OFFICE OF THE OMBUDSMAN, REPRESENTED BY HON. SIMEON V. MARCELO, PETITIONER, VS. CARMENCITA D. CORONEL, RESPONDENT.

G.R. No. 164460. June 27, 2006

Ponente: PANGANIBAN, C.J.

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PANGANIBAN, C.J.:

In administrative cases, a finding of guilt must be supported by substantial evidence. In the present case, an unauthenticated photocopy of an alleged receipt does not constitute substantial evidence to show that respondent is guilty of dishonesty. In fact, absent any authentication, the photocopy is inadmissible in evidence; at the very least, it has no probative value.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the August 28, 2003 Decision[2] and the June 28, 2004 Resolution of the Court of Appeals (CA) in CA-GR SP No. 77047.[3] The CA Decision nullified petitioner's Order of Disapproval dated March 23, 2001,[4] while the CA Resolution denied petitioner's Motion for Reconsideration.[5] The challenged Decision disposed thus:

> "WHEREFORE, premises considered, and in view of all the foregoing, the petition is GIVEN DUE COURSE. The Disapproval by [Petitioner] Ombudsman on the March 23, 200[1][6] Order of Graft Investigation Officer I Grace H. Morales, granting the motion for reconsideration of [Respondent] Carmencita D. Coronel is ANNULLED and SET ASIDE for having been done with grave abuse of discretion amounting to lack or excess of jurisdiction. Consequently, the March [7], 200[1][7] Order of Graft Investigation Officer I Grace H. Morales exonerating [Respondent] Carmencita D. Coronel is hereby REINSTATED and AFFIRMED."[8]

The Facts

According to the CA, the facts are as follows:

> "[Respondent] Carmencita D. Coronel is a Senior Accounting Processor B with Salary Grade 10 of the Linamon Water District, Lanao del Norte. On September 26, 1997, the Board of Directors of Linamon Water District, by virtue of Resolution No. 056[,] Series of 1997, designated [respondent] as Officer-in-Charge, effective October 1, 1997 until a General Manager shall have been appointed.
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> "In the morning of October 14, 1998, [respondent] called for a meeting the officers of the different Water Districts in Lanao del Norte and Lanao del Sur, as well as their advisors from the Local Water Utilities Administration (LWUA). Since it was nearing lunchtime, the group opted to continue their meeting at Marvilla's Store at Barangay Bunu-un, Iligan City. The luncheon meeting, attended by more or less ten (10) persons, was presided over by Advisor Rhodora Gumban of the LWUA. As the host of the said meeting, [respondent] paid for the lunch in the amount of One Thousand Two [H]undred Thirteen [P]esos (P1,213.00), as shown in cash Invoice No. 0736 dated October 14, 1998.

> "On November 13, 1998, [respondent] claimed for reimbursement of her expenses covered by Voucher No. 98-11-23, chargeable against the representation and entertainment account of her office. That very same day, the voucher was approved and [respondent] got her reimbursement in the amount of One Thousand Two [H]undred Thirteen [P]esos (P1,213.00).
>
> "On November 17, 1998, Pedro C. Sausal, Jr. was appointed General Manager of Linamon Water District. On February 1999, he filed with the Office of the Ombudsman-Mindanao a sworn letter-complaint against herein [respondent] for dishonesty. The case was docketed as Case No. OMB-MIN-ADM 99-044. The complaint alleges that [respondent] falsified the cash invoice she submitted for reimbursement by making it appear that the luncheon bill was for One Thousand Two [H]undred Thirteen [P]esos (P1,213.00) when in fact, it was only Two [H]undred Thirteen [P]esos (P213.00), as reflected in the photocopy of the original duplicate of cash invoice No. 0736 dated October 14, 1998.
>
> "On November 27, 2000, Grace H. Morales, Graft Investigation Officer I of the OMB-Mindanao, Davao City, rendered a decision, approved by the then Ombudsman Aniano A. Desierto on December 29, 2000, the dispositive portion of which reads-
>
> 'WHEREFORE, premises considered, this office finds and so holds that respondent CARMENCITA D. CORONEL is guilty of DISHONESTY and is hereby DISMISSED from the service, with forfeiture of all leave credits and retirement benefits, pursuant to Section 22 (a) in relation to Sec. 9 of Rule XIV of the Omnibus Rules Implementing Book V of the Administrative Code of 1987. She is disqualified from re-employment in the national and local governments, as well as in any agency, including government-owned or controlled corporations. Let a copy of this decision be entered in the personal records of respondent.
>
> 'SO DECIDED.'

"On January 10, 2001, the Office of the Ombudsman, Manila, issued an order directing the General Manager of Linamon Water District, Lanao del Norte, to implement the decision dated November 27, 2000.

"[Respondent] filed her motion for reconsideration dated February 2, 2001. On March 7, 2001, Graft Investigation Officer I Grace H. Morales issued an Order, the decretal portion of which states-

> 'WHEREFORE, premises considered, the Motion for reconsideration is granted and the Decision of this Office dated November 27, 2000 dismissing from the service respondent Carmencita D. Coronel is hereby SET ASIDE.'

x x x x x x x x x

"On March 23, 2001, [Petitioner] Ombudsman Aniano Desierto DISAPPROVED the above order with a marginal note, 'the original decision stands.'"[9]

Originally, Respondent Coronel filed before this Court a Rule 65 Petition,[10] seeking the nullification of petitioner's Disapproval Order for having deprived her of due process. In that case,[11] we said that the Petition should have been denied outright. After all, in Fabian v. Desierto,[12] this Court held that appeals from the decisions of the Office of the Ombudsman (OMB) in administrative disciplinary cases should be taken to the CA under Rule 43 of the Rules of Court. In that case, though, we ruled that in the interest of justice, there was a need to suspend the application of Fabian and Circular AM No. 99-2-02-SC. We considered respondent's Petition then as a petition for review under Rule 43 and referred it to the CA for adjudication on the merits.[13]

Ruling of the Court of Appeals

The appellate court nullified petitioner's Disapproval Order and reinstated the March 7, 2001 Order of Graft Investigation Officer I Grace H. Morales, who exonerated respondent from the charge of dishonesty.

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The CA took cognizance of the corroborating Affidavits[14] submitted by respondent for the first time through her Motion for Reconsideration[15] before the ombudsman. The CA held that those pieces of evidence adequately supported her innocence. The court a quo reiterated the investigating officer's finding that her administrative liability for dishonesty had not been proven.

Further, the appellate court said that the OMB's disapproval was tainted with grave abuse of discretion.[16] First, petitioner ombudsman did not consider the credible evidence presented by respondent in her Motion for Reconsideration. Second, he did not give any justification for his disapproval of the investigating officer's ruling. This shortcoming was in contravention of the constitutional mandate that all decisions, even if rendered by quasi-judicial and administrative bodies, should clearly and distinctly state the facts and the law on which they are based. The CA cited Eballa v. Paas,[17] in which the Supreme Court had denounced some judges' practice of merely noting down their orders on the margin of the motions before them.[18]

Hence, this Petition.[19]

Issues

Petitioner raises the following issues in its Memorandum:

> "I
>
> Whether or not the Court of Appeals erred in holding that respondent was not guilty of falsifying the amount written in the receipt.
>
> "II
>
> Whether or not the Court of Appeals erred in holding that it was grave injustice for then Ombudsman Desierto not to have considered the evidence presented by respondent in her Motion for Reconsideration.
>
> "III
>
> Whether or not the Court of Appeals erred in holding that respondent was denied due process.
>
> "IV
>
> Whether or not the Court of Appeals erred in holding that it was grave injustice for then Ombudsman Desierto not to give any justification in disapproving the Order of Dismissal by GIO Grace H. Morales."[20]

Going over petitioner's arguments, the issues may be reduced to the following:

- Whether petitioner's Disapproval Order, expressed as a marginal notation, was a valid decision or order

- Whether the investigating officer committed an error in admitting respondent's "new" evidence

- Whether respondent was guilty of dishonesty.

The Court's Ruling

The Petition is partly meritorious.

First Issue:

Validity of the Disapproval Order

Respondent maintains that Ombudsman Desierto's marginal notation — which reads, "The original decision stands" — was violative of her right to due process for failing to state the basis for the action.[21]

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On the other hand, petitioner counters that the marginal notation met constitutional standards. Citing Olivarez v. Sandiganbayan,[22] the OMB maintains that by referring to the original Decision, the notation adopts the findings of fact and law already discussed.[23]

We agree with petitioner. We held in Olivarez[24] that the Ombudsman's disapproval orders written as marginal notations were valid, even if they did not specifically spell out their factual and evidentiary basis.[25] Indeed, this doctrine was first established in Cruz v. People[26] and has consistently been followed in recent cases.[27] In the present controversy, it is worthwhile to quote a relevant portion of our ruling in Olivarez:

> "It may be true that, on the face thereof, the marginal notes seem to lack any factual or evidentiary basis for failure to specifically spell out the same. However, that is not all there is to it. What is actually involved here is a situation wherein, on the bases of the same findings of fact of the investigating prosecutors, respondent special prosecutors were of the opinion that, contrary to the former's recommendation, petitioner is probably guilty of the offense charged. Obviously, therefore, since it is merely a review of the conclusions arrived at by the investigating prosecutor, another or a new preliminary investigation is no longer necessary."[28]

The subject notation, "The original decision stands," was a valid resolution. It actually adopted the factual and legal conclusions of the original Decision. Hence, respondent should find her bearings from that holding.

The notation does not deny respondent of her right to due process. In administrative proceedings, the essence of due process lies simply in the opportunity to explain one's side or to seek reconsideration of the action or ruling complained of. What is proscribed is the absolute lack of notice or hearing.[29]

In this case, respondent was given every opportunity to be heard. Significantly, her intelligible pleadings before the CA and this Court indicate that she knew the bases for the Ombudsman's Decision. In fact, she very ably pinpointed its alleged errors that she thought would merit our review. Not having been left in the dark as to how it was reached, respondent's insistence on a denial of due process has no legal leg to stand on.

Second Issue:

Admission of "New" Evidence

Petitioner cites Section 8 of Rule III of the Office of the Ombudsman's Rules of Procedure (Administrative Order No. 07), which provides that a motion for reconsideration may be filed if a newly discovered evidence would materially affect the order or decision. He then posits that the Affidavits of the restaurant proprietor and the members of the luncheon meeting, as well as the Certification of the barangay captain, could not qualify as newly discovered evidence. These were allegedly available and could have been readily produced by respondent with reasonable diligence during the administrative adjudication of the case.[30]

On the other hand, respondent cites Samala v. CA[31] to support her claim that rules of procedure must not be strictly applied to frustrate substantial justice.[32]

Newly discovered evidence refers to that which already exists prior to or during a trial, but whose existence is not known to the offering litigant; or, though known, could not have been secured and presented during the trial despite reasonable diligence.[33] What is essential for a particular piece of evidence to be properly regarded as "newly discovered" is that the offering party exercised reasonable diligence in seeking to locate the evidence before or during the trial, but nonetheless failed to secure it. Thus, a party who knows of the existence of specific pieces of evidence cannot offer them as "newly discovered" without any explanation for not presenting them earlier.[34]

Petitioner is correct in saying that the evidence presented by respondent in support of her Motion for

Reconsideration should not have been considered. Her Motion for Reconsideration[35] did not explain the belated presentation of her corroborating affidavits, but it merely contained the following statements:

> "2. On the basis of the aforecited decision, the respondent hereby invoke (sic) this Motion for Reconsideration, anchored principally on the ground that, this Office committed serious errors in [its] findings of fact and law, which if left uncorrected will be prejudicial to the interest of the herein respondent. The respondent has also discovered new evidence, which if considered, will materially affect the decision, which is being sought to be reconsidered."[36]
>
> "The seriousness and the adverse consequential impact of the decision of this Office as against the herein respondent, compelled the latter to clarify facts and things with MR. MARIANO MARZO[,] JR., who is the owner of Marvilla's By the Sea, the same business establishment who (sic) issued Cash Invoice Receipt No. 0736, dated October 14, 1998, which is the gist (sic) of the complainant's cause on the alleged tampering of receipt which (sic) he accused respondent to have committed the same.
>
> "After some initial backgrounder of the case, MR. MARIANO MARZO[,] JR., personally volunteered to execute and sign a 'SWORN STATEMENT,' before the Office of the City Prosecutor, of the City of Iligan, detailing every fact as to the real truth of the matter, the substance of which is reflected in his SWORN STATEMENT x x x[.]"[37]
>
> "Additionally, in support and in order to corroborate the Sworn Statement of Mr. Mariano Marzo, Jr., the affidavits of MR. CEDRIC D. LAGUERTA, General Manager of Kauswagan Water District, Lanao del Norte, MR. ROMEO J. ANGELES, General Manager of Wao Water District, Lanao del Sur, MR. BEDE G. GATA, of the Local Water Utilities Administration, of Balara, Quezon City, and that of MS. RHODORA V. GUMBAN, also of LWUA, Quezon City, Philippines, [a] Certification issued by the Punong Barangay of Buru-un, Iligan City, certifying as to the reasonableness of the price paid by the respondent, in relation to the number of persons present during that luncheon meeting, in relation to the prevailing price then for meals in that area which is a tourist destination in the City of Iligan. The aforecited documents are herein simultaneously appended and marked as Annexes 'C', 'D', 'E', 'F', and 'G', respectively."[38]

We are convinced that the Affidavits do not constitute "newly discovered evidence." Respondent did not prove that, even with reasonable diligence, she could not have obtained them during the investigation. There is no showing whatsoever that her corroborating witnesses hesitated or declined to give their testimonies.

As it is, the additional evidence offered by Coronel amount to no more than "forgotten" evidence, the belated uncovering of which would not have justified a reconsideration of the case. Forgotten evidence refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel.[39] Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice[40] and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.

Third Issue:

Absence of Substantial Evidence

Notwithstanding the inadmissibility of the forgotten evidence of respondent, there is a basis for reversing the Ombudsman's November 27, 2000 Decision[41] and for affirming the CA Decision[42] exonerating her. We find the evidence presented by the complainant insufficient to support his serious charge that she was dishonest.

Although sufficiency or insufficiency of evidence is a question of fact and is not generally subject to review by

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this Court, the instant case falls under the recognized exceptions. The original Decision of the Ombudsman was not supported by the evidence, but was grounded entirely on speculations, surmises and conjectures.

The evidence of the prosecution consisted merely of the original Official Receipt (OR) No. 0736, and a photocopy of the original duplicate of that receipt. The first was a bill for P1,213; and the latter, for P213. Both pieces of evidence refer to one and the same Official Receipt; yet, they contain different amounts. Obviously, one of them was falsified. Unfortunately, Complainant Sausal, Jr., failed to prove that it was indeed respondent's receipt that was falsified. As it stands, we do not know for certain if the number "1" was inserted in OR No. 0736 or was deleted from the unauthenticated photocopy of the original duplicate. The evidence is equivocal. Besides, given that there were 8 to 10 attendees in the luncheon meeting, a bill of P1,213 for meals was not entirely improbable, even in 1998.

In administrative cases, the quantum of proof necessary for a finding of guilt is substantial evidence;[43] that is, such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[44] In the instant case, the complainant did not present evidence to support his theory that the photocopy of the original duplicate reflected the true amount, or that OR No. 0736 had indeed been falsified. That oversight was fatal to the discharge of his burden of proof. A reasonable mind will not carelessly jump to the conclusion that respondent is the guilty party.

The complainant's evidence to prove falsification consisted of an unauthenticated[45] photocopy of the original duplicate. He could have obtained an affidavit from the restaurant proprietor or employee who had issued the receipt, in order to attest to its due execution and authenticity. Absent any proof of due execution and authenticity, the alleged photocopy of the original duplicate of OR No. 0736 does not convince us that it is an accurate reflection of the actual bill incurred.

While this Court adheres to a liberal view of the conduct of proceedings before administrative agencies, it also consistently requires some proof of authenticity or reliability as a condition for the admission of documents. Absent any such proof of authenticity, the photocopy of the original duplicate should be considered inadmissible and, hence, without probative value.[46]

Given the flimsy charge and the paucity of the evidence against respondent, there is no need for her to present additional evidence to vindicate herself. The Office of the Ombudsman should have dismissed the Administrative Complaint against her in the first place. Clearly, her guilt was not proven by substantial evidence.

WHEREFORE, the Petition is DENIED. Respondent Carmencita D. Coronel is hereby EXONERATED of the charge against her for lack of substantial evidence. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 23-48.

[2] Id. at 50-60. Fifteenth Division. Penned by Justice Sergio L. Pestaño (member) and concurred in by Justices Rodrigo V. Cosico (Division chair) and Rosalinda Asuncion-Vicente (member).

[3] Id. at 62-63.

[4] Id. at 129. Petitioner ombudsman disapproved the March 7, 2001 Order of Graft Investigation Officer Grace H. Morales, granting respondent's Motion for Reconsideration.

[5] Id. at 65-72.

[6] Refer to Assailed CA Decision, p. 1; rollo, p. 50.

[7] Id.

[8] Id. at 10-11; rollo, pp. 59-60.

[9] Id. at 2-4; id. at 51-53.

[10] Rollo, pp. 131-149.

[11] Coronel v. Desierto, 448 Phil. 894, April 8, 2003.

[12] 295 SCRA 470, September 16, 1998.

[13] Coronel v. Desierto, supra at 903.

[14] Assailed Decision, pp. 6-8; rollo, pp. 55-57.

[15] Rollo, pp. 115-124.

[16] Assailed Decision, pp. 8-9; rollo, pp. 57-58.

[17] 362 SCRA 389, August 9, 2001.

[18] Assailed Decision, p. 9; rollo, p. 58.

[19] The Petition was deemed submitted for decision on September 29, 2005, upon the Court's receipt of respondent's Memorandum, signed by Atty. Arthur Lluch Padilla. Petitioner's Memorandum — signed by Solicitor General Alfredo L. Benipayo, Assistant Solicitor General Alexander G. Gesmundo, and Solicitor Mauricia E. Dinopol — was received by the Court on May 11, 2005.

[20] Petitioner's Memorandum, pp. 7-8; rollo, pp. 225-226. Original in uppercase.

[21] Petition dated July 4, 2001; id. at 140-143.

[22] 319 Phil. 45, October 4, 1995.

[23] Petitioner's Memorandum, pp. 19-21; rollo, pp. 237-239.

[24] Supra note 22.

[25] Supra at 58-59.

[26] 233 SCRA 439, June 27, 1994.

[27] Diamante III v. Sandiganbayan, G.R. No. 147911, October 14, 2005; Gallardo v. People, 456 SCRA 494, April 21, 2005.

[28] Supra at 59-60, per Regalado, J.

[29] Zacarias v. National Police Commission, et al., 414 Phil. 387, October 24, 2003; Navarro III v. Damasco, et al., 316 Phil. 322, July 14, 1995.

[30] Petitioner's Memorandum, pp. 11-14; rollo, pp. 229-232.

[31] 363 SCRA 535, August 23, 2001.

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[32] Respondent's Memorandum, rollo, pp. 260-261.

[33] RULES OF COURT, Rule 37, Sec. 1 (b).

[34] See Tumang v. CA, 172 SCRA 328, April 17, 1989.

[35] Rollo, pp. 115-124.

[36] Id. at 116.

[37] Id. at 120.

[38] Id. at 121-122.

[39] Tumang v. CA, supra note 34.

[40] Cansino v. CA, 409 SCRA 403, August 21, 2003.

[41] Rollo, pp. 110-114.

[42] Id. at 7-17.

[43] Tapiador v. Office of the Ombudsman, 429 Phil 47, March 15, 2002.

[44] Velasquez v. Hernandez, 437 SCRA 357, August 31, 2004.

[45] RULES OF COURT, Rule 132, Sec. 20.

[46] PLDT Co. Inc. v. Tiamson, G.R. Nos. 164684-85, November 11, 2005.

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