminary Conference before the CSC Office on 09 July 2009, she personally saw petitioner transported to CSC Office at Vamenta Blvd., Carmen, Cagayan de Oro City, using a government vehicle with Plate Number SHN 407, driven by Rey Bonggo, a government employee. She further alleged that she was surprised to learn that petitioner in attending the Preliminary Conference involving "private matter" had misrepresented the occasion as an Official Travel and used the government vehicle, driven by a government employee, and using fuel paid for by the government as supported by the

following documents attached to her Complaint:

"C"

Vehicle Trip Ticket dated July 9, 2009 for Car. No. SHN 407, with Rey Bonggo as driver, Cagayan de Oro City as destination, Janeth Atrigenio, Leonardo Durog (petitioner), et al. as authorized passengers, and certified by Leonardo Durog (petitioner), Authorized Passenger, that the said vehicle was used on official business;[4]

"D"

Obligation Request No. 101-2009-07-1921 dated 7/10/2009 for the reimbursement of Diesel used during the official travel in the amount of P2,000.00, with Janeth Atrigenio as Payee;[5]

"E"

Disbursement Voucher No. 101-2009-07-1921 dated 7/10/2009 for the reimbursement of diesel used during Official travel;[6]

"F"

Purchase Request dated 7/10/2009 for diesel with estimated cost of P2,000.00;[7]

"G"

Purchase Order dated 7/10/2009 for diesel with estimated costs of P2,000.00;[8]

"H"

Fuel Consumption Report for the period July 9, 2009 with Total Cost of P2,000.00, station to Cagayan de Oro City.[9]

Respondent also alleged in her Affidavit that she was even more "shocked" to discover that for the very same Preliminary Conference on 09 July 2009, petitioner not only availed of a government vehicle but also claimed and received payment for his traveling expenses in the amount of P2,180.00 as evidenced by the following documents she attached to the Complaint:

"I"

Obligation Request No. 19-2009-07-1842 dated 03 July 2009 for payment of traveling expense in the amount of P2,180.00;[10]

"J"

Disbursement Voucher dated 06 July 2009, with Leonardo D. Durog (petitioner) as payee for payment of travelling expense incurred while out of station for an official business, in the total amount of P2,180.00;[11]

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> "K"
>
> Itinerary of Travel of Leonardo D. Durog (petitioner) for his travel on 7/8-9/2009 to Cagayan de Oro City and Malaybalay, with total expenses of P2,180.00;[12]
>
> "L"
>
> Travel Order of Leonardo D. Durog for Cagayan de Oro City on 7/8-9/2009, with purpose of travel to "Attend Conference and Preliminary Conference"[13]

It was claimed by respondent in her Affidavit that petitioner took advantage of his position as the Municipal Budget Officer to ensure that his attendance at the CSC Office during the Preliminary Conference on 09 July 2009, involving "private matter," to be on official time or as an official travel for which he was paid per diem and was able to use a government vehicle. She further claimed that what made petitioner's act even more condemnable was that he claimed additional travelling expenses.

Respondent likewise alleged that another Preliminary Conference was set by the CSC Office on 22 December 2009 and on the scheduled hearing, she again personally saw that petitioner and his counsel were transported to the CSC Office by a government vehicle, a red Isuzu with Plate Number SKA 438 driven by Ricardo Billiones, a job order worker, as shown by the photographs[14] taken outside the CSC Office on that day.

Respondent claimed that by committing these acts of dishonesty and abuse of authority, petitioner did not place any respect and regard to his position and his designation as the Resident Ombudsman for Dangcagan, Bukidnon, to which he apparently held in concurrent capacity, and which positions are reposed with trust and confidence and should therefore aggravate his offense. She further claimed that petitioner is a recidivist as he was previously found by the Office of the Ombudsman guilty of Simple Misconduct in Case No. OMB-M-A-03-022-A on 31 March 2004 for which he was meted out the penalty of suspension for one (1) month and one (1) day.[15]

Thus, respondent alleged that she filed the Complaint before the Office of the Ombudsman because petitioner misrepresented that his trip to Cagayan de Oro City on 09 July 2009, which was a "private matter," as an official transaction, for which reason he was granted official time and the use of a government vehicle, and on top of that for claiming and receiving payment for travelling expenses, and again for using a government vehicle for personal concern on 22 December 2009, all to the prejudice of the government.

On the other hand, petitioner denied the allegations of respondent. He explained that his travel to Cagayan de Oro City on 09 July 2009 was on official business because he attended a conference at the Office of the National Bureau of Investigation (NBI), Cagayan de Oro City on that date. He alleged that before the scheduled conference, he prepared an Obligation Request for his travelling expenses in the amount of P2,180.00 including his official travel to Malaybalay City, Bukidnon on 08 July 2009. He said that the Disbursement Voucher for both official trips was paid on 06 July 2009.[16]

Petitioner also explained that on 09 July 2009, he traveled from Dangcagan, Bukidnon by "hitch riding" on the government vehicle requisitioned by Janeth Atrigenio, Human Resource Management Officer of the LGU of Dangcagan. He said that he traveled in the early morning of that day as he intended to go to Cagayan de Oro City by means of public transportation as reflected in his Itinerary of Travel. However, he added that while waiting for a public transportation, the van of the LGU-Dangcagan bearing Plate No. SHN-407, driven by Rey Bonggo, passed by and he was accommodated as "hitch-rider" thereon. Inside the vehicle were Janeth Atrigenio, the requisitioning officer and the official user of the vehicle, and three (3) others passengers. He claimed that this fact was supported by the Vehicle Trip Ticket, Obligation Request, Disbursement Voucher, Purchase Request,

Purchase Order and Fuel Consumption Report showing that the requisitioning officer and the official user as authorized by the Municipal Mayor was Janeth Atrigenio. Consequently, as he alleged that as he was not able to ride on a public transportation in going to Cagayan de Oro, he reimbursed the LGU-Dangcagan the amount of P760.00 corresponding to his fare for the said travel.[17]

Petitioner also denied the allegation of respondent anent the use of the government vehicle with Plate Number SKA 438 on 22 December 2009 to attend the Preliminary Conference at the CSC Office. While he admitted that he was a passenger of the Isuzu Pick-up with Plate Number SKA 438 on 22 December 2009, yet, he argued that it was only from his counsel's residence at Dolores Compound, Dolores St., Cagayan de Oro City going to the CSC Office which is a mere 500-meter distance away.[18] He explained that on 22 December 2009, he rode on the car of his counsel from Don Carlos, Bukidnon in going to Cagayan de Oro City to attend the Preliminary Conference at the CSC Office and vice-versa. He further explained that when they arrived at Cagayan de Oro City, they proceeded at the apartment of his counsel at Dolores Compound, and while at the said place, he received a phone call from Ricardo Billiones, the driver of the Isuzu Pick-up with Plate Number SKA 438, who was looking for him. Thereafter, Ricardo Billiones arrived at the apartment and after a short conversation with him, he and his counsel rode on the said vehicle in going to the CSC Office. He added that when they arrived at the CSC Office and after dropping them off, Ricardo Billiones proceeded to his destination. He claimed that there is nothing wrong with the travel because he was then on official leave of office on that day. Likewise, he claimed that the requisitioning officer and the official passenger of that vehicle was a certain Ariel Maallo, a former Sangguniang Bayan Member of Dangcagan, Bukidnon, who requested the Municipal Mayor to use the government vehicle to Cagayan de Oro to pick up his sick son and also to load a set of computer from Cagayan de Oro to be brought to Dangcagan. He said that this was evidenced by the Vehicle Trip Ticket dated 22 December 2009.[19]

After due proceedings, the Office of the Ombudsman rendered the assailed Decision dated 11 February 2013 finding petitioner guilty of Simple Dishonesty and sentenced him with Suspension for four (4) months.

Hence, the present petition.

The Issues

Petitioner raised the following issues as assigned errors in his petition for this Court's resolution:

> - WITH ALL DUE RESPECT, THE HONORABLE OFFICE OF THE OMBUDSMAN COMMITTED SERIOUS ERROR IN ISSUING THE DECISION DATED FEBRUARY 11, 2013 ALL TOO HASTILY DECLARING THAT APPELLANT'S TRIP TO CIVIL SERVICE COMMISSION-CAGAYAN DE ORO CITY ON JULY 9, 2009 AND DECEMBER 22, 2009, RESPECTIVELY, WERE PERSONAL TRIPS SUMMARILY DENYING APPELLANT'S RIGHT TO CLAIM PER DIEM AND TRAVEL ALLOWANCE. FURTHER, CONTRARY TO THE FINDINGS OF THE HONORABLE OFFICE OF THE OMBUDSMAN, APPELLANT MR. DUROG MERELY HITCHED A RIDE FOR THE HEARING ON JULY 9, 2009, NOR DID APPELLANT USE A GOVERNMENT VEHICLE FOR THE COMMISSION ON CIVIL SERVICE CONFERENCE IN CAGAYAN DE ORO ON DECEMBER 22, 2009.
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> - FURTHER CONSIDERING THAT THE TRIPS TO CIVIL SERVICE COMMISSION-CAGAYAN DE ORO CITY ON JULY 9, 2009 AND DECEMBER 22, 2009, RESPECTIVELY, WERE FOR OFFICIAL PURPOSE, AND APPELLANT DID NOT USE A GOVERNMENT VEHICLE IN BOTH HEARINGS, CLEARLY THERE WAS NO DISHONESTY HENCE APPELLANT'S SUSPENSION FOR FOUR (4) LONG MONTHS' (SIC) MUST BE REVERSED. OTHERWISE, A LIGHTER PENALTY OF REPRIMAND WITH STERN WARNING IS MORE APPROPRIATE CONSIDERING THAT FOUR (4) MONTHS SUSPENSION APPEARS EXCESSIVE, INIQUITOUS AND EVEN OPPRESSIVE RELATIVE TO THIS LIGHT OFFENSE, IF ANY.

This Court’s Ruling

The petition is devoid of merit.

Anent the first issue, petitioner contends that his travel to Cagayan de Oro City on 09 July 2009 in order to attend the Preliminary Conference at the CSC Office in administrative case for Simple Misconduct and Discourtesy docketed as No. 2010-D-10-2009 was actually work-related; hence, for official purpose. He argues that the case filed against him before the CSC emanated from the grievances and ill feelings of respondent against him and the case was in relation to the discharge of their official functions – respondent being the designated Acting Municipal Accountant of Dangcagan, Bukidnon at that time while he is the Municipal Budget Officer. He further argues that respondent suspected him as the one responsible for the following: (a) reporting her to the Municipal Mayor for allegedly working at her residence and not at the Municipal Hall, (b) highlighting respondent’s failure to submit required documents in connection with her work, and (c) the passage of two (2) Sangguniang Bayan Resolutions recommending respondent’s removal as the Acting Municipal Accountant for incompetence. He claims that as the conflict between him and respondent clearly arose from the discharge of their functions, the CSC case was in connection with their official duties and indisputably work-related. The phrase “in the course of official duties” indicated in the title of CSC case clearly and convincingly shows that the CSC case stemmed from an official transaction. As such, he contends that the Notice of Preliminary Conference from the CSC readily shows the official nature of the preliminary conference. Besides, he adds that if he fails to attend the Preliminary Conference it would have made him liable for contempt, aside from being declared in default. After all, he explains that procedural due process requires that he be afforded the opportunity to be heard and to adduce evidence in his behalf before the CSC.

Petitioner likewise contends that his act of affixing his signature as the “Authorized passenger” in the Vehicle Trip Ticket was done due to oversight and plain inadvertence and without any malice or dishonesty. He explains that as he had to sign various documents then, he immediately signed his name in the “authorized passenger.” He adds that he believed in good faith that he was, in fact, one of the passengers of the van, although, he merely hitched a ride, and not the requesting officer. Hence, petitioner claims that he erroneously signed the Vehicle Trip Ticket believing in good faith that the document was in order and only for the purpose of liquidating the fuel consumption for that particular travel. He further adds that when his attention was called on this slight error, he immediately returned his travel allowance of P760.00, indicating his good faith. He, nonetheless, contends that he did not return his per diem anymore since he was on official business for a work-related case at the CSC Office on 09 July 2009 at 10:00 a.m. and at the NBI Office at 1:30 p.m. as shown by his Certificate of Appearance issued by the NBI Acting Regional Director. Moreover, petitioner contends that the Vehicle Trip Ticket shows that it was prepared on 09 July 2009 when he was already on official travel; hence, he was not the one responsible for the preparation thereof. Also, he contends the Obligation Request dated 10 July 2009 and the Disbursement Voucher for the reimbursement of the fuel used during the travel show that the “Head/Requesting Officer/Authorized Representative” was the Municipal HRMO Head, Janet Atregenio.

Anent the 22 December 2009 travel to Cagayan de Oro City, petitioner contends that he did not use a government vehicle for his personal purpose on this travel in order to attend the Preliminary Conference at the CSC Office. He argues that he and his counsel merely hitched a ride in going to the CSC Office which is located 500 meters away from the residence of his counsel at Dolores Apartment. Thus, he asserts that as the conferences before the CSC were likewise official in nature, there was no dishonesty on his part and the assailed Decision of the Office of the Ombudsman should be reversed and set aside.

Petitioner fails to persuade this Court.

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Prefatorily, it is worth emphasizing that to sustain a finding of administrative culpability, like the present case involving administrative case for dishonesty, only substantial evidence is required, not overwhelming or preponderant, and very much less than proof beyond reasonable doubt as required in criminal cases. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[20]

A judicious review of the present case reveals that the finding of the Office of the Ombudsman on the administrative culpability of the petitioner is supported by clear and substantial evidence. Apparently, petitioner is trying to persuade this Court that his attendance at the CSC Office was on official business as the case filed against him before the CSC was work-related. It appears, however, that petitioner raised this defense that the case filed against him before the CSC was "work-related" only on this petition. Nowhere in the record could it be inferred that he raised that defense in the proceeding below. In Peña v. Tolentino[21] citing Carantes v. Court of Appeals,[22] the Supreme Court held that "defenses not pleaded in the answer may not be raised for the first time on appeal. A party cannot, on appeal, change fundamentally the nature of the issue in the case. When a party deliberately adopts a certain theory and the case is decided upon that theory in the court below, he will not be permitted to change the same on appeal, because to permit him to do so would be unfair to the adverse party." Hence, petitioner should not be allowed to change his defense or theory of the case on this petition.

This notwithstanding, this Court finds no merit to the present petition. It is important to note that while it is true that respondent charged him with "Simple Misconduct and Discourtesy in the course of official duty," yet, this does not necessarily mean that he was charged in his official capacity, and not in his personal capacity, and that his attendance in the proceedings thereat was an official business.

In Pascual v. Beltran,[23] the Supreme Court elucidated that "[W]hat is determinative of the nature of the cause of action are the allegations in the complaint. It is settled that the nature of a cause of action is determined by the facts alleged in the complaint as constituting the cause of action. The purpose of an action or suit and the law to govern it is to be determined not by the claim of the party filing the action, made in his argument or brief, but rather by the complaint itself, its allegations and prayer for relief."

A perusal of the Affidavit of Complaint[24] of respondent filed before the CSC-Cagayan de Oro City shows that what she filed was an administrative complaint alleging that she was a victim of the series of abusive conduct committed by petitioner.[25] Pertinent portions of her Affidavit of Complaint reads:

> 5. That on March 31, 208, Leonardo D. Durog (petitioner in this case) entered my office and forced me to sign his RATA voucher for the month of April 2008. I refused to sign the RATA voucher because it cannot yet be claimed by him as service had not yet been rendered with respect to the said RATA;
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> 6. That because of my refusal to sign his RATA voucher, Leonardo D. Durog got angry and uttered word against me that casts aspersion upon my honor, saying: "Bugok ka. Butahan ta ka" ("You're a moron. I am going to blind you!"), in the presence of my co-employees and subordinates;
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> xxx
>
> 8. That on September 29, 2008, I pre-audited the per diem vouchers of Leonardo D. Durog and several municipal officers of the Municipality of Dangcagan for their travel to Cagayan de Oro City;
>
> 9. That as part of the austerity measures of the municipality and because we have no sufficient funds xxx, I reduced the per diem from Eight Hundred Pesos (P800.00) to Five Hundred Pesos (P500.00);
>
> 10. That the reduction of per diem xxx was made upon verbal instruction to me by the Municipal Mayor. xxx
>
> 11. That upon claiming his per diem xxx, Leonardo D. Durog angrily tore to pieces the said voucher in front of

> the disbursing officer, Jocelyn Javelona, and threw it on the table of the said disbursing officer, apparently angered that I reduced the amount;
>
> 12. That further, in the morning of November 17, 2008, a clerk of Leonardo D. Durog xxx came to my office bringing with her the PERA, ACA, and RATA disbursement voucher of Leonardo D. Durog for my signature;
>
> xxx
>
> 17. That minutes later, Leonardo Durog entered my office and confronted me as to why I deducted from his PERA, ACA and RATA disbursement voucher the amount of Four Thousand Two Hundred Fifty Pesos (P4,250.00) in payment for his loan amortization with 1st Valley Bank, Inc.,
>
> xxx
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> 18. That Leonardo D. Durog did not listen to my explanation and instead uttered insulting words against me, saying: "Buang ka! Imusmus ta ka karon! Manghilabot ka sa akong personal nga loan? Ngano imo i-deduct sa ako voucher? Bugok! Buta! Butahan ta kag usab!" (You're crazy! I'll smash your face on the ground. Why would you interfere on my personal loan? Why would you deduct it on my voucher? Moron! Blind! I am going to blind you again!);
>
> 19. That these words really hurt my feelings so much and especially so as regards his comments on my physical imperfection as I have one artificial eye, my left eye;
>
> xxx
>
> 24. That the acts of calling me derogatory words is unfair on my part as I was only doing my job as Municipal Accountant as mandated by the rules and regulations;
>
> 25. That, further, the act of Leonardo D. Durog of hurling me invectives caused me so much prejudice, mental anguish, besmirched, reputation, moral shock, social humiliation and similar injury;
>
> xxx

Verily, from the foregoing allegations, it is apparent that the administrative case against petitioner before the CSC Office was purely personal to him although the acts charged against him were done at the office premises during office hours. Petitioner was, thus, charged in his personal capacity for his misconduct and discourtesy and not for his regular performance of his official functions. Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."[26] In this case, the acts complained of against petitioner affect his standard of behavior which is purely personal to him and not because of his acts done in his official capacity.

Consequently, petitioner's attendance at the proceedings at the CSC Office to defend himself against the administrative charge has no direct connection and relation to his official functions as the Municipal Budget Officer; hence, not official business. Neither does his attendance thereat constitute official representation of his office in relation to his functions. Stated otherwise, his attendance during the proceedings before the CSC on the administrative case filed against him is clearly a personal matter to him and not in pursuance of his official functions or in connection with his official duties, although the acts complained of may have been committed during office hours.

Likewise, as petitioner's attendance at the CSC Office during the Preliminary Conferences was not on official business or official time, there is no reason for him to use the government vehicle for this purpose and to claim a per diem for his travel. As correctly found by the Office of the Ombudsman, petitioner used the LGU vehicle with Plate Number SHN 407 during the 09 July 2009 travel to Cagayan de Oro City as shown on the Vehicle Trip

Ticket[27] with petitioner as the signatory of the "Authorized Passenger" of the said vehicle while at the same time claimed his per diem and travel allowance for this travel as shown by his Travel Order[28] showing that on 08-09 July 2009, petitioner attended a "conference and preliminary conference." This Court agrees with the findings of the Office of the Ombudsman that it could be inferred then that the "conference" mentioned in the travel order refers to the meeting[29] of petitioner on 08 July 2009 for Local Budget Officer at the Provincial Capitol, Malaybalay, Bukidnon, while the "preliminary conference" refers to the proceeding before the CSC Office.[30] Verily, petitioner is concealing the truth and making it appear that his travel on 09 July 2009 to Cagayan de Oro was likewise official and he was entitled to the travel allowances as a consequence thereof. Albeit, petitioner thereafter returned his supposed fare for this travel, this will not relieve him of his administrative culpability. The fact remains that petitioner was being untruthful to his declaration of the purpose and nature of his travel.

Dishonesty means the "concealment of truth in a matter of fact relevant to one's office or connected with the performance of his duties. It is an absence of integrity, a disposition to betray, cheat, deceive or defraud, bad faith."[31]

Likewise, in Office of the Ombudsman v. Racho,[32] dishonesty is defined as follows:

> Dishonesty begins when an individual intentionally makes a false statement in any material fact, or practicing or attempting to practice any deception or fraud in order to secure his examination, registration, appointment or promotion. It is understood to imply the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray. It 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. Section 52 (A)(1), Rule IV of the Revised Uniform Rules on Administrative Cases in Civil Service treats dishonesty as a grave offense the penalty of which is dismissal from the service at the first infraction.

Corollarily, petitioner's claim that his act of affixing his signature on the Vehicle Trip Ticket was due to mere oversight and plain inadvertence and without any malice or dishonesty, is not worthy of any belief. There is sufficient evidence found in the record to prove otherwise. Also, his claim of good faith is inconsequential. In Office of the Ombudsman v. Racho, the Supreme Court likewise held that:

> Respondents' claim of good faith, which implies a sincere intent not to do any falsehood or to seek any undue advantage, cannot be believed. This Court pronounced –
>
> Good faith, here understood, is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another. x x x.[33] (Emphasis on the original.)

Moreover, this Court cannot give credence to the contention of petitioner that he attended a meeting at the Office of the NBI-Cagayan de Oro in the afternoon of 09 July 2009; hence, his conclusion that his travel was official. A thorough reading of the assailed Decision reveals that the claim of petitioner that he indeed attended a meeting at the NBI Office was "unsupported by a Certificate of Appearance to prove his business thereat."[34] Verily, it could be deduced therefrom that no proof of his attendance before the NBI was presented before the Office of the Ombudsman in order for this evidence to be considered. Though petitioner attached the original copy of his Certificate of Appearance[35] on his Reply to respondent's Comment to the Petition, yet, this Court could no

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longer consider this belated submission of evidence on appeal as this could have been submitted before the proceedings below. The belated submission thereof without any valid explanation casts doubt on its credibility, especially so when the same is not a newly discovered evidence.[36]

The Supreme Court in Republic of the Philippines v. Castro[37] is most instructive when it held that "[T]o allow a party to attach any document to his pleading and expect the court to consider it as evidence may draw unwarranted consequences. The opposing party would be deprived of a chance to examine the document and object to its admissibility. The appellate court would also have difficulty reviewing the documents not previously scrutinized by the court below. Indeed, the pertinent provisions of the Revised Rules of Court on the inclusion on appeal of documentary evidence or exhibits in the records cannot be stretched as to include such pleadings or documents not offered at the hearing of the case. Piecemeal presentation of evidence is simply not in accord with orderly justice."

Furthermore, the finding of the Office of the Ombudsman that petitioner used again the LGU vehicle during the Preliminary Conference at the CSC Office on 22 December 2009 was supported by evidence. The photographs[38] submitted by respondent before the Office of the Ombudsman showing the Isuzu Pick-up vehicle of the LGU-Dangcagan parked outside the CSC Office and another picture of petitioner talking with his counsel outside the parked Isuzu vehicle, as well as the Affidavit[39] of Hazel R. Pacamalan-Montimor who was the one who took the pictures undoubtedly disprove the claim of petitioner that he and his counsel merely hitched a ride in going to the CSC Office.

The Supreme Court has consistently reminded the public servants that public service demands utmost integrity and discipline. It emphasized that a public servant must display at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that a public office is a public trust; and all public officers and employees must at all times be accountable to the people and serve them with utmost responsibility, integrity, loyalty and efficiency.[40] Thus, this Court sustains the ruling of the Office of the Ombudsman finding petitioner guilty of Simple Dishonesty.

Consequently, there is no merit to the second issue raised by petitioner. He contends that as there was no dishonesty on his part and he did not use any government vehicle for the scheduled conferences at the CSC, the four (4) months suspension imposed upon him must be reversed and set aside. He further contends that if at all, the penalty of reprimand with stern warning that a repetition of the same offense would warrant a stiffer penalty is the more appropriate penalty. He argues that imposing a penalty of four (4) months for attending CSC hearings which are official in nature and without the use of a government vehicle is clearly excessive, iniquitous and even unconscionable and oppressive. Likewise, he argues that he has been in the government service for thirty-three (33) years with an impressive track record; hence, a mitigation of his liability, if any, is warranted. This Court disagrees.

As petitioner is found guilty of Simple Dishonesty, the Office of the Ombudsman is correct in imposing the penalty of suspension for four (4) months.

Section 46 (E), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service provides:

> The less grave offense of 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. (Emphasis added.)

Thus, the penalty of suspension of four (4) months is appropriate in this case as it is well within the imposable penalty for the offense of simple dishonesty as provided under the Revised Rules on Administrative Cases in the Civil Service. Likewise, even if this Court considers petitioner's 33 years of length of service as a mitigating

circumstance, the penalty imposed upon petitioner is still appropriate considering that the maximum imposable penalty of six (6) months suspension for simple dishonesty was not imposed by the Office of the Ombudsman in his case. Hence, this Court sustains the four (4) months suspension of petitioner.

WHEREFORE, premises considered, the instant petition is DENIED. The assailed 11 February 2013 Decision of the Office of the Ombudsman-Mindanao is hereby AFFIRMED.

SO ORDERED.

Lloren, J., Ch., and Contreras, JJ., concur.

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[1] The case was unloaded to the undersigned Ponente pursuant to Office Order No. 03-14-JMBP dated 01 April 2014 as part of his initial caseload.

[2] Annex “A” to the Petition, Rollo, pp. 29-36.

[3] Annex “2” to the Comment to the Petition, Id., pp. 119-123.

[4] Annex “C” to the Affidavit Complaint, Id., p. 130.

[5] Annex “D” to the Affidavit Complaint, Id., p. 131.

[6] Annex “E” to the Affidavit Complaint, Id., p. 132.

[7] Annex “F” to the Affidavit Complaint, Id., p. 133.

[8] Annex “G” to the Affidavit Complaint, Id., p. 134.

[9] Annex “H” to the Affidavit Complaint, Id., p. 135.

[10] Annex “I” to the Affidavit Complaint, Id., p. 136.

[11] Annex “J” to the Affidavit Complaint, Id., p. 137.

[12] Annex “K” to the Affidavit Complaint, Id., p. 138.

[13] Annex “L” to the Affidavit Complaint, Id., p. 139.

[14] Annexes “N” to “N-5” of the Affidavit Complaint, Id., p. 141-142.

[15] Annex “O” to the Affidavit Complaint, Id., pp. 143-144; Also Annex “4” to the Comment to the Petition, Id., p. 156-165.

[16] As found at Page 2 of the Decision dated 11 February 2013 of the Ombudsman-Mindanao, Id., p. 30.

[17] Reply to Position Paper of Complainant, Id., 196-197.

[18] As found at Pages 2-3 of the Decision dated 11February 2013 of the Ombudsman-Mindanao, Id., p. 30.

[19] Reply to Position Paper of Complainant, Id., 198-199.

[20] Office of the Ombudsman v. Torres, G.R. No. 168309, January 29, 2008.

[21] G.R. No. 155227-28, February 9, 2011.

[22] G.R. No. L-33360, April 25, 1977.

[23] G.R. No. 129318, October 27, 2006.

[24] Rollo, pp. 124-127.

[25] Paragraph No. 4 of the Affidavit of Complaint, Supra, at p. 124.

[26] Office of the Ombudsman v. Miedes, Sr., G.R. No. 176409, February 27, 2008.

[27] Rollo, p. 130.

[2]8 Id., p. 139.

[29] Id., p. 54.

[30] Pages 5-6 of the Decision of the Ombudsman, Id., pp. 33-34.

[31] Del Rosario v. Pascua, A.M. No. P-11-2999, February 27, 2012.

[32] G.R. No. 185685, January 31, 2011.

[33] PNB v. De Jesus, 458 Phil. 454, 459-460 (2003); cited in Office of the Ombudsman v. Torres, G.R. No. 168309, January 29, 2008.

[34] Page 4 of the Decision of the Ombudsman, Rollo, p. 32.

[35] Annex “A” to the Reply, Id., p. 211.

[36] Misamis Oriental II Electric Service Cooperative v. Cagalawan, G.R. No. 175170, September 05, 2012.

[37] G.R. No. 172848, December 10, 2008.

[38] Annexes “N” to “N-5” to the Comment, Id., pp. 141-142.

[39] Id., pp. 154-155.

[40] Bascos, Jr. v. Taganahan, G.R. No. 180666, February 18, 2009; cited in Office of the Ombudsman v. Racho, G.R. No. 185685, January 31, 2011.

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