

FILIPINA SAMSON, PETITIONER, VS. JULIA A. RESTRIVERA, RESPONDENT.*G.R. No. 178454. March 28, 2011*

Ponente: VILLARAMA, JR., J.

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Petitioner Filipina Samson appeals the Decision[1] dated October 31, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 83422 and its Resolution[2] dated June 8, 2007, denying her motion for reconsideration. The CA affirmed the Ombudsman in finding petitioner guilty of violating Section 4(b)[3] of Republic Act (R.A.) No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

The facts are as follows:

Petitioner is a government employee, being a department head of the Population Commission with office at the Provincial Capitol, Trece Martirez City, Cavite.

Sometime in March 2001, petitioner agreed to help her friend, respondent Julia A. Restrivera, to have the latter's land located in Carmona, Cavite, registered under the Torrens System. Petitioner said that the expenses would reach P150,000 and accepted P50,000 from respondent to cover the initial expenses for the titling of respondent's land. However, petitioner failed to accomplish her task because it was found out that the land is government property. When petitioner failed to return the P50,000, respondent sued her for estafa. Respondent also filed an administrative complaint for grave misconduct or conduct unbecoming a public officer against petitioner before the Office of the Ombudsman.

The Ombudsman found petitioner guilty of violating Section 4(b) of R.A. No. 6713 and suspended her from office for six months without pay. The Ombudsman ruled that petitioner failed to abide by the standard set in Section 4(b) of R.A. No. 6713 and deprived the government of the benefit of committed service when she embarked on her private interest to help respondent secure a certificate of title over the latter's land.[4]

Upon motion for reconsideration, the Ombudsman, in an Order[5] dated March 15, 2004, reduced the penalty to three months suspension without pay. According to the Ombudsman, petitioner's acceptance of respondent's payment created a perception that petitioner is a fixer. Her act fell short of the standard of personal conduct required by Section 4(b) of R.A. No. 6713 that public officials shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage. The Ombudsman held:

x x x [petitioner] admitted x x x that she indeed received the amount of P50,000.00 from the [respondent] and even contracted Engr. Liberato Patromo, alleged Licensed Geodetic Engineer to do the surveys.

While it may be true that [petitioner] did not actually deal with the other government agencies for the processing of the titles of the subject property, we believe, however, that her mere act in accepting the money from the [respondent] with the assurance that she would work for the issuance of the title is already enough to create a perception that she is a fixer. Section 4(b) of [R.A.] No. 6713 mandates that public officials and

employees shall endeavor to discourage wrong perception of their roles as dispenser or peddler of undue patronage.

x x x x

x x x [petitioner's] act to x x x restore the amount of [P50,000] was to avoid possible sanctions.

x x x [d]uring the conciliation proceedings held on 19 October 2002 at the barangay level, it was agreed upon by both parties that [petitioner] be given until 28 February 2003 within which to pay the amount of P50,000.00 including interest. If it was true that [petitioner] had available money to pay and had been persistent in returning the amount of [P50,000.00] to the [respondent], she would have easily given the same right at that moment (on 19 October 2002) in the presence of the Barangay Officials.[6] x x x. (Stress in the original.)

The CA on appeal affirmed the Ombudsman's Order dated March 19, 2004. The CA ruled that contrary to petitioner's contentions, the Ombudsman has jurisdiction even if the act complained of is a private matter. The CA also ruled that petitioner violated the norms of conduct required of her as a public officer when she demanded and received the amount of P50,000 on the representation that she can secure a title to respondent's property and for failing to return the amount. The CA stressed that Section 4(b) of R.A. No. 6713 requires petitioner to perform and discharge her duties with the highest degree of excellence, professionalism, intelligence and skill, and to endeavor to discourage wrong perceptions of her role as a dispenser and peddler of undue patronage.[7]

Hence, this petition which raises the following issues:

- Does the Ombudsman have jurisdiction over a case involving a private dealing by a government employee or where the act complained of is not related to the performance of official duty?
- Did the CA commit grave abuse of discretion in finding petitioner administratively liable despite the dismissal of the estafa case?
- Did the CA commit grave abuse of discretion in not imposing a lower penalty in view of mitigating circumstances?[8]

Petitioner insists that where the act complained of is not related to the performance of official duty, the Ombudsman has no jurisdiction. Petitioner also imputes grave abuse of discretion on the part of the CA for holding her administratively liable. She points out that the estafa case was dismissed upon a finding that she was not guilty of fraud or deceit, hence misconduct cannot be attributed to her. And even assuming that she is guilty of misconduct, she is entitled to the benefit of mitigating circumstances such as the fact that this is the first charge against her in her long years of public service.[9]

Respondent counters that the issues raised in the instant petition are the same issues that the CA correctly resolved.[10] She also alleges that petitioner failed to observe the mandate that public office is a public trust when she meddled in an affair that belongs to another agency and received an amount for undelivered work.[11]

We affirm the CA and Ombudsman that petitioner is administratively liable. We hasten to add, however, that petitioner is guilty of conduct unbecoming a public officer.

On the first issue, we agree with the CA that the Ombudsman has jurisdiction over respondent's complaint against petitioner although the act complained of involves a private deal between them.[12] Section 13(1),[13] Article XI of the 1987 Constitution states that the Ombudsman can investigate on its own or on complaint by any person any act or omission of any public official or employee when such act or omission appears to be illegal, unjust, or improper. Under Section 16[14] of R.A. No. 6770, otherwise known as the Ombudsman Act of 1989, the jurisdiction of the Ombudsman encompasses all kinds of malfeasance, misfeasance, and nonfeasance committed

by any public officer or employee during his/her tenure. Section 19[15] of R.A. No. 6770 also states that the Ombudsman shall act on all complaints relating, but not limited, to acts or omissions which are unfair or irregular. Thus, even if the complaint concerns an act of the public official or employee which is not service-connected, the case is within the jurisdiction of the Ombudsman. The law does not qualify the nature of the illegal act or omission of the public official or employee that the Ombudsman may investigate. It does not require that the act or omission be related to or be connected with or arise from the performance of official duty. Since the law does not distinguish, neither should we.[16]

On the second issue, it is wrong for petitioner to say that since the estafa case against her was dismissed, she cannot be found administratively liable. It is settled that administrative cases may proceed independently of criminal proceedings, and may continue despite the dismissal of the criminal charges.[17]

For proper consideration instead is petitioner's liability under Sec. 4(A)(b) of R.A. No. 6713.

We quote the full text of Section 4 of R.A. No. 6713:

SEC. 4. Norms of Conduct of Public Officials and Employees. - (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a) Commitment to public interest. - Public officials and employees shall always uphold the public interest over and above personal interest. All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.

(b) Professionalism. - Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

(c) Justness and sincerity. - Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

(d) Political neutrality. - Public officials and employees shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference.

(e) Responsiveness to the public. - Public officials and employees shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, public officials and employees shall provide information on their policies and procedures in clear and understandable language, ensure openness of information, public consultations and hearings whenever appropriate, encourage suggestions, simplify and systematize policy, rules and procedures, avoid red tape and develop an understanding and appreciation of the socioeconomic conditions prevailing in the country, especially in the depressed rural and urban areas.

(f) Nationalism and patriotism. - Public officials and employees shall at all times be loyal to the Republic and to the Filipino people, promote the use of locally-produced goods, resources and technology and encourage appreciation and pride of country and people. They shall endeavor to maintain and defend Philippine sovereignty against foreign intrusion.

(g) Commitment to democracy. - Public officials and employees shall commit themselves to the democratic way of life and values, maintain the principle of public accountability, and manifest by deed the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.

(h) Simple living. - Public officials and employees and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

(B) The Civil Service Commission shall adopt positive measures to promote (1) observance of these standards including the dissemination of information programs and workshops authorizing merit increases beyond regular progression steps, to a limited number of employees recognized by their office colleagues to be outstanding in their observance of ethical standards; and (2) continuing research and experimentation on measures which provide positive motivation to public officials and employees in raising the general level of observance of these standards.

Both the Ombudsman and CA found the petitioner administratively liable for violating Section 4(A)(b) on professionalism. "Professionalism" is defined as the conduct, aims, or qualities that characterize or mark a profession. A professional refers to a person who engages in an activity with great competence. Indeed, to call a person a professional is to describe him as competent, efficient, experienced, proficient or polished.[18] In the context of Section 4 (A)(b) of R.A. No. 6713, the observance of professionalism also means upholding the integrity of public office by endeavoring "to discourage wrong perception of their roles as dispensers or peddlers of undue patronage." Thus, a public official or employee should avoid any appearance of impropriety affecting the integrity of government services. However, it should be noted that Section 4(A) enumerates the standards of personal conduct for public officers with reference to "execution of official duties."

In the case at bar, the Ombudsman concluded that petitioner failed to carry out the standard of professionalism by devoting herself on her personal interest to the detriment of her solemn public duty. The Ombudsman said that petitioner's act deprived the government of her committed service because the generation of a certificate of title was not within her line of public service. In denying petitioner's motion for reconsideration, the Ombudsman said that it would have been sufficient if petitioner just referred the respondent to the persons/officials incharge of the processing of the documents for the issuance of a certificate of title. While it may be true that she did not actually deal with the other government agencies for the processing of the titles of the subject property, petitioner's act of accepting the money from respondent with the assurance that she would work for the issuance of the title is already enough to create a perception that she is a fixer.

On its part, the CA rejected petitioner's argument that an isolated act is insufficient to create those "wrong perceptions" or the "impression of influence peddling." It held that the law enjoins public officers, at all times to respect the rights of others and refrain from doing acts contrary to law, good customs, public order, public policy, public safety and public interest. Thus, it is not the plurality of the acts that is being punished but the commission of the act itself.

Evidently, both the Ombudsman and CA interpreted Section 4(A) of R.A. No. 6713 as broad enough to apply even to private transactions that have no connection to the duties of one's office. We hold, however, that petitioner may not be penalized for violation of Section 4 (A)(b) of R.A. No. 6713. The reason though does not lie in the fact that the act complained of is not at all related to petitioner's discharge of her duties as department head of the Population Commission.

In addition to its directive under Section 4(B), Congress authorized[19] the Civil Service Commission (CSC) to promulgate the rules and regulations necessary to implement R.A. No. 6713. Accordingly, the CSC issued the Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (hereafter,

Implementing Rules). Rule V of the Implementing Rules provides for an Incentive and Rewards System for public officials and employees who have demonstrated exemplary service and conduct on the basis of their observance of the norms of conduct laid down in Section 4 of R.A. No. 6713, to wit:

RULE V. INCENTIVES AND REWARDS SYSTEM

SECTION 1. Incentives and rewards shall be granted officials and employees who have demonstrated exemplary service and conduct on the basis of their observance of the norms of conduct laid down in Section 4 of the Code, namely:

- (a) Commitment to public interest. - x x x
- (b) Professionalism. - x x x
- (c) Justness and sincerity. - x x x
- (d) Political neutrality. - x x x
- (e) Responsiveness to the public. - x x x
- (f) Nationalism and patriotism. - x x x
- (g) Commitment to democracy. - x x x
- (h) Simple living. - x x x

On the other hand, Rule X of the Implementing Rules enumerates grounds for administrative disciplinary action, as follows:

RULE X. GROUNDS FOR ADMINISTRATIVE
DISCIPLINARY ACTION

SECTION 1. In addition to the grounds for administrative disciplinary action prescribed under existing laws, the acts and omissions of any official or employee, whether or not he holds office or employment in a casual, temporary, hold-over, permanent or regular capacity, declared unlawful or prohibited by the Code, shall constitute grounds for administrative disciplinary action, and without prejudice to criminal and civil liabilities provided herein, such as:

- (a) Directly or indirectly having financial and material interest in any transaction requiring the approval of his office. x x x.
- (b) Owning, controlling, managing or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by his office, unless expressly allowed by law;
- (c) Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict or tend to conflict with his official functions;
- (d) Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his office, unless such recommendation or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the functions of his office;

x x x x

- (e) Disclosing or misusing confidential or classified information officially known to him by reason of his office and not made available to the public, to further his private interests or give undue advantage to anyone, or to prejudice the public interest;

(f) Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of, his office. x x x.

x x x x

(g) Obtaining or using any statement filed under the Code for any purpose contrary to morals or public policy or any commercial purpose other than by news and communications media for dissemination to the general public;

(h) Unfair discrimination in rendering public service due to party affiliation or preference;

(i) Disloyalty to the Republic of the Philippines and to the Filipino people;

(j) Failure to act promptly on letters and request within fifteen (15) days from receipt, except as otherwise provided in these Rules;

(k) Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in these Rules;

(l) Failure to attend to anyone who wants to avail himself of the services of the office, or to act promptly and expeditiously on public personal transactions;

(m) Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interests and financial connections; and

(n) Failure to resign from his position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself of his shareholdings or interests in private business enterprise within sixty (60) days from such assumption of public office when conflict of interest arises: Provided, however, that for those who are already in the service and a conflict of interest arises, the official or employee must either resign or divest himself of said interests within the periods herein-above provided, reckoned from the date when the conflict of interest had arisen.

In *Domingo v. Office of the Ombudsman*,^[20] this Court had the occasion to rule that failure to abide by the norms of conduct under Section 4(A)(b) of R.A. No. 6713, in relation to its implementing rules, is not a ground for disciplinary action, to wit:

The charge of violation of Section 4(b) of R.A. No. 6713 deserves further comment. The provision commands that "public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill." Said provision merely enunciates "professionalism as an ideal norm of conduct to be observed by public servants, in addition to commitment to public interest, justness and sincerity, political neutrality, responsiveness to the public, nationalism and patriotism, commitment to democracy and simple living. Following this perspective, Rule V of the Implementing Rules of R.A. No. 6713 adopted by the Civil Service Commission mandates the grant of incentives and rewards to officials and employees who demonstrate exemplary service and conduct based on their observance of the norms of conduct laid down in Section 4. In other words, under the mandated incentives and rewards system, officials and employees who comply with the high standard set by law would be rewarded. Those who fail to do so cannot expect the same favorable treatment. However, the Implementing Rules does not provide that they will have to be sanctioned for failure to observe these norms of conduct. Indeed, Rule X of the Implementing Rules affirms as grounds for administrative disciplinary action only acts "declared unlawful or prohibited by the Code." Rule X specifically mentions at least twenty three (23) acts or omissions as grounds for administrative disciplinary action. Failure to abide by the norms of conduct under Section 4(b) of R.A. No. 6713 is not one of them. (Emphasis supplied.)

Consequently, the Court dismissed the charge of violation of Section 4(A)(b) of R.A. No. 6713 in that case.

We find no compelling reason to depart from our pronouncement in *Domingo*. Thus, we reverse the CA and Ombudsman that petitioner is administratively liable under Section 4(A)(b) of R.A. No. 6713. In so ruling, we do no less and no more than apply the law and its implementing rules issued by the CSC under the authority given to it by Congress. Needless to stress, said rules partake the nature of a statute and are binding as if written in the law itself. They have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court.[21]

But is petitioner nonetheless guilty of grave misconduct, which is a ground for disciplinary action under R.A. No. 6713?

We also rule in the negative.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be proved by substantial evidence. Otherwise, the misconduct is only simple.[22] Conversely, one cannot be found guilty of misconduct in the absence of substantial evidence. In one case, we affirmed a finding of grave misconduct because there was substantial evidence of voluntary disregard of established rules in the procurement of supplies as well as of manifest intent to disregard said rules.[23] We have also ruled that complicity in the transgression of a regulation of the Bureau of Internal Revenue constitutes simple misconduct only as there was failure to establish flagrancy in respondent's act for her to be held liable of gross misconduct.[24] On the other hand, we have likewise dismissed a complaint for knowingly rendering an unjust order, gross ignorance of the law, and grave misconduct, since the complainant did not even indicate the particular acts of the judge which were allegedly violative of the Code of Judicial Conduct.[25]

In this case, respondent failed to prove (1) petitioner's violation of an established and definite rule of action or unlawful behavior or gross negligence, and (2) any of the aggravating elements of corruption, willful intent to violate a law or to disregard established rules on the part of petitioner. In fact, respondent could merely point to petitioner's alleged failure to observe the mandate that public office is a public trust when petitioner allegedly meddled in an affair that belongs to another agency and received an amount for undelivered work.

True, public officers and employees must be guided by the principle enshrined in the Constitution that public office is a public trust. However, respondent's allegation that petitioner meddled in an affair that belongs to another agency is a serious but unproven accusation. Respondent did not even say what acts of interference were done by petitioner. Neither did respondent say in which government agency petitioner committed interference. And causing the survey of respondent's land can hardly be considered as meddling in the affairs of another government agency by petitioner who is connected with the Population Commission. It does not show that petitioner made an illegal deal or any deal with any government agency. Even the Ombudsman has recognized this fact. The survey shows only that petitioner contracted a surveyor. Respondent said nothing on the propriety or legality of what petitioner did. The survey shows that petitioner also started to work on her task under their agreement. Thus, respondent's allegation that petitioner received an amount for undelivered work is not entirely correct. Rather, petitioner failed to fully accomplish her task in view of the legal obstacle that the land is government property.

However, the foregoing does not mean that petitioner is absolved of any administrative liability.

But first, we need to modify the CA finding that petitioner demanded the amount of P50,000 from respondent

because respondent did not even say that petitioner demanded money from her.[26] We find in the allegations and counter-allegations that respondent came to petitioner's house in Biñan, Laguna, and asked petitioner if she can help respondent secure a title to her land which she intends to sell. Petitioner agreed to help. When respondent asked about the cost, petitioner said P150,000 and accepted P50,000 from respondent to cover the initial expenses.[27]

We agree with the common finding of the Ombudsman and the CA that, in the aftermath of the aborted transaction, petitioner still failed to return the amount she accepted. As aptly stated by the Ombudsman, if petitioner was persistent in returning the amount of P50,000 until the preliminary investigation of the estafa case on September 18, 2003,[28] there would have been no need for the parties' agreement that petitioner be given until February 28, 2003 to pay said amount including interest. Indeed, petitioner's belated attempt to return the amount was intended to avoid possible sanctions and impelled solely by the filing of the estafa case against her.

For reneging on her promise to return aforesaid amount, petitioner is guilty of conduct unbecoming a public officer. In *Joson v. Macapagal*, we have also ruled that the respondents therein were guilty of conduct unbecoming of government employees when they reneged on their promise to have pertinent documents notarized and submitted to the Government Service Insurance System after the complainant's rights over the subject property were transferred to the sister of one of the respondents.[29] Recently, in *Assistant Special Prosecutor III Rohermia J. Jamsani-Rodriguez v. Justices Gregory S. Ong, et al.*, we said that unbecoming conduct means improper performance and applies to a broader range of transgressions of rules not only of social behavior but of ethical practice or logical procedure or prescribed method.[30]

This Court has too often declared that any act that falls short of the exacting standards for public office shall not be countenanced.[31] The Constitution categorically declares as follows:

SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[32]

Petitioner should have complied with her promise to return the amount to respondent after failing to accomplish the task she had willingly accepted. However, she waited until respondent sued her for estafa, thus reinforcing the latter's suspicion that petitioner misappropriated her money. Although the element of deceit was not proven in the criminal case respondent filed against the petitioner, it is clear that by her actuations, petitioner violated basic social and ethical norms in her private dealings. Even if unrelated to her duties as a public officer, petitioner's transgression could erode the public's trust in government employees, moreso because she holds a high position in the service.

As to the penalty, we reprimanded the respondents in *Joson* and imposed a fine in *Jamsani-Rodriguez*. Under the circumstances of this case, a fine of P15,000 in lieu of the three months suspension is proper. In imposing said fine, we have considered as a mitigating circumstance petitioner's 37 years of public service and the fact that this is the first charge against her.[33] Section 53[34] of the Revised Uniform Rules on Administrative Cases in the Civil Service provides that mitigating circumstances such as length of service shall be considered. And since petitioner has earlier agreed to return the amount of P50,000 including interest, we find it proper to order her to comply with said agreement. Eventually, the parties may even find time to rekindle their friendship.

WHEREFORE, we SET ASIDE the Decision dated October 31, 2006 of the Court of Appeals and its Resolution dated June 8, 2007 in CA-G.R. SP No. 83422, as well as the Decision dated January 6, 2004 and Order dated March 15, 2004 of the Ombudsman in OMB-L-A-03-0552-F, and ENTER a new judgment as follows:

We find petitioner GUILTY of conduct unbecoming a public officer and impose upon her a FINE of P15,000.00

to be paid at the Office of the Ombudsman within five (5) days from finality of this Decision.

We also ORDER petitioner to return to respondent the amount of P50,000.00 with interest thereon at 12% per annum from March 2001 until the said amount shall have been fully paid.

With costs against the petitioner.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Sereno, JJ., concur.

[1] Rollo, pp. 126-142. Penned by Presiding Justice Ruben T. Reyes (now a retired Member of this Court) with the concurrence of Associate Justices Juan Q. Enriquez and Vicente S.E. Veloso.

[2] Id. at 145-146.

[3] SEC. 4. Norms of Conduct of Public Officials and Employees. - (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

x x x x

(b) Professionalism. - Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

[4] Rollo, pp. 37-38.

[5] Id. at 40-45.

[6] Id. at 42-43.

[7] Id. at 141.

[8] Id. at 12.

[9] Id. at 13-16.

[10] Id. at 73.

[11] Id. at 74.

[12] See Santos v. Rasalan, G.R. No. 155749, February 8, 2007, 515 SCRA 97, 102.

[13] Section 13. 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

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

[15] SEC. 19. Administrative Complaints. - The Ombudsman shall act on all complaints relating, but not limited

to acts or omissions which:

x x x x

(2) Are x x x unfair x x x;

x x x x

(6) Are otherwise irregular x x x.

[16] See Santos v. Rasalan, supra note 12 at 102, citing Vasquez v. Hobilla-Alinio, G.R. Nos. 118813-14, April 8, 1997, 271 SCRA 67, 74.

[17] Bejarasco, Jr. v. Buenconsejo, A.M. No. MTJ-02-1417, May 27, 2004, 429 SCRA 212, 221.

[18] Reyes v. Rural Bank of San Miguel (Bulacan), Inc., G.R. No. 154499, February 27, 2004, 424 SCRA 135, 144, citing Webster's Third New International Dictionary.

[19] SEC. 12. Promulgation of Rules and Regulations, Administration and Enforcement of this Act. - The Civil Service Commission shall have the primary responsibility for the administration and enforcement of this Act. x x x.

The Civil Service Commission is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this Act, x x x.

[20] G.R. No. 176127, January 30, 2009, 577 SCRA 476, 484.

[21] See Abakada Guro Party List v. Purisima, G.R. No. 166715, August 14, 2008, 562 SCRA 251, 288-289, citing Eslao v. Commission on Audit, G.R. No. 108310, September 1, 1994, 236 SCRA 161, 175, Sierra Madre Trust v. Sec. of Agr. and Natural Resources, Nos. L-32370 & 32767, April 20, 1983, 121 SCRA 384 and People v. Maceren, No. L-32166, October 18, 1977, 79 SCRA 450.

[22] See Civil Service Commission v. Ledesma, G.R. No. 154521, September 30, 2005, 471 SCRA 589, 603.

[23] Roque v. Court of Appeals, G.R. No. 179245, July 23, 2008, 559 SCRA 660, 675.

[24] Bureau of Internal Revenue v. Organo, G.R. No. 149549, February 26, 2004, 424 SCRA 9, 17.

[25] Diomampo v. Alpajora, A.M. No. RTJ-04-1880, October 19, 2004, 440 SCRA 534, 539-540.

[26] Rollo, pp. 20-21, 73-76.

[27] Id. at 27-28.

[28] Id. at 23.

[29] A.M. No. P-02-1591, June 21, 2002, 383 SCRA 403, 406-407.

[30] A.M. No. 08-19-SB-J, August 24, 2010, p. 22.

[31] Pablejan v. Calleja, A.M. No. P-06-2102, January 24, 2006, 479 SCRA 562, 569.

[32] Sec. 1 of Article XI of the 1987 Constitution.

[33] Rollo, p. 44.

[34] Sec. 53. x x x Mitigating x x x Circumstances.

x x x x

j. Length of service in the government

x x x x

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