

GEMMA P. CABALIT, PETITIONER, VS. COMMISSION ON AUDIT-REGION VII, RESPONDENT.

G.R. No. 180236. January 17, 2012

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Three employees from the Land Transportation Office (LTO) in Jagna, Bohol were found by the Ombudsman to have perpetrated a scheme to defraud the government of proper motor vehicle registration fees. They now seek in the present consolidated petitions a judgment from this Court annulling the January 18, 2006 Decision[1] and September 21, 2007 Resolution[2] of the Court of Appeals (CA) which affirmed with modification the Decision[3] of the Office of the Ombudsman-Visayas dismissing them from government service.

The facts follow:

On September 4, 2001, the Philippine Star News, a local newspaper in Cebu City, reported that employees of the LTO in Jagna, Bohol, are shortchanging the government by tampering with their income reports.[4] Accordingly, Regional Director Ildefonso T. Deloria of the Commission on Audit (COA) directed State Auditors Teodocio D. Cabalit and Emmanuel L. Coloma of the Provincial Revenue Audit Group to conduct a fact-finding investigation. A widespread tampering of official receipts of Motor Vehicle Registration during the years 1998, 1999, 2000 and 2001 was then discovered by the investigators.

According to the investigators, a total of 106 receipts were tampered. The scheme was done by detaching the Plate Release and Owner's copy from the set of official receipts then typing thereon the correct details corresponding to the vehicle registered, the owner's name and address, and the correct amount of registration fees. The other copies, consisting of the copies for the Collector, EDP, Record, Auditor, and Regional Office, meanwhile, were typed on to make it appear that the receipts were issued mostly for the registration of motorcycles with much lower registration charges. Incorrect names and/or addresses were also used on said file copies. The difference between the amounts paid by the vehicle owners and the amounts appearing on the file copies were then pocketed by the perpetrators, and only the lower amounts appearing on the retained duplicate file copies were reported in the Report of Collections.[5] According to State Auditors Cabalit and Coloma in their Joint-Affidavit, the scheme was perpetrated by LTO employees Leonardo G. Olaivar, Gemma P. Cabalit, Filadelfo S. Apit and Samuel T. Alabat, and resulted in an unreported income totaling P169,642.50.[6]

On August 8, 2002, COA Regional Cluster Director Atty. Roy L. Ursal reported the tampering of official receipts to Deputy Ombudsman Primo C. Miro.[7] According to Atty. Ursal, the irregularity is penalized under Article 217, in relation to Article 171 of the Revised Penal Code;[8] Section 3(e)[9] of the Anti-Graft and Corrupt Practices Act, and likewise violates Republic Act (R.A.) No. 6713.[10]

In a Joint Evaluation Report, Graft Investigators Pio R. Dargantes and Virginia Palanca-Santiago found grounds to conduct a preliminary investigation.[11] Hence, a formal charge for dishonesty was filed against Olaivar, Cabalit, Apit and Alabat before the Office of the Ombudsman-Visayas, and the parties were required to submit

their counter-affidavits.

In compliance, Olaivar, Cabalit, Apit and Alabat submitted separate counter-affidavits, all essentially denying knowledge and responsibility for the anomalies. As to Olaivar, he maintained that the receipts were typed outside his office by regular and casual employees. He claimed that the receipts were presented to him only for signature and he does not receive the payment when he signs the receipts.[12] Cabalit, for her part, claimed that her duty as cashier was to receive collections turned over to her and to deposit them in the Land Bank of the Philippines in Tagbilaran City. She claimed that she was not even aware of any anomaly in the collection of fees prior to the investigation.[13] As to Apit, he admitted that he countersigned the official receipts, but he too denied being aware of any illegal activity in their office. He claimed that upon being informed of the charge, he verified the photocopies of the tampered receipts and was surprised to find that the signatures above his name were falsified.[14] Alabat, meanwhile, claimed he did not tamper, alter or falsify any public document in the performance of his duties. He insisted that the initial above his name on Official Receipt No. 64056082 was Apit's, while the initial on Official Receipt No. 64056813 was that of Olaivar.[15]

During the hearing before Graft Investigator Pio R. Dargantes, State Auditor Cabalit testified on the investigation he conducted in the LTO in Jagna, Bohol. He testified that he was furnished with the owner's and duplicate copies of the tampered receipts. Upon comparison of the Owner's copy with the Collector or Record's copy, he noticed that the amounts shown in the original copies were much bigger than those appearing in the file copies. State Auditor Cabalit also declared that the basis for implicating Olaivar is the fact that his signature appears in all the 106 tampered official receipts and he signed as verified correct the Report of Collections, which included the tampered receipts. As to Apit and Cabalit, they are the other signatories of the official receipts.[16] In some official receipts, the Owner's copy is signed by F.S. Apit as Computer Evaluator, G.P. Cabalit as Cashier, and Leonardo Olaivar as District Head, but their signatures do not appear on the file copies.[17]

On February 12, 2004, the Office of the Ombudsman-Visayas directed[18] the parties to submit their position papers pursuant to Administrative Order (A.O.) No. 17, dated September 7, 2003, amending the Rules of Procedure of the Office of the Ombudsman.[19] No cross-examination of State Auditor Cabalit was therefore conducted.

Complying with the above Order, the COA submitted its position paper on March 18, 2004. Olaivar, Cabalit and Apit, for their part, respectively submitted their position papers on April 29, 2004, March 18, 2004 and March 15, 2004.

In its position paper,[20] the COA pointed out that the signatures of Cabalit, Apit and Olaivar were indispensable to the issuance of the receipts. As to Olaivar, the original receipts bear his signature, thereby showing that he approved of the amounts collected for the registration charges. However, when the receipts were reported in the Report of Collections, the data therein were already tampered reflecting a much lesser amount. By affixing his signature on the Report of Collections and thereby attesting that the entries therein were verified by him as correct, he allowed the scheme to be perpetrated. As to Cabalit, the COA pointed out that as cashier, Cabalit's signature on the receipts signified that she received the registration fees. The correct amounts should have therefore appeared in the Report of Collections, but as already stated, lesser amounts appeared on the Report of Collections, which she prepares. In the same manner, Apit, as computer evaluator, also signed the subject receipts allowing the irregularities to be perpetuated.

In his position paper,[21] Olaivar meanwhile insisted that he had no participation in the anomalies. He stressed that his only role in the issuance of the official receipts was to review and approve the applications, and that he was the last one to sign the official receipts. He argued that based on the standard procedure for the processing of

applications for registration of motor vehicles, it could be deduced that there was a concerted effort or conspiracy among the evaluator, typist and cashier, while he was kept blind of their modus operandi.

Cabalit, for her part, questioned the findings of the investigators. She stressed in her position paper[22] that had there been a thorough investigation of the questioned official receipts, the auditors would have discovered that the signatures appearing above her name were actually that of Olaivar. She outlined the standard paper flow of a regular transaction at the LTO. It begins when the registrant goes to the computer evaluator for the computation of applicable fees and proceeds to the cashier for payment. After paying, the typist will prepare the official receipts consisting of seven (7) copies, which will be routed to the computer evaluator, to the district head, and to the cashier for signature. The cashier retains the copies for the EDP, Regional Office, Collector and Auditor, while the remaining copies (Owner, Plate Release and Record's copy) will be forwarded to the Releasing Section for distribution and release.

Cabalit insisted that on several occasions Olaivar disregarded the standard procedure and directly accommodated some registrants who were either his friends or referred to him by friends. For such transactions, Olaivar assumes the functions of computer evaluator, typist and cashier, as he is the one who computes the fees, receives the payment and prepares the official receipts. Olaivar would then remit the payment to her. As the cashier, she has to accept the payment as a matter of ministerial duty.

Apit, meanwhile, stressed in his position paper[23] that the strokes of the signatures appearing above his typewritten name on the official receipts are different, indicating that the same are falsified. He also explained that considering that the LTO in Jagna issues around 20 to 25 receipts a day, he signed the receipts relying on the faith that his co-employees had properly accomplished the forms. He also pointed out that Engr. Dano admitted signing accomplished official receipts when the regular computer encoder is out, which just shows that other personnel could have signed above the name of F.S. Apit.

On May 3, 2004, the Office of the Ombudsman-Visayas rendered judgment finding petitioners liable for dishonesty for tampering the official receipts to make it appear that they collected lesser amounts than they actually collected. The OMB-Visayas ruled:

WHEREFORE, premises considered, it is hereby resolved that the following respondents be found guilty of the administrative infraction of DISHONESTY and accordingly be meted out the penalty of DISMISSAL FROM THE SERVICE with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and disqualification from re-employment in the government service:

- Leonardo G. Olaivar -Transportation Regulation Officer II/ Office[r]-In-Charge

LTO Jagna District Office

Jagna, Bohol;

- Gemma P. Cabalit - Cashier II, LTO Jagna District Office Jagna, Bohol;

- Filadelpo S. Apit - Clerk II, LTO Jagna District Office Jagna, Bohol;

The complaint against respondent Samuel T. Alabat, presently the Head of Apprehension Unit of the Tagbilaran City LTO, is hereby DISMISSED for insufficiency of evidence.

The complaint regarding the LTO official receipts/MVRRs issued by the LTO Jagna District Office, which are not covered by original copies are hereby DISMISSED without prejudice to the filing of the appropriate charges upon the recovery of the original copies thereof.

SO DECIDED.[24]

Petitioners sought reconsideration of the decision, but their motions were denied by the Ombudsman.[25] Thus, they separately sought recourse from the CA.

On January 18, 2006, the CA promulgated the assailed Decision in CA-G.R. SP. Nos. 86256, 86394 and 00047. The dispositive portion of the CA decision reads,

WHEREFORE, premises considered, judgment is hereby rendered by US DISMISSING the instant consolidated petitions. The assailed decision of the Office of the Ombudsman-Visayas dated May 3, 2004 in OMB-V-A-02-0415-H is hereby AFFIRMED with a modification that petitioner Olaivar be held administratively liable for gross neglect of duty which carries the same penalty as provided for dishonesty. No pronouncement as to costs.

SO ORDERED.[26]

According to the CA, it was unbelievable that from 1998 to 2001, Cabalit and Apit performed vital functions by routinely signing LTO official receipts but did not have any knowledge of the irregularity in their office. With regard to Olaivar, the CA believed that the tampering of the receipts could have been avoided had he exercised the required diligence in the performance of his duties. Thus, the CA held him liable merely for gross neglect of duty.

Petitioners sought reconsideration of the CA decision, but the CA denied their motions.[27] Hence, they filed the instant petitions before the Court.

In her petition, petitioner Cabalit argues that

I. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE OMBUDSMAN'S DECISION WHICH GAVE RETROACTIVE EFFECT TO THE NEW ADMINISTRATIVE ORDER NO. 17 IN THE PROCEEDINGS BELOW THAT WAS ALREADY ON TRIAL IN ACCORDANCE WITH ADMINISTRATIVE ORDER NO. 07.

II. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT ALTHOUGH THE TRIAL TYPE HEARING UNDER ADMINISTRATIVE ORDER NO. 07 DID NOT PUSH THRU, PETITIONER WAS STILL ACCORDED HER RIGHT TO DUE PROCESS UNDER THE SUMMARY PROCEEDINGS PURSUANT TO ADMINISTRATIVE ORDER NO. 17.

III. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE DECISION OF RESPONDENT OMBUDSMAN DESPITE HAVING FAILED TO MAKE A CATEGORICAL RULING ON THE ISSUE OF WHETHER THE QUESTIONED AND/OR FORGED SIGNATURES BELONG TO PETITIONER GEMMA CABALIT.

IV. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT FAILED TO RULE ON THE DOCTRINAL VALUE AND/OR APPLICABILITY OF THE TAPIADOR VS. OFFICE OF THE OMBUDSMAN (G.R. [129124], MARCH 15, 2002) RULING HERE IN THE INSTANT CASE.[28]

Meanwhile, Apit interposes the following arguments in his petition:

I. THE COURT OF APPEALS ERRED IN LIMITING ADMINISTRATIVE DUE PROCESS AS AN OPPORTUNITY TO BE HEARD ONLY.

II. THE COURT OF APPEALS ERRED IN CONCLUDING THE DEFENSE OF PETITIONER APIT AS MERE DENIAL.

III. THE COURT OF APPEALS ERRED IN ITS FAILURE TO RECONSIDER THE EVIDENCE THAT CLEARLY PROVED THAT THE SIGNATURES ABOVE THE NAME OF PETITIONER APIT IN THE QUESTIONED RECEIPTS ARE ALL FORGED AND FALSIFIED.[29]

As for Olaivar, he assails the CA Decision raising the following issues:

I. WHETHER THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER LEONARDO G. OLAIVAR IS ADMINISTRATIVELY LIABLE FOR GROSS NEGLIGENCE.

II. WHETHER THE HONORABLE COURT OF APPEALS ERRED WHEN IT HELD THAT PETITIONER LEONARDO G. OLAIVAR WAS NOT DENIED DUE PROCESS WHEN THE OFFICE OF THE OMBUDSMAN VISAYAS FOUND HIM GUILTY FOR DISHONESTY AND METED OUT THE PENALTY OF DISMISSAL FROM SERVICE.[30]

On January 15, 2008, said petitions were consolidated.[31]

Essentially, the issues for our resolution are: (1) whether there was a violation of the right to due process when the hearing officer at the Office of the Ombudsman-Visayas adopted the procedure under A.O. No. 17 notwithstanding the fact that the said amendatory order took effect after the hearings had started; and (2) whether Cabalit, Apit and Olaivar are administratively liable.

As regards the first issue, petitioners claim that they were denied due process of law when the investigating lawyer proceeded to resolve the case based only on the affidavits and other evidence on record without conducting a formal hearing. They lament that the case was submitted for decision without giving them opportunity to present witnesses and cross-examine the witnesses against them. Petitioner Cabalit also argues that the Office of the Ombudsman erred in applying the amendments under A.O. No. 17 to the trial of the case, which was already in progress under the old procedures under A.O. No. 07. She stressed that under A.O. No. 07, she had the right to choose whether to avail of a formal investigation or to submit the case for resolution on the basis of the evidence on record. Here, she was not given such option and was merely required to submit her position paper.

Petitioners' arguments deserve scant consideration.

Suffice to say, petitioners were not denied due process of law when the investigating lawyer proceeded to resolve the case based on the affidavits and other evidence on record. Section 5(b)(1) [32] Rule 3, of the Rules of Procedure of the Office of the Ombudsman, as amended by A.O. No. 17, plainly provides that the hearing officer may issue an order directing the parties to file, within ten days from receipt of the order, their respective verified position papers on the basis of which, along with the attachments thereto, the hearing officer may consider the case submitted for decision. It is only when the hearing officer determines that based on the evidence, there is a need to conduct clarificatory hearings or formal investigations under Section 5(b)(2) and Section 5(b)(3) that such further proceedings will be conducted. But the determination of the necessity for further proceedings rests on the sound discretion of the hearing officer. As the petitioners have utterly failed to show any cogent reason why the hearing officer's determination should be overturned, the determination will not be disturbed by this Court. We likewise find no merit in their contention that the new procedures under A.O. No. 17, which took effect while the case was already undergoing trial before the hearing officer, should not have been applied.

The rule in this jurisdiction is that one does not have a vested right in procedural rules. In *Tan, Jr. v. Court of Appeals*,[33] the Court elucidated:

Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The fact that procedural statutes may somehow affect the litigants' rights may not preclude their retroactive application to pending actions. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected. Nor is the retroactive application of procedural statutes constitutionally objectionable. The reason is that as a general rule no vested right may attach to, nor arise from,

procedural laws. It has been held that "a person has no vested right in any particular remedy, and a litigant cannot insist on the application to the trial of his case, whether civil or criminal, of any other than the existing rules of procedure. (Emphasis supplied.)

While the rule admits of certain exceptions, such as when the statute itself expressly or by necessary implication provides that pending actions are excepted from its operation, or where to apply it would impair vested rights, petitioners failed to show that application of A.O. No. 17 to their case would cause injustice to them. Indeed, in this case, the Office of the Ombudsman afforded petitioners every opportunity to defend themselves by allowing them to submit counter-affidavits, position papers, memoranda and other evidence in their defense. Since petitioners have been afforded the right to be heard and to defend themselves, they cannot rightfully complain that they were denied due process of law. Well to remember, due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. It is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. More often, this opportunity is conferred through written pleadings that the parties submit to present their charges and defenses.[34] But as long as a party is given the opportunity to defend his or her interests in due course, said party is not denied due process.[35]

Neither is there merit to Cabalit's assertion that she should have been investigated under the "old rules of procedure" of the Office of the Ombudsman, and not under the "new rules." In *Marohomsalic v. Cole*,[36] we clarified that the Office of the Ombudsman has only one set of rules of procedure and that is A.O. No. 07, series of 1990, as amended. There have been various amendments made thereto but it has remained, to date, the only set of rules of procedure governing cases filed in the Office of the Ombudsman. Hence, the phrase "as amended" is correctly appended to A.O. No. 7 every time it is invoked. A.O. No. 17 is just one example of these amendments.

But did the CA correctly rule that petitioners Cabalit and Apit are liable for dishonesty while petitioner Olaivar is liable for gross neglect of duty?

Cabalit argues that the CA erred in affirming the decision of the Ombudsman finding her liable for dishonesty. She asserts that it was not established by substantial evidence that the forged signatures belong to her. Meanwhile, Apit contends that the CA erred in not considering evidence which proves that the signatures appearing above his name are falsified. However, we note that both Cabalit and Apit raise essentially factual issues which are not proper in petitions filed under Rule 45. Settled jurisprudence dictates that subject to a few exceptions, only questions of law may be brought before the Court via a petition for review on certiorari. In *Diokno v. Cacdac*, [37] the Court held:

x x x [T]he scope of this Court's judicial review of decisions of the Court of Appeals is generally confined only to errors of law, and questions of fact are not entertained. We elucidated on our fidelity to this rule, and we said:

Thus, only questions of law may be brought by the parties and passed upon by this Court in the exercise of its power to review. Also, judicial review by this Court does not extend to a reevaluation of the sufficiency of the evidence upon which the proper x x x tribunal has based its determination. (Emphasis supplied.)

It is aphoristic that a re-examination of factual findings cannot be done through a petition for review on certiorari under Rule 45 of the Rules of Court because this Court is not a trier of facts; it reviews only questions of law. The Supreme Court is not duty-bound to analyze and weigh again the evidence considered in the proceedings below. [38]

Here, the CA affirmed the findings of fact of the Office of the Ombudsman-Visayas which are supported by

substantial evidence such as affidavits of witnesses and copies of the tampered official receipts.[39]The CA found that a perusal of the questioned receipts would easily reveal the discrepancies between the date, name and vehicle in the Owner's or Plate Release copies and the File, Auditor, and Regional Office copies. It upheld the factual findings of the Ombudsman that petitioners Cabalit and Apit tampered with the duplicates of the official receipts to make it appear that they collected a lesser amount. Their participation was found to have been indispensable as the irregularities could not have been committed without their participation. They also concealed the misappropriation of public funds by falsifying the receipts.

Now, superior courts are not triers of facts. When the findings of fact of the Ombudsman are supported by substantial evidence, it should be considered as conclusive. [40] This Court recognizes the expertise and independence of the Ombudsman and will avoid interfering with its findings absent a finding of grave abuse of discretion. [41] Hence, being supported by substantial evidence, we find no reason to disturb the factual findings of the Ombudsman which are affirmed by the CA.

As for Olaivar , he insists that the CA erred in holding him administratively liable for gross negligence when he relied to a reasonable extent and in good faith on the actions of his subordinates in the preparation of the applications for registration. He questions the appellate court's finding that he failed to exercise the required diligence in the performance of his duties.

While as stated above, the general rule is that factual findings of the CA are not reviewable by this Court, we find that Olaivar's case falls in one of the recognized exceptions laid down in jurisprudence since the CA's findings regarding his liability are premised on the supposed absence of evidence but contradicted by the evidence on record.[42]

The Office of the Ombudsman-Visayas found Olaivar administratively liable for dishonesty while the CA ruled that he may not be held liable for dishonesty supposedly for lack of sufficient evidence. The CA ruled that there was no substantial evidence to show that Olaivar participated in the scheme, but the tampering of the official receipts could have been avoided had he exercised the required diligence in the performance of his duties as officer-in-charge of the Jagna District Office. Thus, the CA found him liable only for gross neglect of duty. This, however, is clear error on the part of the CA.

For one, there is clear evidence that Olaivar was involved in the anomalies. Witness Joselito Taladua categorically declared in his affidavit[43] that he personally paid Olaivar the sum of P2,675 for the renewal of registration of a jeep for which he was issued Official Receipt No. 47699853. Much to his dismay, Taladua later found out that his payment was not reflected correctly in the Report of Collections, and that the vehicle was deemed unregistered for the year 2000.

More, Cabalit pointed to Olaivar as the person behind the anomaly in the LTO-Jagna District Office. She narrated in her position paper that on several times, Olaivar directly accommodated some registrants and assumed the functions of computer evaluator, typist and cashier, and computed the fees, received payment and prepared the official receipts for those transactions. She also revealed that Olaivar would ask her for unused official receipts and would later return the duplicate copies to her with the cash collections. Later, he would verify the Report of Collections as correct.[44]

Likewise, Motor Vehicle Inspector Engr. Lowell A. Dano confirmed that in several instances, he witnessed Olaivar type the data himself in the official receipts even if they have a typist in the office to do the job. Engr. Dano added that after typing, Olaivar personally brought the accomplished official receipts for him (Engr. Dano) to sign.[45]

Moreover, Jacinto Jalop, the records officer of the LTO in Jagna, Bohol, illustrated how the official receipts were tampered. He disclosed that the correct charges were typed in the Owner's copy and the Plate Release copy of the official receipts, but a much lower charge and an incorrect address were indicated in the other copies. He asserted that Olaivar was responsible for tampering the official receipts.[46]

Neglect of duty implies only the failure to give proper attention to a task expected of an employee arising from either carelessness or indifference.[47] However, the facts of this case show more than a failure to mind one's task. Rather, they manifest that Olaivar committed acts of dishonesty, which is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle.[48] Hence, the CA should have found Olaivar liable for dishonesty.

But be that as it may, still, the CA correctly imposed the proper penalty upon Olaivar. Under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, dishonesty, like gross neglect of duty, is classified as a grave offense punishable by dismissal even if committed for the first time.[49] Under Section 58,[50] such penalty likewise carries with it the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and disqualification from re-employment in the government service.

One final note. Cabalit contends that pursuant to the obiter in Tapiador v. Office of the Ombudsman, [51] the Office of the Ombudsman can only recommend administrative sanctions and not directly impose them. However, in Office of the Ombudsman v. Masing,[52] this Court has already settled the issue when we ruled that the power of the Ombudsman to determine and impose administrative liability is not merely recommendatory but actually mandatory. We held,

We reiterated this ruling in Office of the Ombudsman v. Laja, where we emphasized that "the Ombudsman's order to remove, suspend, demote, fine, censure, or prosecute an officer or employee is not merely advisory or recommendatory but is actually mandatory." Implementation of the order imposing the penalty is, however, to be coursed through the proper officer. Recently, in Office of the Ombudsman v. Court of Appeals, we also held--

'While Section 15(3) of RA 6770 states that the Ombudsman has the power to "recommend x x x removal, suspension, demotion x x x" of government officials and employees, the same Section 15(3) also states that the Ombudsman in the alternative may "enforce its disciplinary authority as provided in Section 21" of RA 6770.' (emphasis supplied.)[53]

Subsequently, in Ledesma v. Court of Appeals,[54] and Office of the Ombudsman v. Court of Appeals,[55] the Court upheld the Ombudsman's power to impose the penalty of removal, suspension, demotion, fine, censure, or prosecution of a public officer or employee found to be at fault in the exercise of its administrative disciplinary authority. In Office of the Ombudsman v. Court of Appeals, we held that the exercise of such power is well founded in the Constitution and R.A. No. 6770, otherwise known as The Ombudsman Act of 1989, thus:

The Court further explained in Ledesma that the mandatory character of the Ombudsman's order imposing a sanction should not be interpreted as usurpation of the authority of the head of office or any officer concerned. This is because the power of the Ombudsman to investigate and prosecute any illegal act or omission of any public official is not an exclusive authority but a shared or concurrent authority in respect of the offense charged. By stating therefore that the Ombudsman "recommends" the action to be taken against an erring officer or employee, the provisions in the Constitution and in Republic Act No. 6770 intended that the implementation of the order be coursed through the proper officer.

Consequently in Ledesma, the Court affirmed the appellate court's decision which had, in turn, affirmed an order of the Office of the Ombudsman imposing the penalty of suspension on the erring public official.[56]

The duty and privilege of the Ombudsman to act as protector of the people against the illegal and unjust acts of those who are in the public service emanate from no less than the 1987 Constitution. Section 12 of Article XI thereof states:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

In addition, Section 15 (3) of R.A. No. 6770, provides:

SEC. 15. Powers, Functions and Duties. - The Office of the Ombudsman shall have the following powers, functions and duties:

x x x x

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer.

x x x x

Section 19 of R.A. No. 6770 grants to the Ombudsman the authority to act on all administrative complaints:

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

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.

In the exercise of his duties, the Ombudsman is given full administrative disciplinary authority. His power is not limited merely to receiving, processing complaints, or recommending penalties. He is to conduct investigations, hold hearings, summon witnesses and require production of evidence and place respondents under preventive suspension. This includes the power to impose the penalty of removal, suspension, demotion, fine, or censure of a public officer or employee.[57]

The provisions in R.A. No. 6770 taken together reveal the manifest intent of the lawmakers to bestow on the Office of the Ombudsman full administrative disciplinary authority. These provisions cover the entire gamut of administrative adjudication which entails the authority to, inter alia, receive complaints, conduct investigations, hold hearings in accordance with its rules of procedure, summon witnesses and require the production of documents, place under preventive suspension public officers and employees pending an investigation, determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence, and, necessarily, impose the said penalty.[58] Thus, it is settled that the Office of the Ombudsman can directly impose administrative sanctions.

We find it worthy to state at this point that public service requires integrity and discipline. For this reason, public servants must exhibit at all times the highest sense of honesty and dedication to duty. By the very nature of their duties and responsibilities, public officers and employees must faithfully adhere to hold sacred and render inviolate the constitutional principle that a public office is a public trust; and must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[59]

WHEREFORE, the petitions for review on certiorari are DENIED. The assailed Decision dated January 18, 2006 and Resolution dated September 21, 2007 of the Court of Appeals in CA-G.R. SP. Nos. 86256, 86394 and 00047 are AFFIRMED with MODIFICATION. Petitioner Leonardo G. Olaivar is held administratively liable for DISHONESTY and meted the penalty of dismissal from the service as well as the accessory penalties inherent to said penalty.

With costs against petitioners.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Perez, Mendoza, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.
Brion, J., on official leave.

[1] Rollo (G.R. No. 180236), pp. 41-56. Penned by Associate Justice Vicente L. Yap with Associate Justices Arsenio J. Magpale and Apolinario D. Bruselas, Jr. concurring.

[2] Rollo (G.R. No. 180342), pp. 46-48. Penned by Associate Justice Antonio L. Villamor with Associate Justices Isaias P. Dicdican and Stephen C. Cruz concurring.

[3] Dated May 3, 2004; records, Folder 3, pp. 546-556.

[4] CA rollo (CA-G.R. SP. No. 00047), p. 73.

[5] Narrative Report, records, Folder 1, pp. 6-151.

[6] Records, Folder 1, pp. 3-4.

[7] Id. at 2.

[8] Art. 217. Malversation of public funds or property. - Presumption of malversation. -- Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, x x x

x x x x

Art. 171. Falsification by public officer, employee or notary or ecclesiastical minister. -- The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

x x x x

[9] R.A. No. 3019, Section 3. Corrupt Practices of Public Officers.- x x x

x x x x

(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.

[10] Code of Conduct and Ethical Standards for Public Officials and Employees.

[11] Records, Folder 1, pp. 153-154.

[12] Id. at 185-186.

[13] Id. at 169-170.

[14] Id. at 171-173.

[15] Id. at 159-161.

[16] TSN, February 5, 2003, pp. 6-19, records, Folder 2, pp. 265-278.

[17] TSN, February 10, 2003, pp. 41-55, id. at 300-314.

[18] Records, Folder 2, p. 455.

[19] Administrative Order No. 07.

[20] Records, Folder 3, pp. 476-487.

[21] Id. at 534-540.

[22] Id. at 510-517.

[23] Id. at 500-503.

[24] Supra note 3 at 555-556.

[25] Records, Folder 3, pp. 634-638.

[26] Supra note 1 at 55-56.

[27] Supra note 2.

[28] Rollo (G.R. No. 180236), p. 18.

[29] Rollo (G.R. No. 180341), pp. 17-18.

[30] Rollo (G.R. No. 180342), p. 21.

[31] Rollo (G.R. No. 180236), pp. 202-203.

[32] Section 5. Administrative adjudication; How conducted. -

x x x x

b) If the hearing officer finds no sufficient cause to warrant further proceedings on the basis of the affidavits and other evidence submitted by the parties, the complaint may be dismissed. Otherwise, he shall issue an Order (or Orders) for any of the following purposes:

1. To direct the parties to file, within ten (10) days from receipt of the Order, their respective verified position papers. The position papers shall contain only those charges, defenses and other claims contained in the affidavits and pleadings filed by the parties. Any additional relevant affidavits and/or documentary evidence may be attached by the parties to their position papers. On the basis of the position papers, affidavits and other pleadings filed, the Hearing Officer may consider the case submitted for resolution.

x x x x

[33] G.R. No. 136368, January 16, 2002, 373 SCRA 524, 536, citing Agpalo, *Statutory Construction*, 1986 ed., pp. 269-272.

[34] *Office of the Ombudsman v. Galicia*, G.R. No. 167711, October 10, 2008, 568 SCRA 327, 344.

[35] *Cayago v. Lina*, G.R. No. 149539, January 19, 2005, 449 SCRA 29, 44-45.

[36] G.R. No. 169918, February 27, 2008, 547 SCRA 98, 112.

[37] G.R. No. 168475, July 4, 2007, 526 SCRA 440, 460.

[38] *Id.* at 460-461.

[39] See Narrative Report, *supra* note 5.

[40] *Olivarez v. Sandiganbayan*, G.R. No. 118533, October 4, 1995, 248 SCRA 700, 715.

[41] See *Jao v. Court of Appeals*, G.R. Nos. 104604 & 111223, October 6, 1995, 249 SCRA 35, 42 and *Yabut v. Office of the Ombudsman*, G.R. No. 111304, June 17, 1994, 233 SCRA 310, 314.

[42] See *Hyatt Elevators and Escalators Corporation v. Cathedral Heights Building Complex Association, Inc.*, G.R. No. 173881, December 1, 2010, 636 SCRA 401, 405-406.

[43] Records, Folder 1, p. 146.

[44] *Id.* at 11.

[45] *Id.* at 10.

[46] *Id.* at 9.

[47] *Añonuevo v. Rubio*, A.M. No. P-04-1782, July 30, 2004, 435 SCRA 430, 435.

[48] *Japson v. Civil Service Commission*, G.R. No. 189479, April 12, 2011, 648 SCRA 532, 543-544.

[49] See *Anonymous v. Curamen*, A.M. No. P-08-2549, June 18, 2010, 621 SCRA 212, 219.

[50] SEC. 58. Administrative Disabilities Inherent in Certain Penalties. -

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

x x x x

[51] G.R. No. 129124, March 15, 2002, 379 SCRA 322.

[52] G.R. Nos. 165416, 165584 and 165731, January 22, 2008, 542 SCRA 253.

[53] *Id.* at 272.

[54] G.R. No. 161629, July 29, 2005, 465 SCRA 437, 449.

[55] G.R. No. 160675, June 16, 2006, 491 SCRA 92, 108.

[56] Id.

[57] Office of the Ombudsman v. Lucero, G.R. No. 168718, November 24, 2006, 508 SCRA 106, 112-113.

[58] Office of the Ombudsman v. Court of Appeals, G.R. No. 168079, July 17, 2007, 527 SCRA 798, 806-807;
Office of the Ombudsman v. Court of Appeals, G.R. No. 167844, November 22, 2006, 507 SCRA 593, 610.

[59] Salumbides, Jr. v. Office of the Ombudsman, G.R. No. 180917, April 23, 2010, 619 SCRA 313, 332.

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