

NEMESIO M. CALIM, PETITIONER, VS. THE HONORABLE JESUS F. GUERRERO, THE HONORABLE EMILIO A. GONZALEZ III, THE HONORABLE ADORACION A. AGBADA, IN THEIR RESPECTIVE CAPACITIES AS DE...

G.R. NO. 156527. March 05, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Mandamus seeking to compel public respondents to file the appropriate information against the private respondents for violation of Section 5(a)[1] of Republic Act No. 6713,[2] otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

The relevant antecedents follow:

Petitioner Nemesio M. Calim operates Eastern Laguna Tours and Tourist Services in Siniloan, Laguna. Private respondent Roberto J. Acoba was the Vice-Mayor of Siniloan, Laguna. On the other hand, private respondents Paul Simon Z. Go, Homer R. Serrano, Felipe A. Em, Eligio R. de Leon, Felipe V. Castro, Gaudencio C. Salay, Andres V. Quintero, Hector A. Maneja, and Sedfrey B. Realeza were councilors of the Sangguniang Bayan of Siniloan, Laguna.

On 23 November 2001, petitioner filed a Complaint-Affidavit[3] with the Office of the Deputy Ombudsman for Luzon against private respondents for violation of Section 3(e)[4] of Republic Act No. 3019, as amended, otherwise known as Anti-Graft and Corrupt Practices Act, and Section 5 (a) of Republic Act No. 6713. The case was docketed as OMB-1-01-1121-K.

Petitioner alleged, inter alia, that on or about 22 July 2001, he was given a mayor's permit from the municipal government of Siniloan, Laguna, for his tours and tourist services business. On 31 July 2001, he applied for the registration of his business name with the Regional Office of the Department of Trade and Industry in San Pablo City, initially indicating therein as first priority the name, Mabuhay Tours and Tourist Services for his business. He was, however, advised by the aforesaid office to change the name to Eastern Laguna Tours and Tourist Services, and thereafter, was issued a Certification of Registration thereon on 29 August 2001. He informed Municipal Mayor Guillermo L. Acero, through the Municipal Business License Office, of the fact of change of the name Mabuhay Tours and Tourist Services to Eastern Laguna Tours and Tourist Services.

He further alleged that on 6 August 2001, he received an invitation from private respondent Vice-Mayor Acoba to appear before the Sangguniang Bayan of Siniloan, Laguna. It appears that a certain Amador Igos filed a letter-complaint with the said body alleging, in the main, the absence of a franchise of public conveyance on the part of Eastern Laguna Tours and Tourist Services. Ultimately, on 22 August 2001, the Sangguniang Bayan of Siniloan, Laguna in Kapasiyahan Bilang 81 T-2001,[5] unanimously recommended the cancellation of the municipal license and permit issued to Eastern Laguna Tours and Tourist Services. Thus, the operations of his

business ceased, thereby, causing him injury, and giving unwarranted benefits and advantage to his competitor, Van on the Run. The president of Van on the Run is Felipe Castro, who was a member of the Sangguniang Bayan of Siniloan, Laguna, and one of the private respondents herein.

Petitioner averred that the recommendation of the Sangguniang Bayan of Siniloan, Laguna, to cancel his municipal license and permit resulted in the cancellation of various service contracts bringing about a loss of P3,000.00 per day. He alleged further that on 6 September 2001, he sent a letter individually addressed to private respondents for the purpose of inquiring as to the basis of their recommendation to cancel his business license and permit to operate Eastern Laguna Tours and Tourist Services. Up to the time of filing the letter-complaint, or on 18 November 2001, he said, all private respondents had not answered the letter, in gross violation of Section 5,[6] Republic Act No. 6713. Finally, on 4 October 2001, Mayor Guillermo Acero cancelled the mayor's permit to operate Eastern Laguna Tours and Tourist Services based on the recommendation of the Sangguniang Bayan in Kapasiyahan Bilang 81 T-2001.

On 1 February 2002, six of the eleven private respondents, namely, Felipe A. Em, Noel Laberinto, Homer Serrano, Eligio de Leon, Hector A. Maneja, and Sedfrey Realeza filed a joint Counter-Affidavit.[7] They contended that there was nothing irregular in the issuance of Kapasiyahan Bilang 81 T-2001, as the same was merely a request to the municipal mayor for cancellation of the mayor's permit after a finding on their part that the petitioner violated the terms and conditions set in the permit. They similarly contested petitioner's use of air-conditioned vans to transport passengers from Siniloan to Manila on the ground that such a purpose was outside the permit which was granted to petitioner. Petitioner merely applied for a booking office to be established in his residence. Moreover, they argued that private respondent Felipe Castro was the adviser, and not president of Van on the Run, as claimed by petitioner. Finally, they stressed that Van on the Run, the alleged business competitor of Eastern Laguna Tours and Tourist Services was established as a civic organization and not for profit or commerce.

Meanwhile, private respondents Vice-Mayor Roberto J. Acoba, Paul Simon Go, Gaudencio Salay and Andres Quintero filed a Rejoinder,[8] averring similar arguments as raised in the Counter-Affidavit previously filed by their co-private respondents. Reiterating their prayer that the Complaint against them be dismissed for utter lack of merit, they maintained that their action taken as members of the Sangguniang Bayan of Siniloan, Laguna, in recommending the cancellation of the mayor's permit granted to petitioner was a product of due deliberation and investigation.[9] They insisted that petitioner failed to prove that he was authorized to engage as a common carrier to offer daily tours to Metro Manila and Baguio from Siniloan, Laguna. Hence, in openly engaging in the business of transport services, petitioner violated the terms and conditions of the mayor's permit.

After an exchange of pleadings between the parties, the Office of the Deputy Ombudsman for Luzon,[10] through Graft Investigation Officer I Ma. Theresa B. Bagro, issued a Resolution[11] dated 29 July 2002, recommending the dismissal of petitioner's Complaint for lack of probable cause. The recommendation was approved by the Deputy Ombudsman for Luzon, Jesus F. Guerrero. It was underscored therein that the stoppage of petitioner's business operations was due to the act of the mayor in canceling his business permit. In canceling the same, the mayor relied on several grounds, one of which was the assailed Resolution or Kapasiyahan Bilang 81 T-2001. The Deputy Ombudsman was likewise not persuaded that the Sangguniang Bayan of Siniloan, Laguna, passed the Resolution with bad faith.[12] According to the Deputy Ombudsman, the facts showed that petitioner actively participated before the Sangguniang Bayan of Siniloan, Laguna, during the investigation of petitioner's business permit, and the recommendation by the private respondents to cancel the permit was reached only after the body's lengthy deliberations. Moreover, the private respondents presented documents from the Land Transportation Franchising and Regulatory Board (LTFRB), the Regional Office of the Department of Trade and Industry, as

well as the Municipal Planning Development Coordinator, to support their conclusion that petitioner violated the conditions set forth in the mayor's permit. The Deputy Ombudsman resolved that the recommendation to cancel petitioner's permit was substantiated with enough bases, and the action of private respondents Sangguniang Bayan members of Siniloan, Laguna, did not constitute a violation of Section 3(e) of Republic Act No. 3019.

The decretal portion of the 29 July 2002 Resolution reads:

WHEREFORE, premises considered, the undersigned respectfully recommends that the instant complaint be DISMISSED for lack of probable cause.[13]

Petitioner filed a Motion for Reconsideration thereon. He assigned as error the omission of the 29 July 2002 Resolution to rule on the second charge against the private respondents, i.e. violation of Section 5(a) of Republic Act No. 6713. He thus prayed that the Deputy Ombudsman render a ruling on the charge for violation of Republic Act No. 6713. He also prayed that the Resolution finding no probable cause on the part of private respondents for violation of Republic Act No. 3019 be reversed.

On 4 November 2002, the Office of the Deputy Ombudsman issued a Joint Order.[14] While dismissing the complaint for violation of Section 3(e) of Republic Act No. 3019 for lack of probable cause, it however acknowledged that it committed a reversible error in not taking consideration of the charge for the violation of Section 5(a) of Republic Act No. 6713 as contained in petitioner's Complaint-Affidavit. Indeed, in the Complaint-Affidavit, petitioner averred that private respondents failed to reply to his letter of inquiry dated 6 September 2001. In his letter, petitioner sought a clarification from private respondents as to the bases of their recommendation in canceling his business permit. However, private respondents failed to send a response thereto. Ruling on the matter, the Deputy Ombudsman found that there was no justification on private respondents' part in ignoring to reply to petitioner's letter within the prescribed time, as specified in Republic Act No. 6713, and, hence, admonished the private respondents for such failure, with a stern warning that a repetition of the same shall be dealt with more severely. Thus:

Anent the first ground invoked in the motion for reconsideration, We submit that this Office has committed a reversible error in not taking into consideration the charge for violation of Section 5 (a) of Republic Act No. 6713 as contained in the complaint-affidavit. The complaint is anchored on the alleged failure of the respondents to respond to the September 6, 2001 letter of the complainant inquiring as to the basis of their recommendation to cancel the business license and permit of his tours and tourist services company. This allegation was answered by respondents Roberto J. Acoba, Paul Simon Z. Go, Felipe V. Castro, Gaudencio C. Salay, and Andres V. Quintero, in their Rejoinder by stating that they failed to respond to the complainant's letter because of computer problems, the details of which was not elaborated. Respondents Felipe A. Em, Noel M. Laberinto, Homer R. Serrano, Eligio R. de Leon, Hector A. Maneja and Sedfrey L. Realeza never filed any answer to this allegation. After due evaluation of this particular charge, We find that the failure of the respondents to answer the letter was not justified. There are many ways, aside from using a computer, by which the respondents may prepare a response to the complainant's letter. For this, the respondents must be admonished to be more circumspect in the performance of their duties with stern warning that repetition of the same act shall be dealt with more severely in the future. However, We do not find that there is basis for their indictment for violation of Section 3(e) of Republic Act No. 3019 as it appeared that their failure [to reply to] respondent was not motivated by malice and bad faith. With the attendance of the complainant and his counsel during the deliberations of the Sangguniang Bayan on the matter, it can be deduced that they have been apprised of the grounds relied upon by the body in recommending the revocation of their business permit. Neither it appeared that the complainant has sustained any actual injury by the failure of the respondents to answer his letter.[15]

The dispositive portion of the Joint Order of 4 November 2002, pronounces:

WHEREFORE, premises considered, it is respectfully recommended that that the subject two Motions for Reconsideration dated September 10 and 11, 2002 filed by the complainant be denied for lack of merit. However, concerning the failure of the herein respondents to respond to the complainant's letter, they are hereby admonished to be more circumspect in the performance of their duties with stern warning that repetition of the same act shall be dealt with more severely in the future.[16]

Aggrieved, petitioner filed the instant Petition for Mandamus, seeking to compel the public respondents to file the appropriate information for violation of Section 5(a) of Republic Act No. 6713, against private respondents Sangguniang Bayan members of Siniloan, Laguna.

The Office of the Solicitor General filed its Comment,[17] dated 10 July 2003, praying that the Petition be dismissed for lack of merit.

Petitioner relies on the following grounds for the allowance of the Petition, viz:

I

THE PUBLIC RESPONDENTS UNLAWFULLY NEGLECTED TO PERFORM AN ACT WHICH THE LAW SPECIFICALLY ENJOINS AS A DUTY RESULTING FROM AN OFFICE; and

II

THERE IS NO OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURT OF LAW.[18]

Petitioner's bone of contention is that since the private respondents were found by public respondent Office of the Deputy Ombudsman for Luzon to have committed a violation of Section 5 (a) of Republic Act No. 6713, that is, by failing to respond to his letter of inquiry within fifteen (15) working days from receipt thereof, they should be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency, as prescribed in Section 11[19] of the same Act. Hence, petitioner submits that the public respondents should have filed the proper information with the proper court for the criminal violation by private respondents of the aforesaid Section 5(a) of Republic Act No. 6713. Otherwise stated, petitioner theorizes that public respondents can be compelled by a writ of mandamus to file a criminal information against the private respondents for their violation, instead of merely admonishing them, as it did in the assailed Joint Order of 4 November 2002. There is no other plain, speedy, and adequate remedy available to him in the ordinary course of law. According to him, the Complaint was for a criminal offense, and not simply a case of administrative misfeasance. He is adamant that the filing of a motion for reconsideration is no longer necessary and is rendered useless by the act of public respondents in admonishing the private respondents.

We dismiss the Petition.

It is elementary that mandamus applies as a remedy only where petitioner's right is founded clearly on law and not when it is doubtful.[20] In varying language, the principle echoed and reechoed is that legal rights may be enforced by mandamus only if those rights are well-defined, clear and certain.[21] A writ of mandamus can be issued only when petitioner's legal right to the performance of a particular act which is sought to be compelled is clear and complete. [22] A clear legal right is a right which is indubitably granted by law or is inferable as a matter of law.[23] Mandamus, therefore, is employed to compel the performance, when refused, of a ministerial duty, this being its chief use and not a discretionary duty.[24]

Mandamus will not issue to control or review the exercise of discretion of a public officer where the law imposes upon said public officer the right and duty to exercise his judgment in reference to any matter in which he is

required to act.[25] It is his judgment that is to be exercised and not that of the court.[26]

Essentially, what petitioner attacks in the instant Petition for Mandamus is the order of the Office of the Deputy Ombudsman for Luzon, in admonishing the private respondents. The case partakes of an administrative disciplinary nature.

Herein, petitioner was not able to establish his entitlement to a writ of mandamus. Petitioner fails to demonstrate that he has a clear legal right to compel the public respondents to file a criminal information against the private respondents. Settled is the rule that the Supreme Court will not interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good and compelling reasons to indicate otherwise.[27] Said exercise of powers is based upon his constitutional mandate[28] and the courts will not interfere in its exercise.[29] Courts have upheld the wide latitude of investigatory and prosecutorial powers that the Ombudsman enjoys; and such powers are virtually free from executive, legislative or judicial intervention.[30] The rationale of this rule is based not only upon respect for the investigatory and prosecutory powers that the Office of the Ombudsman is granted under the present Constitution,[31] but upon practicality as well; otherwise, the functions of the courts would be perilously bound by numerous petitions assailing the result of the investigatory proceedings conducted by the Office, in much the same way that the courts would be saturated if compelled to review the prosecutors' exercise of discretion each time they decide to file an information or dismiss a complaint.[32] The discretion to prosecute or dismiss a complaint filed before it is lodged in the Office of the Ombudsman itself. To compel the Ombudsman to further pursue a criminal case against the private respondents, as petitioner would have it, is outside the ambit of the courts.

Corollarily, Section 2, Rule II of the Rules of Procedure of the Office of the Ombudsman which runs:

SEC. 2. Evaluation. - Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate office or official for fact-finding investigation;
- e) referred for administrative adjudication; or
- f) subjected to a preliminary investigation.

and is reinforced by Section 3, Rule III of the same Rules, hereby quoted:

SEC. 3. How initiated. - An administrative case may be initiated by a written complaint under oath accompanied by affidavits of witnesses and other evidences in support of the charge. An administrative proceeding may also be ordered by the Ombudsman or the respective Deputy Ombudsman on his initiative or on the basis of a complaint originally filed as a criminal action or a grievance complaint or request for assistance.

clearly provides the Office of the Ombudsman with wide latitude of discretion in determining what and which acts to prosecute criminally and/or administratively. In the instant case, the Office of the Deputy Ombudsman opted, based on the evidence on hand, to only administratively admonish the private respondents, a penalty which is in fine tune with the mandate of Rule IV, Section 52 (C) (13) of the Uniform Rules on Administrative Cases in the Civil Service,[33] which provides:

SEC. 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.

x x x x

C. The following are light offenses with corresponding penalties:

x x x x

13. Failure to act promptly on letters and requests within fifteen (15) days from receipt, except as otherwise provided in the rules implementing the code of conduct and ethical standards for public officials and employees: 1[st] Offense > Reprimand; 2[nd] Offense > Suspension for one (1) to thirty (30) days; 3[rd] Offense > Dismissal.

A graver reason that impels this court to reject petitioner's plea is the mode taken by petitioner in elevating the case to this court. In the case of *Fabian v. Desierto*,^[34] this court ruled that appeals, if availing,^[35] from decisions of the Office of the Ombudsman in administrative disciplinary cases should be brought to the Court of Appeals under the provisions of Rule 43^[36] of the Rules of Court. In *Lanting v. Ombudsman*,^[37] we underscored the catena of cases subsequent to the *Fabian* ruling, thus:

In *Fabian v. Desierto*, we held that only "appeals from the decisions of the Office of the Ombudsman in administrative disciplinary cases should be taken to the Court of Appeals under the provisions of Rule 43 (of the 1997 Revised Rules of Civil Procedure)." We reiterated this ruling in *Namuhe vs. Ombudsman* and recently in *Barata vs. Abalos, Jr. and Coronel vs. Aniano Desierto, as Ombudsman, and Pedro Sausal, Jr.*^[38]

There is, verily, a limited applicability of this court's pronouncement in *Fabian*. The *Fabian* ruling does not extend to orders or decisions of the Ombudsman in criminal cases. *Kuizon v. Ombudsman*^[39] and *Mendoza-Arce v. Office of the Ombudsman (Visayas)*,^[40] instructed that petitions for certiorari questioning the Ombudsman's orders or decisions in criminal cases should be filed in the Supreme Court and not the Court of Appeals.^[41] This is the prevailing rule.^[42] The Office of the Deputy Ombudsman, in admonishing the private respondents, deemed the matter to be one in the nature of an administrative disciplinary case. The petitioner, in filing the instant Petition for Mandamus before this Court, took a route that is antagonistic to prevailing rules and jurisprudence.

WHEREFORE, under the foregoing premises, the instant Petition for Mandamus is DISMISSED. Costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.
Callejo, Sr., J., on leave.

[**] The name Noel M. Laberinto which was included as a party in the proceedings below was omitted by the petitioner in his Petition for Mandamus.

[1] Section 5. Duties of Public Officials and Employees. - In the performance of their duties, all public officials and employees are under obligation to:

(a) Act promptly on letters and requests - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

[2] Its full title reads, AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR

PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES.

[3] OMB rollo, pp. 1-9.

[4] Sec. 3. - Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[5] Also referred to as Resolution No. 81, Series of 2001 elsewhere in the pleadings.

[6] Section 5. Duties of Public Officials and Employees. - In the performance of their duties, all public officials and employees are under obligation to:

(a) Act promptly on letters and requests - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

[7] OMB rollo, pp. 177-181.

[8] Id. at 190-197.

[9] Id. at 197.

[10] The Resolution was with the recommending approval of Director Emilio A. Gonzalez III, CESO III.

[11] OMB rollo, pp. 233-237.

[12] Id. at 236.

[13] Id. at 237.

[14] The Joint Order was issued by Graft Investigator Officer II Adoracion A. Agbada; approved authority of Deputy Ombudsman for Luzon Jesus F. Guerrero and Director Emilio A. Gonzalez III, CESO III; id. at 252-255.

[15] Id. at 254.

[16] Id. at 255.

[17] Filed thru Solicitor General Alfredo L. Benipayo; rollo, pp. 63-70.

[18] Id. at 7.

[19] Section 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under

the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.

(d) The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person person or penalty in any amount not to exceed twenty-five thousand pesos (P25,000.00). If another sanction hereunder or under any other law is heavier, the latter shall apply.

[20] *Manalo v. PAIC Savings Bank*, G.R. No. 146531, 18 March 2005, 453 SCRA 747, citing cases.

[21] *Id.* at 754.

[22] *Manila International Airport Authority v. Rivera Village Lessee Homeowners Association, Incorporated*, G.R. No. 143870, 30 September 2005, 471 SCRA 358, 375.

[23] *Id.*

[24] *Olan v. Court of Appeals*, 373 Phil. 46, 55 (1999).

[25] *Knecht v. Desierto*, 353 Phil. 494, 503 (1998).

[26] *Id.*

[27] *Esquivel v. Hon. Ombudsman*, 437 Phil. 702, 711 (2002), citing *Venus v. Desierto*, G.R. No. 130319, 21 October 1998, 298 SCRA 196, 214.

[28] *Id.*, citing CONSTITUTION, Art. XI, Section 13, which provides, viz:

The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

x x x x

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

[29] *Supra* note 29. The court in *Esquivel* added:

The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman, but upon practicality as well. Otherwise, innumerable petitions seeking dismissal of investigatory proceedings conducted by the Ombudsman will grievously hamper the functions of the office and the courts, in much the same way that courts will be swamped if they had to review the exercise of discretion on the part of public prosecutors each time they decided to file an information or dismiss a complaint by a private complainant.

[30] *Villanueva v. Ople*, G.R. No. 165125, 18 November 2005, 475 SCRA 539, 554, citing cases.

[31] Supra note 30.

[32] Fuentes, Jr. v. Office of the Ombudsman, G.R. No. 164865, 11 November 2005, 474 SCRA 779, 790.

[33] Also referred to as Resolution No. 99-1936 of the Civil Service Commission.

[34] 356 Phil. 787 (1998).

[35] Section 7, Rule III of Administrative Order No. 7, provides:

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;

Admonition is an even lower imposition in the tier of administrative penalties.

[36] APPEALS FROM THE COURT OF TAX APPEALS AND QUASI-JUDICIAL AGENCIES TO THE COURT OF APPEALS.

[37] G.R. No. 141426, 6 May 2005, 458 SCRA 93.

[38] Id. at 100-101.

[39] G.R. Nos. 140619-24, 9 March 2001, 354 SCRA 158.

[40] 430 Phil. 101 (2002).

[41] Perez v. Office of the Ombudsman, G.R. No. 131445, 27 May 2004, 429 SCRA 357, 361.

[42] Id.

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