

RENATO A. TAPIADOR, PETITIONER, VS. OFFICE OF THE OMBUDSMAN AND ATTY. RONALDO P. LEDESMA, RESPONDENTS.

G.R. No. 129124. March 15, 2002

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-129124/>

DE LEON, JR., J.:

This is a petition for review on certiorari of the Resolution[1] dated January 22, 1997 of the Office of the Ombudsman in OMB-ADM-0-94-0983 dismissing the petitioner from the government service for grave misconduct and the Order[2] dated April 7, 1997 denying the petitioner's motion for reconsideration.

The incipience of the case could be traced to the complaint-affidavit[3] dated July 4, 1994 lodged with the Resident Ombudsman at the main office in Manila of the Bureau of Immigration and Deportation (BID for brevity) by Walter H. Beck, a U.S. citizen, against the petitioner, Renato A. Tapiador, BID Special Investigator and assigned as Technical Assistant in the office of the then Associate Commissioner Bayani M. Subido, Jr. The complaint alleged in substance that petitioner Tapiador demanded and received from Walter Beck the amount of Ten Thousand Pesos (P10,000.00) in exchange for the issuance of an alien certificate of registration (ACR for brevity) which was subsequently withheld deliberately by the petitioner despite repeated demands by Beck, unless the latter pay an additional amount of Seven Thousand Pesos (P7,000.00). Accompanying the complaint was the affidavit[4] executed by a certain Purisima C. Terencio which essentially seeks to corroborate the alleged payment of the amount of Ten Thousand Pesos (P10,000.00) by Walter Beck and his wife to the petitioner in consideration for the issuance of the subject ACR.

The petitioner categorically denied in his counter-affidavit[5] dated July 11, 1994 that he demanded nor received any amount of money from Walter Beck in consideration for the issuance of the latter's ACR. In addition, the petitioner alleged that Beck and his wife, Monica Beck, came to the BID office in Manila on June 29, 1994 to follow-up his visa application. On the said occasion, when the petitioner advised the couple to accomplish first all the requirements for a visa application, Beck and his wife shouted invectives at him and charged the petitioner with having demanded money from them. This incident prompted the petitioner to file a criminal complaint for oral defamation before the Office of the City Prosecutor in Manila. The petitioner's allegations were corroborated by Rosanna C. Vigo, a BID employee and officemate of the petitioner, in her affidavit dated July 15, 1994.[6]

After investigation, BID Resident Ombudsman Ronaldo P. Ledesma found the petitioner liable for violating existing civil service rules and regulations as well as penal laws and thus, recommended that criminal and administrative charges be filed against the petitioner.

Upon review of the case, the criminal charge was dismissed by the Ombudsman for lack of evidence;[7] however, the Ombudsman found the petitioner liable for grave misconduct in the administrative aspect of the case and imposed the penalty of dismissal from the government service.[8] His subsequent motion for reconsideration having been denied on April 7, 1997, the petitioner filed the instant petition for review[9] which raises the following assignment of errors:

I

THE HONORABLE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN FINDING THAT PETITIONER IS GUILTY OF GRAVE MISCONDUCT DESPITE LACK OF SUBSTANTIAL EVIDENCE TO SUPPORT IT.

II

THE HONORABLE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN RENDERING THE QUESTIONED RESOLUTION ONLY AFTER ALMOST THREE YEARS, IN VIOLATION OF PETITIONER'S RIGHT TO SPEEDY TRIAL.

III

THE HONORABLE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN RENDERING THE QUESTIONED RESOLUTION WITHOUT CONDUCTING A PRELIMINARY CONFERENCE AND ACTUAL HEARING IN VIOLATION OF ITS OWN RULES, THUS CONSTITUTING A VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.

IV

THE HONORABLE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN CONTRADICTING ITS OWN FINDING RELATIVE TO THE CRIMINAL ASPECT OF THIS CASE DISMISSING THE COMPLAINT FOR LACK OF EVIDENCE.

V

THE HONORABLE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DISMISSAL AGAINST PETITIONER, DESPITE THE FACT THAT IT WAS HIS FIRST OFFENSE IN HIS THIRTY YEARS IN THE GOVERNMENT SERVICE.

In the Resolution dated July 7, 1997, we required the public respondent to file his comment to the instant petition. After several extensions of time given by this Court, the Office of the Solicitor General filed a Manifestation and Motion In Lieu of Comment[10] on February 20, 1998 which essentially recommended that the petitioner be exonerated from the subject administrative charge on the ground that the assailed resolution of the Ombudsman was rendered in violation of procedural due process and that it was not supported by substantial evidence. Consequently, we directed the Office of the Ombudsman to file directly its own comment which it did on May 12, 1998.[11] The petitioner filed a Reply[12] thereto on August 14, 1998. Thereafter, this case was submitted for decision after the petitioner, the Office of the Ombudsman and the Office of the Solicitor General had filed their respective memoranda.[13]

The Office of the Ombudsman maintains that the petitioner was accorded due process of law inasmuch as he was duly informed and furnished a copy of the complaint against him as evidenced by his letters dated July 22 and 26, 1996 addressed to the investigating officer requesting for a copy of the case records to enable him to prepare for his defense. Likewise, there was no undue delay in the conduct of the administrative proceedings since the preliminary investigation was conducted immediately after the complaint was filed in 1994; and that after the criminal aspect of the case was resolved, the administrative proceeding was conducted shortly thereafter. That no preliminary conference had been conducted in the case was primarily due to the petitioner's manifestation to dispense thereof and submit the case for resolution inasmuch as he has already filed his memorandum of evidence. Moreover, the Ombudsman opined that the petitioner was absolved of criminal liability during the preliminary investigation of this case due to insufficiency of evidence constituting probable cause contrary to his claim that there was absolutely no evidence against him. However, the Ombudsman asserts that the sworn

statements of Walter Beck a and his witness, Purisima Terencio, substantially established the administrative liability of the petitioner for grave misconduct by demanding from complainant Beck a sum of money in exchange for the issuance of the latter's ACR; and for that offense, petitioner should be imposed the corresponding penalty of dismissal from the government service.[14]

By way of reply, the petitioner adverted to the minutes[15] of the preliminary hearing on July 18, 1998 and contended that it was the hearing officer, Atty. Vitaliano M. Mendoza, who instructed him and his counsel to simply file a memorandum within fifteen (15) days after which the case shall be deemed submitted for resolution. The petitioner reiterated that the Office of the Ombudsman found no evidence against him in its investigation of the criminal aspect of the case and thus, he argued that the instant administrative charge should also have been dismissed.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint.[16] Substantial evidence does not necessarily import preponderance of evidence as is required in an ordinary civil case; rather, it is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[17]

In dismissing the petitioner from the government service the Office of the Ombudsman reasoned out, as follows:

xxx [E]vidence for the complainant clearly established that respondent Tapiador unlawfully received the amount of P10,000.00 from spouses Walter and Monica Becker (sic), which act was personally witnessed by complainant's witness, Purisima C. Terencio, who in her affidavit dated July 01, 1994 positively identified the respondent as the person to whom spouses Becker (sic) gave the money. In quoting, witness Terencio states "That said spouses paid the full amount of P10,000.00 on February 23, 1992 to Mr. Tapiador as payment for the Alien Certificate of Registration with the promise for the immediate release of the same" (p. 13, Record). To us, the said declaration of witness Terencio appears to be credible and worthy of belief since there is no apparent reason for her to impute false statements against the respondent. It is also significant to observe that the said declaration of Terencio was aptly corroborated by complainant Walter Becker (sic), a foreigner, who in his desire to stay permanently in the Philippines became a victim of such irregularity. Moreover, there is no showing that respondent, in his capacity as Technical Assistant, is authorized to receive payment for the processing of ACR. Worse, Mrs. Becker (sic) also claimed that respondent demanded an additional amount of P7,000.00 from them for the release of the ACR.[18]

Notably, the instant administrative complaint was resolved by the Ombudsman merely on the basis of the evidence extant in the record of OMB-ADM-0-94-0983. The preliminary conference required under Republic Act No. 6770[19] was dispensed with after the nominal complainant, then BID Resident Ombudsman Ronaldo P. Ledesma, manifested on July 29, 1996 that he was submitting the case for resolution on the basis of the documents on record[20] while the petitioner agreed to simply file his memorandum.[21] Consequently, the only basis for the questioned resolution of the Ombudsman dismissing the petitioner from the government service was the unverified complaint-affidavit of Walter H. Beck and that of his alleged witness, Purisima Terencio.

A thorough review of the records, however, showed that the subject affidavits of Beck and Terencio were not even identified by the respective affiants during the fact-finding investigation conducted by the BID Resident Ombudsman at the BID office in Manila. Neither did they appear during the preliminary investigation to identify their respective sworn statements despite prior notice before the investigating officer who subsequently dismissed the criminal aspect of the case upon finding that the charge against the petitioner "was not supported by any evidence".[22] Hence, Beck's affidavit is hearsay and inadmissible in evidence. On this basis alone, the Administrative Adjudication Bureau of the Office of the Ombudsman should have dismissed the administrative complaint against the petitioner in the first instance.

Nonetheless, a perusal of the affidavit executed by Walter Beck does not categorically state that it was petitioner Tapiador who personally demanded from Beck the amount of Ten Thousand Pesos (P10,000.00) in consideration for the issuance of the latter's ACR. On the other hand, it appears that Walter Beck and his wife sought the assistance of Purisima Terencio sometime in the later part of 1992 in facilitating the issuance of his ACR and in the process, Terencio allegedly informed the couple that Beck could be granted the same and would be allowed to stay in the Philippines permanently with the help of the petitioner and a certain Mr. Angeles who was also with the BID, for a fee of Ten Thousand Pesos (P10,000.00). Hence, Beck and his wife did not appear to have any direct or personal knowledge of the alleged demand of the petitioner except through the information allegedly relayed to them by Terencio. Likewise, although Beck claimed to have subsequently paid Ten Thousand Pesos (P10,000.00), his affidavit is silent as to the identity of the person who actually received the said amount from him. The pertinent portion of his affidavit reads, thus:

- That during the months of Sept[ember] and Oct[ober] 1992 a certain Baby (Purisima)Terencio informed us that I could be granted an ACR and will be allowed to stay in the Philippines permanently thru Mr. Tapiador and Mr. Angeles, both from the Bureau of Immigration, Manila and the fees was agreed at P10,000.00, official receipts inclusive (sic);
- That after completing all the requirements and the amount of P10,000.00 was given I waited but no ACR was given to me;
- That sometime in February 1993 my wife went to see Mr. Tapiador and was informed that he will hold my passport while I have my ACR, which I refused;
- That when we tranfered (sic) our residence to Negros Occ[idental] we arranged with Mr. Tapiador to pick up the ACR before we will leave for that place, and when my wife went again to see Mr. Tapiador to pick up the ACR he was not in the office, and that Baby Terencio promised to (sic) us that the ACR will be mailed to us, but it was never mailed;[23]

xxx xxx xxx

Walter Beck could have easily stated in his affidavit that he paid the said amount directly to the petitioner if it were indeed the latter who actually received the same, but he did not. This significant omission in his affidavit is fatal in establishing the alleged administrative liability of the petitioner. It also appears that Beck and the petitioner would eventually meet personally for the first time only later, more specifically on June 23, 1994, at the office of the latter. On the said occasion, so Beck's affidavit went on to state, petitioner even informed him that his ACR had been approved but that he still needed to submit his quarantine clearance before the same could be issued to him. Before the said date however, it appears that Purisima Terencio had apparently been doing most of the legwork for the Beck couple in facilitating the release of the subject ACR. Consequently, there is logical basis to assume that it was to Terencio that the alleged payment was made by the Beck couple.

Anent the affidavit of Purisima Terencio, the Ombudsman gave full faith and credit to her statement that the "spouses paid the full amount of Ten Thousand Pesos (P10,000.00) on February 23, 1992 to Mr. Tapiador as payment for the Alien Certificate of Registration with the promise for the immediate release of the same"[24] on the mere assumption that there is no apparent reason for her to impute false statements against the petitioner who is employed with the government for more than thirty (30) years.[25] On the contrary, the rule that witnesses are presumed to tell the truth until proven otherwise[26] does not apply to the case at bar for the reason that Terencio had the motive to impute falsities to avoid the inevitable wrath of the Beck spouses for reneging on her promise to send them by mail the subject ACR. The Ombudsman should have been more prudent in according credence to the allegations of Terencio coming as they do from a supposed "fixer".

Besides, Purisima Terencio was adroit enough to make it appear in her affidavit that the Beck spouses had paid Ten Thousand Pesos (P10,000.00) in “grease money” to the petitioner on February 23, 1992 even without categorically stating that she had personal knowledge or had actually witnessed the alleged pay off. A close scrutiny of the allegations in her affidavit show that the alleged pay off had taken place as early as February 23, 1992. However, Beck claimed in his own affidavit that he was informed by Terencio only between the period from September to October 1992 that the processing of his ACR could be facilitated through the assistance of the petitioner and a certain Mr. Angeles. This glaring inconsistency more than sufficiently impeached Terencio’s credibility thereby belying the assessment of the Ombudsman in the assailed resolution.

In view of the foregoing, it is not necessary anymore to pass upon the other grounds raised by the petitioner in his petition. The complainant clearly failed to present the quantum of proof necessary to prove the charge in the subject administrative case, that is, with substantial evidence.[27] Besides, assuming arguendo, that petitioner were administratively liable, the Ombudsman has no authority to directly dismiss the petitioner from the government service, more particularly from his position in the BID. Under Section 13, subparagraph (3), of Article XI of the 1987 Constitution,[28] the Ombudsman can only “recommend” the removal of the public official or employee found to be at fault, to the public official concerned.

WHEREFORE, the instant petition is GRANTED. The assailed Resolution of the Ombudsman dated January 22, 1997 dismissing the petitioner from the government service and the Order dated April 7, 1997 in OMB-ADM-0-94-0983 are REVERSED and SET ASIDE. The petitioner is hereby ordered REINSTATED immediately to his position in the government service more particularly in the Bureau of Investigation and Deportation, Manila, without loss nor diminution in his salaries and benefits.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Resolution approved by the Ombudsman on March 14, 1997. Petition, Annex “A”, Rollo, pp. 18-21.

[2] Petition, Annex “B”, Rollo, pp. 22-24.

[3] Denominated as “Affidavit of Explanation”. Petition, Annex “C”, Rollo, p. 25.

[4] Petition, Annex “D”, Rollo, pp. 26-27.

[5] Rollo, p.28.

[6] Rollo, p. 34.

[7] Resolution approved by the Deputy Ombudsman for the Military on January 6, 1995. Rollo, pp. 35-38.

[8] See Note No. 1.

[9] Rollo, pp. 3-16.

[10] Rollo, pp. 76-91.

[11] Rollo, pp. 102-110.

[12] Rollo, pp. 129-133.

[13] Rollo, pp. 141-154; 155-165. The memorandum filed by the Office of the Solicitor General in this case on November 27, 1998 can be located at the unnumbered later portion of the rollo.

[14] See Note No. 11.

[15] Rollo, p. 124.

[16] Lorena v. Encomienda, 302 SCRA 632, 641 (1999); Cortes v. Agcaoili, 294 SCRA 423, 456 (1998); Lachica v. Flordeliza, 254 SCRA 278, 284 (1996).

[17] Santos v. Court of Appeals, 229 SCRA 524, 531 (1994); Heirs of E. B. Roxas, Inc. v. Tolentino, 167 SCRA 334, 341 (1988).

[18] Rollo, pp. 19-20.

[19] Otherwise known as the Ombudsman Act of 1989.

[20] Rollo, p. 127.

[21] See Note No. 15.

[22] See Note No. 7.

[23] See Note No. 3.

[24] See Note No.4.

[25] Petition, Annex “F”, Rollo, p. 39.

[26] People v. Gayomma, 315 SCRA, 639, 648 (1999); People v. Suplito, 314 SCRA 493, 503 (1999).

[27] See Note No. 17.

[28] “Sec. 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

xxx xxx xxx

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault and recommend his removal xxx.”

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.