PRESCILA MAGSALAY BOHOL, MUNICIPAL TREASURER, AND LUZ CALUNSAG REBOJO, MUNICIPAL ACCOUNTANT, MUNICIPALITY OF MAGSAYSAY, LANAO DEL NORTE, PETITIONERS, VS. OFFICE OF THE OMBUDMAN ...

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SINGH, J.:[*]

In this Petition for Review[1] under Rule 43 of the 1997 Rules of Civil Procedure, petitioners Prescila Magsalay Bohol (Bohol) and Luz Calunsag Rebojo (Rebojo) seek to annul and set aside the April 28, 2006 Decision[2] of the Office of the Deputy Ombudsman for Mindanao (Deputy Ombudsman) finding them guilty of Grave Misconduct and Neglect of Duty for which they were meted the penalty of dismissal from the service. Equally assailed is the Deputy Ombudsman's Order[3] dated August 26, 2010, denying petitioners motion for reconsideration thereof.

THE FACTS

As aptly synthesized by the Office of the Ombudsman in its Order[4] (on review of the proposed decision of the Deputy Ombudsman for Mindanao) dated February 9, 2009, the facts are:

> "x x x when complainant applied with the GSIS for an eight (8) months salary loan on 10 February 2003, she was denied by reason of the suspension of loan grants for the LGU of Magsaysay as of 18 December 2002 as certified to by GSIS Iligan Branch. The suspension was due to the non-remittance or delay in remittances of the compulsory monthly premium contributions of the employees of the Municipality of Magsaysay, Lanao del Norte for both the Personal (PS) and Government Share (GS) to the GSIS. In that certificate, GSIS Iligan Branch stated that the LGU of Magsaysay incurred a three (3) month delayed remittance on Personal Share for August 2002 and thirteen (13) delayed monthly remittance for Government Share for October 2001. This notwithstanding the deductions made on the employees' salaries.
>
> Complainant asserts the existence of discrepancies in the remittance as alleged by the respondents and those with GSIS records as shown in the "Summary of Collectibles" detailing the "Actual Remittance", "Corrected Collectible" and "Amount Still Collectible" for the period of January 1998 to June 2001 issued by the GSIS Iligan in the total amount of P723,119.99. In stark contrast, as shown in its "Certified Statement of Income and Expenditure for CY 2001", prepared by the respondents, the LGU of Magsaysay has expended the amount of P666,742.00 for GSIS premiums. GSIS claims the LGU of Magsaysay only remitted the amount of P423,984.96 for government share in CY 2000.
>
> In denying the accusations hurled against them, respondents averred in the "Summary of Integrated GSIS Contributions and Loan Repayments" from January 1998 to September 2003, that there exists discrepancies in the premium remittances brought about by the non-posting of the remittances and the listing of the employees who are no longer connected with the LGU of Magsaysay. Respondents likewise argued the validity of the complainant's loan application stating that the complainant has applied for a loan in 2000 and the same was in fact approved. According to them, the approval of the loan only proves that the LGU of Magsaysay is in good standing with the GSIS in so far as its obligations in remitting the premiums. Respondents submitted in

> evidence the certification issued by GSIS Iligan Area Manager Hadja Mamole A. Pangandaman stating that "the compulsory premium contributions of the Local Government Unit of Magsaysay, Lanao del Norte has already been reconciled for the period July 1997 to August 2005 and the accounts payable by the said agency established."

The Deputy Ombudsman, through Graft Investigation and Prosecution Officer II, Milagros De Jesus-Macaraig, with the concurrence of Director Rodolfo M. Elman and Deputy Ombudsman for Mindanao, Antonio E. Valenzuela, rendered the Decision[5] dated April 28, 2006 with the following dispositive portion:

> "WHEREFORE, premises considered, this Office finds substantial evidence to hold respondents MUNICIPAL MAYOR HADJI HARON DEREPOSON OMAR (SG27), MUNICIPAL TREASURER, PRESCILA MAGSALAY BOHOL (SG24) AND MUNICIPAL ACCOUNTANT LUZ CALUNSAG REBOJO (SG24) guilty of the administrative offense of grave misconduct and neglect of duty. In accordance with Section 5, A (1) (3) of Rule IV (Penalties) of the Uniform Rules on Administrative Cases in the Civil Service which was promulgated pursuant to CSC Resolution No. 991936, respondents PRESCILA MAGSALAY BOHOL and LUZ CALUNSAG REBOJO are hereby dismissed from the service. With respect to respondent Municipal Mayor HADJI HARON DEREPOSON OMAR, he is hereby imposed the penalty of suspension from public office for a period of six (6) months in accordance with Section 66, Chapter Four, Title Two of the Local Government Code of 1991.
>
> The Honorable Regional Director of the Department of Interior and Local Government, Region 12, Lanao del Norte, is hereby directed to implement this Decision upon attaining its FINALITY.
>
> SO DECIDED."

In an Order dated February 9, 2009, the Office of the Ombudsman, through Acting Director Maribeth R. Taytayon-Padios, approved[6] the April 28, 2006 Decision.

Petitioners Bohol and Rebojo filed a Motion for Reconsideration[7] of the April 28, 2006 Decision but the same was denied8 by the Deputy Ombudsman in an Order dated August 26, 2010, the dispositive portion of which states:

> "WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED. The Decision of this Office dated 28 April 2006 is hereby reiterated.
>
> SO ORDERED."

THE ISSUES

Aggrieved, petitioners raise the following issues:

> "Whether or not petitioners are guilty of grave misconduct and neglect of duty," and,
>
> "Whether or not the imposition of dismissal from service is proper."[9]

THE RULING OF THIS COURT

In essence, the fundamental issue in the instant case is whether the Deputy Ombudsman erred in finding petitioners Bohol and Rebojo guilty of Grave Misconduct and Neglect of Duty, warranting their dismissal from the service.

The Court finds in the negative and affirms the Deputy Ombudsman's Decision.

In an administrative proceeding, the evidentiary bar against which the evidence at hand is measured is not the

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highest quantum of proof beyond reasonable doubt, requiring moral certainty to support affirmative findings. Instead, the lowest standard of substantial evidence, that is, such relevant evidence as a reasonable mind will accept as adequate to support a conclusion, applies. Because administrative liability attaches so long as there is some evidence adequate to support the conclusion that acts constitutive of the administrative offense have been performed (or have not been performed), reasonable doubt does not ipso facto result in exoneration unlike in criminal proceedings where guilt must be proven beyond reasonable doubt.[10]

In this case, there is substantial evidence to support the conclusion that petitioners are guilty of the administrative charges against them.

Section 5 (c) of Republic Act (R.A.) No. 8291[11] provides:

> "Section 5. Contributions. - x x x
>
> (c) It shall be mandatory and compulsory for all employers to include the payment of contributions in their annual appropriations. Penal sanctions shall be imposed upon employers who fail to include the payment of contributions in their annual appropriations or otherwise fail to remit the accurate/exact amount of contributions on time, or delay the remittance of premium contributions to the GSIS. The heads of offices and agencies shall be administratively liable for non-remittance or delayed remittance of premium contributions to the GSIS. x x x" (emphasis supplied)

The records show that from 1997 to 2005, the Local Government Unit (LGU) of Magsaysay, through its Municipal Mayor Hadji Haron Dereposon Omar and herein petitioners Bohol and Rebojo, as Municipal Treasurer and Accountant, respectively, failed to remit within the timeframe provided by law the Government Service Insurance System (GSIS) contributions of its employees and/or incurred delays in the remittance of the same beyond the time allowed by law. That the LGU of Magsaysay failed to make and/or delayed the GSIS remittance of its employees is evident from the fact that when private respondent Felicidad D. Magtagad applied for a salary loan, the same was denied notwithstanding the regular deductions made from her salary. In truth, the GSIS suspended the loan privileges of members from the LGU of Magsaysay as of 18 December 2002 precisely due to the afore-mentioned reasons. This is the most telling evidence against the petitioners.

Had petitioners, in their respective capacities, exercised due care and diligence, the resulting inconsistencies pertaining to the (a) amounts actually remitted to the GSIS and (b) process of approving and certifying the vouchers for GSIS remittances, could have been avoided. All these anomalies resulted due to the gross misconduct and negligence committed by the petitioners in handling the GSIS remittances.

In Ganzon v. Arlos,[12] the Supreme Court reiterated that:

> "Misconduct is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest." (emphasis supplied)

Here, there was a manifest disregard of established rules on the part of the petitioners. The failure to remit and/or delay in remittance committed by petitioners was clearly attended by bad faith and neglect since the same did not happen only once but continued from 1997 to 2005. R.A. No. 8291 is explicit[13] that any employee (like herein petitioners), after deducting the monthly contribution or loan amortization from a member's compensation, shall be presumed to have misappropriated such contribution or loan amortization when he or she fails to remit the same to the GSIS within thirty (30) days from the date they should have been remitted under Section 6(a) thereof. Thus, when petitioners omitted or failed to timely remit the monthly contributions to the GSIS, they were

presumed to have misappropriated the same, a clear violation of the law. The burden to overcome the presumption lies with the petitioners, which in this case they failed to do.

On the contrary, the much-touted Memorandum of Agreement[14] with the GSIS is a testament to the petitioners' non-remittance and late remittance of employee contributions way beyond the 30-day period prescribed by law.

A plain reading of the provisions of the Memorandum of Agreement indeed points to the conclusion that the LGU of Magsaysay acknowledged the accounts payable to the GSIS:

> "WHEREAS, the LOCAL GOVERNMENT UNIT OF MAGSAYSAY is identified to be one of the government agencies with outstanding premium arrearages still due to the GSIS;
>
> WHEREAS, by reason of the outstanding premium arrearages, the corresponding loan privileges of members from the LOCAL GOVERNMENT UNIT OF MAGSAYSAY were subsequently suspendedby the GSIS;
>
> WHEREAS, it is necessary that the GSIS and the LOCAL GOVERNMENT UNIT OF MAGSAYSAY come into a cooperative agreement in order to insure the prompt settlement of said accounts and, thus, allow the lifting of the suspension of the loan privileges of the members of the LOCAL GOVERNMENT UNIT OF MAGSAYSAY ;
>
> WHEREAS, after reconciliation of record, the LOCAL GOVERNMENT UNIT OF MAGSAYSAY is found to be in arrears of premium contributions in the amount of FOUR MILLION NINETY THREE THOUSAND FOUR HUNDRED EIGHTEEN PESOS AND TWO CENTAVOS (Php4,093,418.02) as of October 10, 2005;
>
> WHEREAS, the LOCAL GOVERNMENT UNIT OF MAGSAYSAY has offered to settle the said arrearages on installment basis and that the GSIS is willing to accept the said offer.
>
> x x x x x x
>
> Upon signing of this agreement, and in consideration of the representations and undertakings herein agreed upon, the GSIS shall lift the suspension of loan privileges and other benefits of the personnel of the LOCAL GOVERNMENT UNIT OF MAGSAYSAY, which they may avail of by reason of their membership with the GSIS;
>
> x x x x x x " (emphasis supplied)

Under such circumstance, petitioners were aptly found guilty of grave misconduct and neglect of duty.

This conclusion is strengthened by the Deputy Ombudsman's own ratiocination:

> "x x x In the case of respondents Rebojo and Bohol, they were occupying their respective positions during the prior term of office of respondent Municipal Mayor Omar as that disclosed by the complainant in her Position Paper and thus this Office finds no evidence to show that their act of failing to remit the social contributions of the employees of the LGU of Magsaysay up to CY 2005 was justifiable. Thus, this Office finds substantial evidence to show that herein respondents committed the offense of grave misconduct as no iota of evidence was submitted by the respondents to justify their act of not remitting the social contributions of the employees/officials of the LGU of Magsaysay representing their Personal Share which they were mandated to do so under the law.
>
> On the issue of whether the respondents may be held liable for neglect of duty, this Office also finds in the affirmative. As earlier mentioned, respondents are well aware of the non-remittance and/or under-remittance of the social contributions of the employees of the LGU of Magsaysay. It bears repeating that herein respondents are the signatories to the proposed MOA to be executed by and between the LGU of Magsaysay and the GSIS and they even signed the same already. Further, they neglected to perform their duties such that respondent Municipal Mayor Omar neglected being responsible for the general welfare of his employees while respondent

> Bohol and Rebojo, Municipal Treasurer and Accountant, respectively, have no excuse not to see that funds entrusted by the employees of the LGU of Magsaysay which correspond to their social contributions be not duly remitted to the GSIS.
>
> x x x x x x ”

Petitioners make much of the fact that they did not use the unremitted contributions for their own benefit or personal interest. That is irrelevant as far as disregard of established rules is concerned. Lest it be forgotten, their acts and omissions resulted in grave prejudice to the employees concerned, not to mention all beneficiaries of the GSIS whose operations were presumably affected somehow due to the amount of the unremitted premiums.

Evidently, there exists substantial evidence to establish petitioners' administrative culpability as charged. Taking into consideration the expertise acquired by administrative agencies like the Office of the Ombudsman with respect to their jurisdiction,[15] this Court finds no reason to deviate from its findings. Besides, Section 27 of R.A. No. 6770[16] succinctly provides that "[f]indings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive."[17]

With the foregoing discussion and the fact that the penalty imposed is within the range provided by law,[18] no error was committed by the Deputy Ombudsman in concluding that petitioners Bohol and Rebojo are guilty of Grave Misconduct and Neglect of Duty, and in imposing upon them the penalty of dismissal from the service.

Public service requires integrity and discipline. For this reason, public servants must exhibit at all times the highest sense of honesty and dedication to duty. By the very nature of their duties and responsibilities, public officers and employees must faithfully adhere to hold sacred and render inviolate the constitutional principle that a public office is a public trust and must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[19]

WHEREFORE, the instant petition is hereby DENIED. The assailed Decision dated April 28, 2006 and Order dated August 26, 2010 both of the Office of the Deputy Ombudsman for Mindanao are hereby AFFIRMED.

SO ORDERED.

Borja, Ch., and Badelles, JJ., concur.

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[*]This case was only assigned to the Ponente by re-raffle on July 15, 2014.

[1] Rollo, pp. 4-13.

[2] Id., pp. 133-152.

[3] Id., pp. 15-34.

[4] Id., pp. 98-106.

[5] Id., pp. 133-152.

[6] Supra note 4.

[7] Rollo, pp. 76-80.

[8] Id., pp. 15-34.

[9] Id., pp. 7-8.

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[10] Eijansantos v. Special Presidential Task Force 156, G.R. No. 203696, June 02, 2014.

[11] AN ACT AMENDING PRESIDENTIAL DECREE NO. 1146, AS AMENDED, EXPANDING AND INCREASING THE COVERAGE AND BENEFITS OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, INSTITUTING REFORMS THEREIN AND FOR OTHER PURPOSES.

[12] G.R. No. 174321, October 22, 2013, citing Narvasa v. Sanchez, Jr., G.R. No. 169449, March 26, 2010, 616 SCRA 586, 591.

[13] "(f) Any employee, who after deducting the monthly contribution or loan amortization from a member's compensation, fails to remit the same to the GSIS within thirty (30) days from the date they should have been remitted under Section 6(a) shall be presumed to have misappropriated such contribution or loan amortization and shall suffer the penalties provided in Article 315 of the Revised Penal Code, and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government."

[14] Rollo, pp. 81-85.

[15] See Isabelita Vda. de Dayao and Heirs of Vicente Dayao vs. Heirs of Gavino Robles, G.R. No. 174830, July 31, 2009.

[16] The Ombudsman Act of 1989.

[17] Dagan v. Office of the Ombudsman, G.R. No. 184083, November 19, 2013; Pia v. Hon. Gervacio, G.R. No. 172334, June 05, 2013; and Ombudsman v. De Leon, G.R. No. 154083, February 27, 2013.

[18] Section 52, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

> 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:
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> x x x x x x
>
> 3. Grave Misconduct
> 1st offense — Dismissal

x x x x x x

[19] Supra note 10.

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