

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. SAMSON DE LEON, RESPONDENT.

G.R. No. 154083. February 27, 2013

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

A public official is guilty of grave misconduct when he neglects to act upon a complaint about a violation of the law he is enforcing. He may be suspended or dismissed from office for his first offense.

The Office of the Ombudsman seeks the review and reversal of the decision promulgated on January 30, 2002, whereby the Court of Appeals (CA) reduced to suspension for three months without pay for simple neglect of duty the penalty of suspension for one year without pay the Office of the Ombudsman had imposed on respondent Samson De Leon (De Leon) upon finding him guilty of neglect of duty.[1]

Antecedents

Acting on a report of illegal quarrying being committed in the Municipality of Baras, Rizal, Graft Investigation Officer Dante D. Tornilla of the Fact Finding Investigation Bureau (FFIB) of the Office of the Ombudsman conducted an investigation pursuant to a mission order dated April 17, 1998.

On June 8, 1998, Tornilla filed his report to Ombudsman Aniano Desierto, through Assistant Ombudsman Abelardo L. Aportadera, Jr. and Director Agapito B. Rosales,[2] confirming the illegal quarrying, to wit:

From the Municipal Hall, we proceeded to the quarrying area. Along our way, we have noticed a dump truck loaded with quarrying materials coming from the quarrying site. At this juncture, we signaled the truck driver to stop and then checked the driver's license, the truck registration while my other companions took pictures of the truck.

Verification of the above hauler truck with Plate No. TKU-121 (Isuzu) is owned and operated by Mayor Lito Tanjuatco of Tanay, Rizal. The truck driver, a certain Alfredo Casamayor Payot informed this Investigator that he is paying One hundred (P100.00) Pesos per truckload of quarrying materials to the quarry operator, a certain Mr. Javier.

x x x x

Jonathan Llagas, Municipal Planning and Development Coordinator denied knowing Mr. Javier nor any quarrying activities going on in Baras, Rizal. When we informed him of our findings, he insisted that the quarrying operations is within the jurisdictional area of Tanay, Rizal. To cut short our discussion, we requested him to look and see the quarrying operations to determine the territorial boundaries, whether it is a part of Baras or Tanay and to submit his findings and action taken on our request. However, up to this writing, Jonathan Llagas failed to comply.

Per report received by the Office of the Assistant Ombudsman, EIO, stated that the quarrying activities in Baras, Rizal is still going on the following day, Saturday, April 18, 1998, after our visit on Friday, April 17,

1998, (p. 21, Records). With this information, this investigator proceeded back to the Baras, Rizal and conducted ocular inspection on May 8, 1998, before proceeding to the Laguna Lake Development Authority in Calauan, Laguna, in compliance with a Mission Order.

True enough, we were able to see for ourselves the continuing quarry operations and the quarried stones, soil and materials were dumped to a portion of the Laguna de Bay thereby reclaiming said portion allegedly to be developed as Resort and restaurant establishments.[3]

Tornilla recommended that a preliminary investigation be conducted against Baras Municipal Mayor Roberto Ferrera, Baras Municipal Planning and Coordinator Jonathan Llagas, and property owner Venancio Javier for the probable violation of Section 3(e) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act); and that administrative proceedings for violations of the Civil Service Rules be also undertaken.

In his report and recommendation dated July 13, 1998,[4] DILG Resident Ombudsman Rudiger G. Falcis II sought the inclusion in the investigation of De Leon as the Provincial Environment and Natural Resources Officer (PENRO) and as concurrently the Chairman of the Provincial Mining Regulatory Board (PMRB) of Rizal.

After the preliminary investigation, Graft Investigation Officer II Edgardo V. Germaldez of the FFIB, Office of the Ombudsman, issued a decision dated April 29, 1999,[5] dismissing the complaint against all the respondents for lack of substantial evidence. However, Assistant Ombudsman Aportadera, Jr. recommended the disapproval of the said decision. Ombudsman Desierto approved the recommendation of Assistant Ombudsman Aportadera, Jr.

The case was then referred to Atty. Sabino M. Cruz, Resident Ombudsman for the Department of Environment and Natural Resources (DENR), who ultimately submitted a memorandum on October 20, 1999[6], duly approved by the Ombudsman, finding De Leon liable for gross neglect of duty, as follows:

WHEREFORE , it is respectfully recommended that:

x x x x

3) Respondent SAMSON G. DE LEON, Provincial Environment and Natural Resources Officer, be penalized with one (1) year suspension without pay, for Gross Neglect of Duty.[7]

x x x x

On December 2, 1999, De Leon moved for Reconsideration,[8] praying that the memorandum dated October 20, 1999 be set aside.

On January 31, 2000, the Ombudsman denied De Leon's motion for reconsideration.[9]

On November 17, 1999, the DENR directed the Regional Executive Director of Region IV to effect De Leon's suspension. [10]

Ruling of the CA

Aggrieved, De Leon appealed to the CA via a petition for review,[11] seeking the reversal of the memorandum dated October 20, 1999 and the order dated January 31, 2000 of the Ombudsman. He averred as grounds of his appeal the following, namely:

- PUBLIC RESPONDENT OFFICE OF THE OMBUDSMAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN DISREGARDING THE FINDINGS AND CONCLUSIONS EMBODIED IN THE DECISION DATED 29 APRIL 1999.
- PUBLIC RESPONDENT OFFICE OF THE OMBUDSMAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN FINDING THE

PETITIONER LIABLE FOR GROSS NEGLIGENCE OF DUTY.

- PUBLIC RESPONDENTS ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN EFFECTING THE IMMEDIATE EXECUTION OF THE PENALTY OF SUSPENSION FOR A PERIOD OF ONE YEAR, ON THE PETITIONER.[12]

The Office of the Solicitor General (OSG), representing the Office of the Ombudsman, submitted its comment on July 14, 2000,[13] praying that De Leon's petition for review be dismissed for its lack of merit.

On January 30, 2002, the CA promulgated its assailed decision, viz:

WHEREFORE, premises considered, the Memorandum dated October 20, 1999 issued by the Office of the Ombudsman in OMB-ADM-0-98-0414 is hereby MODIFIED in that petitioner SAMSON DE LEON is hereby penalized with THREE (3) MONTHS SUSPENSION without pay for SIMPLE NEGLIGENCE OF DUTY. Furthermore, it appearing that he has already served such penalty, petitioner is hereby ordered REINSTATED to his former position.

SO ORDERED.[14]

The Office of the Ombudsman sought reconsideration,[15] but the CA denied its motion on June 21, 2002.

Issues

Dissatisfied, the Office of the Ombudsman appeals, contending that:

THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT CONSIDERING THAT:

I.

IT DECREED PRIVATE RESPONDENT LIABLE FOR SIMPLE NEGLIGENCE OF DUTY NOTWITHSTANDING THE UNDENIABLE FACT THAT HE FAILED TO PERFORM A TASK WHICH IS CLEARLY REPOSED ON HIM ON A REGULAR BASIS AND WHICH BREACH OF DUTY APPEARS FLAGRANT AND PALPABLE.

II.

IT SUBSTITUTED ITS FINDING TO THAT OF THE OMBUDSMAN WHEN NO COGENT REASON EXISTS THEREFOR.

III.

IT HELD THAT THE DECISION OF THE OMBUDSMAN IS NOT IMMEDIATELY EXECUTORY.[16]

The pivotal issue is whether or not the CA committed reversible error in modifying the findings and reducing the penalty imposed by the Office of the Ombudsman.

Ruling

The petition for review on certiorari is meritorious.

In its assailed decision, the CA justified its modification of the decision of the Office of the Ombudsman in the following manner, to wit:

In the case at bench, petitioner, although guilty of neglect in the performance of his official duties, may only be held liable for Simple Neglect of Duty. Petitioner's offense is not of such nature to be considered brazen, flagrant and palpable as would amount to a Gross Neglect of Duty. As pointed out by petitioner, as early as

May 1997, upon the complaint of one Teresita G. Fabian, he ordered the inspection of the subject property located in Baras, Rizal. Relying on the report of Forrester Ferrer and Engineer Aide Velasquez, petitioner indorsed to the Provincial Mining Regulatory Board the former's findings that there were "extraction" in the area. The same findings were likewise forwarded to the Regional Executive Director of the DENR. A reinvestigation of the area was again conducted in July 1997 upon petitioner's instruction with the findings that there were no illegal quarrying activities being undertaken in the premises although a payloader and a back hoe can be seen in the area. Nonetheless, petitioner should not have merely relied on the reports and instead confirmed such findings by personally proceeding to the premises and verifying the findings, specially since the report cited the presence of large machineries, and that there was visible extraction in the area. While the Court is not inclined to conclude that there were indeed illegal quarrying activities in the area, nevertheless, prudence dictates that petitioner should have brought it upon himself to confirm the findings of the investigation. Moreover, in this day and age where environmental concerns are not to be trifled with, it devolves upon petitioner, as the Provincial Environment and Natural Resource Officer, to oversee the protection and preservation of the environment within his province. The Court cannot accept petitioner's passing the buck, so to speak, to the Regional Director of the DENR for to do so would be tolerating bureaucracy and inefficiency in government service.

Be that as it may, as the Court previously stated, petitioner's negligence does not amount to a gross neglect of duty. Given that his neglect is not that odious, petitioner should only be liable for Simple Neglect of Duty and should accordingly be meted out the penalty of three (3) months suspension without pay.[17]

We disagree with the CA that De Leon was liable only for simple misconduct. An examination of the records persuasively shows that the Office of the Ombudsman correctly held De Leon guilty of gross neglect of duty, a grave offense punishable by dismissal even for the first offense.[18]

A PENRO, who is appointed by the Secretary of the DENR, has the responsibility to implement DENR policies, programs and projects in the province of his assignment. De Leon was appointed as the PENRO of Rizal and concurrently the Chairman of the PMRB of Rizal. As such, his duties and responsibilities included the following:

1. Plans, organizes, directs and coordinates the overall office and field activities and operation of the province concerning environmental and natural resources programs/projects;
2. Supervises and enforces discipline to personnel pertaining to norm and conduct in the effective performance of tasks pursuant to manual operation guidelines and establish[ed] practices;
3. Makes final review and correction of administrative and technical report submitted by subordinates;
4. Coordinates with local government units, national office officials and other concern (sic) parties related to the conduct and operation of the office;
5. Execute[s] and implement[s] policy, rules and regulations work programs and plans laid down by the Regional Office;
6. Approves routine and non-policy determining papers and renders administrative and technical decision(s) within the limit(s) of delegated authorities;
7. Occasionally conduct[s] field inspection to obtain on the spot information about the needs and problems of the provincial office; and
8. Perform[s] such other duties as maybe (sic) assigned.[19]

Based on the Civil Service Position Description Form,[20] De Leon as the PENRO of Rizal was the highest executive officer of the DENR at the provincial level. He had the authority to coordinate all the DENR agencies within his jurisdiction, including the PMRB. In his concurrent positions as the PENRO and Chairman of the

PMRB, therefore, his paramount function was to ensure that the laws enforced by the DENR as well as the rules and regulations promulgated by the DENR in implementation of such laws were complied with and effectively implemented and enforced. Verily, he was the primary implementor and enforcer within his area of responsibility of all the laws and administrative orders concerning the environment, and because of such character of his concurrent offices should have made sure that he efficiently and effectively discharged his functions and responsibilities.

In the matter that is now before us, De Leon evidently neglected to efficiently and effectively discharge his functions and responsibilities. Except for issuing the investigation order and for denying having granted any permit to quarry, he did nothing affirmative to put a stop to the illegal quarrying complained of, or to do any other action that was entirely within his power to do as the PENRO that the complaint demanded to be done.

Relevantly, the CA itself also observed in its decision under review that De Leon had not done enough as the circumstances obtaining in the case properly called for, to wit:

x x x Nonetheless, petitioner should not have merely relied on the reports and instead confirmed such findings by personally proceeding to the premises and verifying the findings, specially since the report cited the presence of large machineries, and that there was visible extraction in the area. While the court is not inclined to conclude that there were indeed illegal quarrying activities in the area, nevertheless, prudence dictates that petitioner should have brought it upon himself to confirm the findings of the investigation. Moreover, in this day and age where environmental concerns are not to be trifled with, it devolves upon petitioner, as the Provincial Environment and Natural Resource Officer to oversee the protection and preservation of the environment with his province. The Court cannot accept petitioner's passing the buck so to speak. x x x.[21]

Its foregoing observations notwithstanding, the CA still held De Leon guilty only of simple neglect of duty.

The CA thereby erred.

Gross neglect of duty or gross negligence "refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." [22] It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. [23] In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable. [24]

In contrast, simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference." [25]

Conformably with these concepts, De Leon, given his rank and level of responsibility, was guilty of gross neglect in not performing the act expected of him as the PENRO under the circumstances obtaining. He was precisely assigned to perform tasks that imposed on him the obligation to do everything reasonably necessarily and permissible under the law in order to achieve the objectives of environmental protection. He could not feign ignorance of the Government's current efforts to control or prevent environmental deterioration from all hazards, including uncontrolled mining and unregulated illegal quarrying, but he chose to be passive despite clear indications of the illegal quarrying activities that had been first brought to his official attention as early as in 1997 by Teresita Fabian of the Provincial Tourism Office of Rizal. The most that he did on the complaint was to dispatch two of his subordinates to verify the report of quarrying. After the subordinates returned with the information that there were no quarrying activities at the site, he was apparently content with their report. He was not even spurred into further action by the subordinates' simultaneous report on having observed at the site the presence of earthmoving equipment (specifically, a backhoe and a payloader). Had he been conscientious, the

presence of the earthmoving equipment would have quickly alerted him to the high probability of their being used in quarrying activities at the site. We presume that he was not too obtuse to sense such high probability. The seriousness of the matter should have prodded him to take further actions, including personally inspecting the site himself either to confirm the findings of the subordinates or to satisfy himself that the earthmoving equipment was not being used for quarrying. By merely denying having granted any permit or unwarranted benefit to any quarry operator, he seemingly considered the report of his subordinates satisfactory.

Curiously, De Leon contended that the responsibility to monitor any reported mining and quarrying activities belonged to the Regional Director of the Mines and Geo-Sciences Bureau. His contention was insincere, if not also ridiculous, however, considering that he was then the concurrent Chairman of the Provincial Mining Regulatory Board, the office directly tasked with the implementation of all environmental laws, rules and regulations.

The flagrant and culpable refusal or unwillingness of De Leon to perform his official duties denoted gross neglect of duty also because the illegal quarrying had been going for a period of time. The actions he took were inadequate, and could even be probably seen as a conscious way to mask a deliberate and intentional refusal to perform the duties that his position required. He had no justification for accepting the reports of his subordinates at face value despite indications to the contrary. Making it worse for him was that the place where the quarrying was then taking place was a mere stone's throw away from the main road, being only about 400 meters away from the main road.

In this connection, the Court observes that gross neglect of duty includes want of even slight care. De Leon's omission and indifference were definitely more than want of slight care, but were tantamount to a wilful intent to violate the law or to disregard the established rules, which only strengthened and confirmed his guilt of gross negligence.

The remaining question is whether or not the decision of the Office of the Ombudsman was immediately executory. The question crops up from the insistence by De Leon that his penalty of suspension for one year was not immediately executory.

The CA held that the one-year suspension meted on De Leon was not immediately executory, viz:

x x x. Book 5, Title 1, Chapter 6 of the Administrative Code of 1987 cited by the OSG is not applicable as said rule governs administrative cases decided by the Civil Service Commission. In this case, petitioner was adjudged liable by the Office of the Ombudsman, hence RA 6670 of the Ombudsman Act of 1989 shall govern. In this regard, Section 27 of RA 6670 provides that '(A)ny order, directive, or decision, imposing the penalty of public censure or reprimand, a suspension of not more than a month's salary shall be final and unappealable.'" Logically, therefore, suspension of more than one (1) month is not deemed final and executory. (Underscoring in the original)

There is no issue about the disciplinary authority of the Office of the Ombudsman 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. The only officials not under its disciplinary authority are those who may be removed only by impeachment, the Members of Congress, and the Justices and Judges of the Judiciary. As to this, Republic Act No. 6770 (The Ombudsman Act of 1989) 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.

De Leon was subject to the disciplinary authority of the Office of the Ombudsman because he was an appointive public official.[26] 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.[27] 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.[28] 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.

In *Office of the Ombudsman v. Masing*, and related cases,[29] the Court, speaking through Chief Justice Puno, has definitively recognized the full administrative disciplinary authority of the Office of the Ombudsman, declaring that its authority does not end with a recommendation to punish, but goes farther as to directly impose the appropriate sanctions on the erring public officials and employees, like removal, suspension, demotion, fine, censure, or criminal prosecution; and characterizing such imposition of sanctions to be not merely advisory or recommendatory but actually mandatory, to wit:

In fine, the manifest intent of the lawmakers was to bestow on the Office of the Ombudsman full administrative disciplinary authority in accord with the constitutional deliberations. Unlike the Ombudsman-like agencies of the past the powers of which extend to no more than making findings of fact and recommendations, and the Ombudsman or Tanodbayan under the 1973 Constitution who may file and prosecute criminal, civil or administrative cases against public officials and employees only in cases of failure of justice, the 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.[30]

To resolve whether or not the decision of the Office of the Ombudsman was immediately executory, we hereby hold that the decision is immediately executory, and that an appeal does not stop the decision from being executory. This was clearly pronounced by the Court in *Ombudsman v. Court of Appeals*,[31] to wit:

The Court of Appeals held that the order of the Ombudsman imposing the penalty of dismissal is not immediately executory. The Court of Appeals applied the ruling in *Lapid v. Court of Appeals*, that all other decisions of the Ombudsman which impose penalties that are not enumerated in Section 27 of RA 6770 are neither final nor immediately executory.

In *Lapid v. Court of Appeals*, the Court anchored its ruling mainly on Section 27 of RA 6770, as supported by Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman. The pertinent provisions read:

Section 27 of RA 6770

SEC. 27. Effectivity and Finality of Decisions. – (1) All provisional orders at the Office of the Ombudsman are immediately effective and executory.

A motion for reconsideration of any order, directive or decision of the Office of the Ombudsman must be filed within five (5) days after receipt of written notice and shall be entertained only on any of the following grounds:

- (1) New evidence has been discovered which materially affects the order, directive or decision;
- (2) Errors of law or irregularities have been committed prejudicial to the interest of the movant. The motion for reconsideration shall be resolved within three (3) days from filing: Provided, That only one motion for reconsideration shall be entertained.

Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. Any order, directive or decision imposing the penalty of public censure or reprimand, suspension of not more than one month's salary shall be final and unappealable.

In all administrative disciplinary cases, orders, directives, or decisions of the Office of the Ombudsman may be appealed to the Supreme Court by filing a petition for certiorari within ten (10) days from receipt of the written notice of the order, directive or decision or denial of the motion for reconsideration in accordance with Rule 45 of the Rules of Court.

The above rules may be amended or modified by the Office of the Ombudsman as the interest of justice may require. (Emphasis supplied)

Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman (AO 07):

Sec. 7. Finality of decision. – Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final and unappealable. In all other cases, the decision shall become final after the expiration of ten (10) days from receipt thereof by the respondent, unless a motion for reconsideration or petition for certiorari, shall have been filed by him as prescribed in Section 27 of RA 6770. (Emphasis supplied)

The Court held in *Lapid v. Court of Appeals* that the Rules of Procedure of the Office of the Ombudsman “mandate that decisions of the Office of the Ombudsman where the penalty imposed is other than public censure or reprimand, suspension of not more than one month salary are still appealable and hence, not final and executory.”

Subsequently, on 17 August 2000, the Ombudsman issued Administrative Order No. 14-A (AO 14-A), amending Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman. The amendment aims to provide uniformity with other disciplining authorities in the execution or implementation of judgments and penalties in administrative disciplinary cases involving public officials and employees. Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman, as amended by AO 14-A, reads:

Section 7. Finality and execution of decision. – Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final and unappealable. In all other cases, the decision may be appealed within ten (10) days from receipt of the written notice of the decision or order denying the motion for reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal. (Emphasis supplied)

On 15 September 2003, AO 17 was issued, amending Rule III of the Rules of Procedure of the Office of the Ombudsman. Thus, Section 7, Rule III of the Rules of Procedure of the Office of the Ombudsman was further

amended and now reads:

Section 7. Finality and execution of decision. – Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from the receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be ground for disciplinary action against said officer. (Emphasis supplied)

Hence, in the case of *In the Matter to Declare in Contempt of Court Hon. Simeon A. Datumanong, Secretary of DPWH*, the Court noted that Section 7 of AO 17 provides for execution of the decisions pending appeal, which provision is similar to Section 47 of the Uniform Rules on Administrative Cases in the Civil Service.

More recently, in the 2007 case of *Buencamino v. Court of Appeals*, the primary issue was whether the decision of the Ombudsman suspending petitioner therein from office for six months without pay was immediately executory even pending appeal in the Court of Appeals. The Court held that the pertinent ruling in *Lapid v. Court of Appeals* has already been superseded by the case of *In the Matter to Declare in Contempt of Court Hon. Simeon A. Datumanong, Secretary of DPWH*, which clearly held that decisions of the Ombudsman are immediately executory even pending appeal.”[32] (Emphasis supplied)

WHEREFORE, the Court REVERSES and SETS ASIDE the decision promulgated on January 30, 2002; HOLDS respondent SAMSON DE LEON guilty of GROSS NEGLECT OF DUTY, and IMPOSES on him the penalty of SUSPENSION FROM OFFICE FOR ONE YEAR WITHOUT PAY; and DIRECTS him to pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, Villarama, Jr., and Reyes, JJ., concur.

[1] Rollo, pp. 34-38; penned by Associate Justice Ma. Alicia Austria-Martinez (later Presiding Justice of the CA and Member of this Court, now retired), with Associate Justice Hilarion L. Aquino (retired) and Associate Justice Mercedes Gozo-Dadole (retired) concurring.

[2] Id. at 56-60.

[3] Id. at 57-58.

[4] Id. at 61-65.

[5] Id. at 66-74.

[6] Id. at 75-79.

[7] Id. at 79.

[8] Id. at 80-91.

[9] Id. at 92-97.

[10] Id. at 98.

[11] Id. at 99-112.

[12] Id. at 104.

[13] Id. at 113-122.

[14] Id. at 37.

[15] Id. at 41-55.

[16] Id. at 17-18.

[17] Id. at 36-37.

[18] Rule IV, Section 52 (A) of the Uniform Rules of Administrative Cases in the Civil Service.

[19] Rollo, p. 123.

[20] Id.

[21] Id. at 36-37.

[22] *Fernandez v. Office of the Ombudsman*, G.R. No. 193983. March 14, 2012, 668 SCRA 351, 364.

[23] *Philippine Retirement Authority v. Rupa*, G.R. No. 140519, August 21, 2001, 363 SCRA 480, 487.

[24] *Fernandez v. Office of the Ombudsman*, supra note 22.

[25] *Republic v. Canastillo*, G.R. No. 172729, June 8, 2007, 524 SCRA 546, 555.

[26] Republic Act No. 6770 also provides:

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

[27] Section 16, Republic Act No. 6770, states:

Section 16. Applicability. — The provisions of this Act shall apply to all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or employee as mentioned in Section 13 hereof, during his tenure of office.

[28] Section 19, Republic Act No. 6770, says:

Section 19. Administrative Complaints. — The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (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.

[29] G.R. No. 165416, G.R. No. 165584, and G.R. No. 165731, January 22, 2008, 542 SCRA 253.

[30] *Id.* at 270.

[31] GR No. 159395, May 7, 2008, 554 SCRA 75.

[32] *Id.* at 91-95.

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