

VICTOR ANDRES MANHIT, PETITIONER, VS. OFFICE OF THE OMBUDSMAN (FACT FINDING & INTELLIGENCE BUREAU) RESPONDENT.

G.R. No. 159349. September 07, 2007

Ponente: TINGA, J.

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TINGA, J.:

Petitioner Victor Andres Manhit seeks the reversal of the Court of Appeals' Decision and the Resolution dated 3 October 2002 and 31 July 2003, respectively, in CA-G.R. SP No. 68015, entitled "Victor Andres Manhit v. Office of the Ombudsman (Fact Finding and Intelligence Bureau)." In the issuances, the Court of Appeals affirmed the 10 August 2001 Order of the Office of the Ombudsman in OMB-ADM-0-00-0743 finding petitioner guilty of Conduct Prejudicial to the Best Interest of the Service, aggravated by the offense of Simple Misconduct, with the corresponding penalty of fine equivalent to six months of his salary.[1]

The antecedents follow.

On 16 December 1998, Andrew Gonzales, then Secretary of the Department of Education, Culture and Sports (DECS), requested financial assistance from the Land Bank of the Philippines (LBP), allegedly for the purchase of office equipment. The request was approved by the LBP, which allocated P12 million as donation to the DECS. In connection with the said donation, then DECS Undersecretary Antonio A. S. Valdes wrote to the LBP Manager of the Pasig Control Branch, requesting the opening of a DECS special account, with three (3) officers named therein as the authorized signatories.[2] LBP thus opened up a Special Account, Special Account No. 0672-1043-78, for the DECS, to which the P12 million donation and the interest from other DECS accounts were credited. This numbered account is a checking account with no account name and it was not reflected in the DECS Book of Accounts.[3] Subsequently, the DECS purchased vehicles worth P21,519,600.00, with funding having been sourced from this special account. Procurement of the vehicles was made without any public bidding and without any authority from the Office of the President.[4]

On 28 September 2000, the Fact Finding and Intelligence Bureau of the Office of the Ombudsman (OMB) filed an Administrative Complaint before its Administrative Adjudication Bureau against petitioner and some DECS officials,[5] docketed as OMB-ADM-0-00-0743, for (i) failure to observe the guidelines on government accounting in connection with the receipt and use of donations from LBP; (ii) allowing the use of the proceeds of the donations for a purpose other than that for which the same were granted; (iii) failure to comply with the rules on procurement of government vehicles and the procurement policies in general; and (iv) having taken part in the illegal disbursement of the donated funds through conspiracy by silence for having been the principal beneficiaries of the said illegal transactions.[6]

The OMB found that petitioner did not even attempt to cause the submission of a report to the Department of Budget and Management (DBM) and to the Commission on Audit (COA) relative to the receipt of the donation and/or disbursement thereof.[7] Further, it concluded that petitioner directly participated in the disbursement of

the donation when he signed a check payable to Autohand Sales, the supplier of the vehicles.

On 15 June 2001, the OMB promulgated its Decision in OMB-ADM-0-00-0743,[8] the dispositive portion of which reads in part:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered finding respondents BARTOLOME S. CARALE, ANTONIO A.S. VALDEZ, and VICTOR ANDRES C. MANHIT GUILTY of GRAVE MISCONDUCT, GROSS NEGLECT OF DUTY and VIOLATION OF SECTION 12 OF REPUBLIC ACT NO. 8745 AND REPUBLIC ACT NO. 8760, in relation to Section 43, Chapter 5, Book VI of Executive Order No. 292, for which the penalty of DISMISSAL FROM THE SERVICE, WITH CANCELLATION OF ELIGIBILITY, FORFEITURE OF LEAVE CREDITS and RETIREMENT BENEFITS and PERPETUAL DISQUALIFICATION FOR RE-EMPLOYMENT IN THE GOVERNMENT SERVICE, INCLUDING GOVERNMENT OWNED OR CONTROLLED CORPORATION, is hereby imposed, pursuant to Section 10, Rule III of Administrative Order No. 07, in relation to Section 25 of Republic Act No. 6770.

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SO RESOLVED. [9]

The OMB modified the Decision in its Order dated 10 August 2001,[10] the dispositive portion of which reads:

WHEREFORE, premises considered, the AAB Decision dated 15 June 2001, is hereby APPROVED WITH THE MODIFICATIONS that respondents Manhit and Carale be adjudged guilty of Conduct Prejudicial to the Best Interest of the Service, aggravated by the offense of Simple Misconduct, and imposing on each of them the penalty of fine equivalent to six (6) months of their respective salaries, and that respondent Gonzales be meted the penalty of fine equivalent to five (5) months of his salary for Conduct Prejudicial to the Best Interest of the Service.

SO ORDERED.[11]

Petitioner sought the reconsideration of the Order but to no avail, as the OMB denied the motion for reconsideration in the Order dated 18 October 2001.[12]

Undaunted, petitioner filed a Petition for Review[13] before the Court of Appeals, assailing the OMB issuances, thus: (i) the OMB erred in finding him liable for the offense of simple misconduct for not initiating steps to report the existence of the special account to the DBM, COA, or the Accounting Department of the DECS; and (ii) the OMB erred in finding him an active participant in the procurement of vehicles without public bidding or authority from the Office of the President, hence liable for the offense of conduct prejudicial to the best interest of the service.

The Court of Appeals dismissed the petition for lack of merit.[14] It held that petitioner was aware of the P12 million donation by the LBP as he was part of the Executive Committee, and that he knew of the existence of Special Account No. 0672-1043-78 under the control of Antonio A. S. Valdes. Furthermore, he knew that the check he signed was going to be drawn against such special account, and that the procurement of the vehicles was made without public bidding. "In so doing, petitioner failed to initiate steps to report the same to the DBM, COA or DECS Accounting Division even after several checks payable to various dealers in Metro Manila and Cebu were drawn against the special account with himself, Antonio Valdez and Bartolome Carale as signatories thereof." [15] Petitioner moved for the reconsideration of the Decision, but the Court of Appeals denied his motion.[16]

Petitioner now claims that both the Court of Appeals and the OMB erred in ruling that: (i) he had the legal obligation to initiate steps to report the existence of Special Account No. 0672-1043-78 to the DBM, COA, or the

Accounting Department of the DECS; (ii) he violated Section 12 of the General Appropriations Acts (GAA) of CY 1999 and 2000; and (iii) he was an active participant in the procurement of the DECS service vehicles without any public bidding or authority from the Office of the President.[17]

According to petitioner, he did not violate existing accounting and auditing rules because as then DECS Undersecretary for External Affairs, he had no legal obligation to report the existence of Special Account No. 0672-1043-78.[18] He claims that while he was aware of the donation made by the LBP, he had no knowledge of the special account where said donation was eventually deposited, as he was not even aware of its existence since he was not even a signatory thereto.[19] If there is any fault which can be attributed to him, it was his act of signing only one check without having the authority to do so.[20] Not being an authorized signatory to the special account, his signature appearing in the check produced no legal effect and may not serve as the basis for his administrative liability.[21]

Moreover, petitioner claims that the GAA of CY 1999 and 2000 do not state whose responsibility it is to make the report of donations, thus making the duty to report applicable only to officials who by law have the legal obligation to report such donations and not to everyone in the government agency concerned.[22]

Petitioner argues that save for his act of signing one check payment, there is no other evidence to justify the conclusion that he actively participated in the procurement of the DECS vehicles, and that the findings against him are based solely on his signature in Check No. 0000304809.[23]

On the other hand, the Office of the Solicitor General (OSG), on behalf of respondent, insists that petitioner had personal knowledge of LBP's cash donation to DECS and had a hand in the purchase of the vehicles without the requisite public bidding. According to the OSG, given petitioner's position as undersecretary, he is presumed to have assumed the said post with the knowledge of the responsibility attached thereto.[24] Petitioner's allegation that he was not an authorized signatory is belied by LBP's act of honoring the check which he co-signed with Undersecretary Valdes. Had he not signed the check, LBP would not have honored it. If his signature was not needed in the check, he should not have signed the same.[25]

The OSG points out that petitioner is charged by law to have conclusive knowledge of Section 12 of Republic Act Nos. 8745 (GAA of 1999) and 8760 (GAA of 2000) which provides that receipts from donations shall be accounted for in the books of the government and recorded as a Special Account in the General Fund, and shall be available to the concerned implementing agency through a Special Budget.[26] Likewise, the OSG claims that petitioner is liable under Sections 43 and 80 of Chapter 5, Book VI of the Administrative Code of 1987 (Executive Order No. 292) for illegal expenditures and misuse of government funds and property.[27]

The OSG stresses that petitioner, despite knowledge of the LBP donation and the Special Account and the fact that the check he signed for the procurement of vehicles without public bidding was going to be drawn against the Special Account, failed to take initiate steps to report the same to the DBM, COA, or DECS Accounting Division.

In a nutshell, petitioner's theory is this—he is not specifically obliged by law to report the receipt of the funds, nor of the special account, and that as a non-official signatory to the special account, he cannot be held liable for signing a check from said account which was eventually accepted by the depository bank.

We are not impressed. As borne out by the evidence, petitioner's liability lies not so much in his failure to report the matter but in his direct participation and complicity in the illegal disbursement of public funds.

To begin with, donations in cash or in kind to the Government or any of its instrumentalities or agencies become government funds or property. Even the proceeds of donations cannot be disbursed or disposed of except in accordance with law. Some of the governing rules are found in the GAA, the Administrative Code of 1987, and

the Government Accounting and Auditing Manual.

The GAA of 1999 and 2000 have a common Section 12 which provides:

Donations: Departments, bureaus, offices or agencies may accept donations, contributions, grants, bequests or gifts, in cash or in kind, from various sources, domestic or foreign, for purposes relevant to their functions: PROVIDED, That in cases of donations from foreign governments, acceptance thereof shall be subject to the prior clearance and approval of the President of the Philippines upon recommendation of the Secretary of Foreign Affairs: PROVIDED, FURTHER, That the Department of Agriculture through the National Agricultural Fishery Council (NAFC) and in coordination with the Department of Budget and Management (DBM) and National Economic and Development Authority (NEDA), is hereby authorized to determine the utilization of the RP-Japan Increased Food Production Program Grant for agriculture and fishery projects in accordance with the objectives of R.A. No. 8435, otherwise known as "The Agriculture and Fisheries Modernization Act of 1997." Receipts from donations shall be accounted for in the books of the government in accordance with pertinent accounting and auditing rules and regulations. Such donations, whether in cash or in kind, shall be deemed automatically appropriated for purposes specified by the donor. The receipts from cash donations and sale of donated commodities shall be remitted to the National Treasury and recorded as a Special Account in the General Fund and shall be available to the concerned implementing agency through a Special Budget pursuant to Section 35, Book VI of E.O. No. 292. The agency concerned shall submit to the Department of Budget and Management, the Senate Committee on Finance, the House Committee on Appropriations, and to the Commission on Audit a quarterly report of all donations whether in cash or in kind, as well as expenditures or disbursements of the amount released.[28]

In case of violation of this Section, the erring officials and employees shall be subject to disciplinary action under the provisions of Section 43 and 80 of Book VI, E.O. No. 292 and to appropriate criminal action under existing penal laws. [Emphasis supplied]

Section 42, Title I B, Bk. V B, and Sections 43 and 80 of Chapter 5, Book VI, of the Administrative Code of 1987 read:

Sec. 42. Accounting for Money and Property Received by Public Officials.—Except as may otherwise be specifically provided by law or competent authority, all moneys and property officially received by a public officer in any capacity or upon any occasion must be accounted for as government funds and government property. Government property shall be taken up in the books of the agency concerned at acquisition cost or an appraised value.

Sec. 43. Liability for Illegal Expenditures.—Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

Any official or employee of the Government knowingly incurring any obligation, or authorizing any expenditure in violation of the provisions herein, or taking part therein, shall be dismissed from the service, after due notice and hearing by the duly authorized appointing official. If the appointing official is other than the President and should he fail to remove such official or employee, the President may exercise the power of removal.

Sec. 80. Misuse of Government Funds and Property.—Any public official or employee who shall apply any government fund or property under his administration or control to any use other than for which such fund or property is appropriated by law, shall suffer the penalty imposed under the appropriate penal laws.

Section 54 of the Government Accounting and Auditing Manual provides:

Sec. 54. Accounting for money and property received by public officials.—Except as may otherwise be specifically provided by law or competent authority, all moneys and property officially received by a public officer in any capacity or upon any occasion must be accounted for as government funds and government property. Government property shall be taken up in the books of the agency concerned at acquisition cost or at appraised value (Sec. 42, Title I(B) Bk V(B), 1987 Adm. Code)

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Petitioner admitted knowledge of the existence of the donation[29] but denies knowledge of the special account. But this denial cannot overcome the common finding of fact of the OMB and the Court of Appeals that he was aware of the existence of the special account. The Court is not a trier of facts. Absent a clear showing of grave abuse of discretion, we shall not disturb such findings. The Supreme Court cannot weigh once more the evidence submitted not only before the Ombudsman but also before the Court of Appeals.[30]

In any event, the inescapable truth is that petitioner signed a check drawn against the special account. Indeed, he does not deny that he signed Check No. 00003048009. The check was honored by the LBP and its proceeds were used to purchase a vehicle. Petitioner's signing the check is an indication not only of his awareness of the existence of the special account but also his recognition that his signature could pave the way for the encashment of the check, as it in fact did.

In one case,[31] the Court had the occasion to define "gross" and "prejudicial" in connection with the offense of conduct prejudicial to the best interest of the service. Thus we stated:

The word "gross" connotes "something out of measure; beyond allowance; not to be excused; flagrant; shameful" while "prejudicial" means "detrimental or derogatory to a party; naturally, probably or actually bringing about a wrong result." Mr. Estacio's conduct placed not only the Court of Appeals, but the entire Judiciary, in a bad light. He deported himself in a manner not deserving of the public's respect—grossly prejudicial to the best interest of the service.[32]

Petitioner's acts have prejudiced public service. Public office is a public trust. Public officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty, and efficiency. Any act or omission on the part of those involved in the public service which would violate the norm of public accountability and diminish the faith of the people in the public office cannot be countenanced.

In sum, petitioner's signing the check, with full knowledge that it is to be drawn, as it in fact was, from the special account sourced from the donation, and that the proceeds of the check are to be used, as they in fact were, for the procurement of a vehicle, coupled with the fact that the purchase was effected without public bidding, renders him liable for conduct prejudicial to the best interest of the service, aggravated by simple misconduct.

WHEREFORE, premises considered, the petition is DENIED for lack of merit, no reversible error having been committed by the Court of Appeals. The assailed Decision and Resolution are AFFIRMED in toto. No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Fact-Finding and Intelligence Bureau v. Andrew Gonzales, et al.

[2] The pertinent portion of which reads:

Relative to the P12.00M fund donated by the Land Bank of the Philippines to this Office, may we request the

opening of a Special Account in the name of DECS to which said funds are to be deposited.

Further, please be informed that any two of the following shall be authorized signatories:

Secretary Andrew Gonzales

Antonio A. S. Valdes

Bartolome Carale

[3]Records, p. 63.

[4] Finding of fact of the OMB, records, p. 63.

[5] Petitioner was then Undersecretary for External Affairs. The other DECS officials named in the complaint were:

- Secretary Andrew Gonzales
- Undersecretary Antonio A.S. Valdes
- Undersecretary Bartolome S. Carale
- Undersecretary Ramon C. Bacani
- Assistant Secretary Emmanuel M. Mariano
- Assistant Secretary Fe A. Hidalgo
- Assistant Secretary Mario P. Bravo
- Assistant Secretary Maria Lourdes G. De Vera

[6] Records, pp. 85-86.

[7] Decision, OMB-ADM-0-00-0743, records, p. 50.

[8] Rollo, pp. 91-115.

[9] Id. at 113.

[10] Id. at 118-122.

[11] Id. at 121-122.

[12] Id. at 123-124.

[13] Docketed as CA-G.R. SP. No. 68015.

[14]Decision dated 3 October 2002, rollo, pp. 36-50.

[15] Id. at 45.

[16] Rollo, p. 52.

[17]Id. at 20

[18]Id. at 22.

[19] See note 2.

[20] Rollo, pp. 22-24.

[21] Id. at 30.

[22] Id. at 26.

[23] Id. at 28.

[24] Id. at 245.

[25] Id. at 248.

[26] Id.

[27] Id. at 250.

[28] Sec. 35 , Book VI of the Administrative Code of 1987 provides:

Special Budgets for Lump-Sum Appropriations.—Expenditures from lump-sum appropriations authorized for any purpose or for any department, office or agency in any annual General Appropriations Act or other Act from any fund of the National Government, shall be made in accordance with a special budget to be approved by the President, which shall not be limited to the number of each kind of position, the designations, and the annual salary proposed for which an appropriation is intended. This provision shall be applicable to all revolving funds, receipts which are automatically made available for expenditure for certain specific purposes, aids and donations for carrying out certain activities, or deposits made to cover the cost of special services to be rendered to private parties x x x x

[29] Order of the Ombudsman dated 10 August 2001, rollo, p. 120. See also Petition, id. at 23, where petitioner avers, "However, even though Petitioner was in fact part of the Executive Committee of the DECS, he was only aware of the donation and not of the existence of such special account."

[30] *Almanzor v. Felix* , G.R. No. 144935, 15 January 2004, 419 SCRA 641, 646-647.

[31] *Jugueta v. Estacio*, A.M. No. CA-04-17-P, 25 November 2004, 444 SCRA 10.

[32] Id. at 19, citations omitted.

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