OFFICE OF THE OMBUDSMAN, PETITIONER, VS. RODRIGO V. MAPOY AND DON EMMANUEL R. REGALARIO, RESPONDENTS.

G.R. No. 197299. February 13, 2013

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PER CURIAM:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated February 7, 2011 and Resolution[2] dated June 7, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 116179 which reversed and set aside the Review/Recommendation[3] dated February 1, 2008 issued by the Office of Ombudsman finding respondents Rodrigo V. Mapoy (Mapoy) and Don Emmanuel R. Regalario (Regalario) guilty of grave misconduct and dishonesty, and imposing upon them the penalty of dismissal from the service with cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification for reemployment in the government service.

The Antecedent Facts
Mapoy and Regalario (respondents) are Special Investigators of the National Bureau of Investigation (NBI), assigned at the Criminal Intelligence Division (CRID).[4] On August 26, 2003, they implemented a search warrant against Pocholo Matias (Matias), owner of Pocholo Matias Grain Center, at his warehouses located in Valenzuela City and were able to seize 250,000 sacks of imported rice. Matias was then charged with technical smuggling or violation of Section 3602 of the Tariff and Customs Code before the Office of the City Prosecutor of Valenzuela. The search warrant, however, was subsequently quashed for "lack of deputization by the Bureau of Customs."[5]

On October 8, 2003, respondents were arrested by the elements of the Counter Intelligence Special Unit of the National Capital Regional Police Office (CISU-NCRPO) during an entrapment operation conducted at the Century Park Hotel, Manila based on the complaint[6] of Matias that the respondents extorted money from him in exchange for not filing any other criminal charges against him. The arresting officers recovered the P300,000.00 marked money from Regalario.[7]

Thus, on October 20, 2003, the NBI, through its then Director, General Reynaldo G. Wycoco, filed a complaint[8] against respondents before the Office of the Ombudsman, docketed as OMB-CA-03-0499-K and OMB-CA-03-0559-L, for Dishonesty, Grave Misconduct and Corrupt Practices.

In their position paper,[9] respondents denied the charges against them and claimed that Matias sent them death threats and offered money for the settlement of his case. This led them to seek authority from the Chief of the CRID-Intelligence Services to conduct further investigation on the matter.[10] Thus, when Matias called them up in the morning of October 8, 2003 reiterating his offered consideration, they formed a team to conduct a legitimate entrapment operation against him for corruption of public officials at the agreed place or the Century Park Hotel, Manila whereat Matias dropped a white envelope on their table and hurriedly left. They then followed him to effect his arrest but were prevented from doing so by the CISU-NCRPO operatives.

The Ombudsman Ruling

On February 1, 2008, Medwin S. Dizon, Graft Investigation and Prosecution Officer II, issued a Review/Recommendation,[11] the dispositive portion of which states:

> WHEREFORE, foregoing considered, respondents Rodrigo V. Mapoy, Special Investigator IV and Don Emmanuel R. Regalario, Special Investigator III, both of the National Bureau of Investigation are hereby found guilty of Grave Misconduct and Dishonesty, and are hereby meted the penalty of DISMISSAL from the service with cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification for re-employment in the government service pursuant to the Uniform Rules on Administrative Cases in the Civil Service.
>
> SO ORDERED. [12]

It found substantial evidence to support the charges against respondents who were caught in possession of the marked money inside the hotel. It ruled that as between the claims of entrapment by the parties, the presumption of regularity in the performance of duty applies in favor of the CISU-NCRPO operatives whose acts were not impelled by ill-motives, and whose entrapment operation was well-planned and coordinated. It noted that even the serial numbers of the marked money were duly recorded by the bank. In contrast, the supposed entrapment operation by the respondents did not have the imprimatur of the NBI Director who even initiated the instant complaint against them. Not even the Deputy Director for Intelligence Service of the NBI supported respondents' entrapment claim. Neither was the alleged presence of the other members of the NBI team, Jose Rommel G. Ramirez (Ramirez) and Mark III C. Maure (Maure), at the hotel on that fateful day sufficiently established. Nor did the Disposition Form relied upon by respondents disclose the purported entrapment operation against Matias. Moreover, the Investigating Officer noted that: (1) some inconsistencies in the statements of respondents and their witnesses tend to corroborate the claims of Matias; (2) respondents did not immediately reveal the supposed purpose of their presence at the crime scene; and (3) it took them one week after the incident to file their complaint against Matias for corruption of public officials.[13] Thus, it was concluded that respondents' defenses were mere afterthought resorted to in order to gain leverage against the charge of robbery/extortion.[14]

The foregoing resolution was approved by then Acting Ombudsman, Orlando C. Casimiro, on December 8, 2009.[15] Respondents' motion for reconsideration therefrom was denied in the Order[16] dated September 2, 2010.

Aggrieved, respondents filed a petition for review under Rule 43 of the Rules of Court before the CA.

The CA Ruling

In its assailed Decision,[17] the CA reversed and set aside the findings of the Office of the Ombudsman based on the following grounds: (1) there was no evidence positively confirming the fact that respondents were not conducting a legitimate entrapment operation; (2) Matias had an axe to grind against respondents who raided his warehouses and caused the filing of a criminal case against him, thus, his motive is highly suspect; (3) it is unclear what really transpired at the Century Park Hotel, Manila on October 8, 2003 between the respondents, Matias and the arresting officers of the CISU-NCRPO. Consequently, applying the equipoise rule, the CA acquitted respondents of the crimes charged.

The NBI thus sought reconsideration[18] while the Office of the Ombudsman filed an Omnibus Motion to Intervene and to Admit Attached Motion for Reconsideration of the Decision dated 07 February 2011 (Filed with Plea for Leave of Court).[19] On June 7, 2011, the CA issued a Resolution[20] where it noted the Office of the Ombudsman's Motion to Intervene and denied both motions for reconsideration.

Issues Before the Court

Hence, the instant petition filed by the Office of the Ombudsman based on the following ground:

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> THE COURT OF APPEALS SERIOUSLY ERRED IN ISSUING THE ASSAILED DECISION DATED 07 FEBRUARY 2011, REVERSING THE OFFICE OF THE OMBUDSMAN'S REVIEW/RECOMMENDATION DATED 01 FEBRUARY 2008 WHICH FOUND THE RESPONDENTS GUILTY OF GRAVE MISCONDUCT AND DISHONESTY AND IMPOSED UPON THEM THE PENALTY OF DISMISSAL FROM THE SERVICE WITH CANCELLATION OF ELIGIBILITY, FORFEITURE OF RETIREMENT BENEFITS, AND PERPETUAL DISQUALIFICATION FOR REEMPLOYMENT IN THE GOVERNMENT SERVICE, CONSIDERING THAT:
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> The findings of facts established by the Office of the Ombudsman in the Review/Recommendation dated 01 February 2008 are supported by substantial evidence, thus, conclusive upon the reviewing authority.[21]

The Court's Ruling
The petition is meritorious.

It is well-entrenched that in an administrative proceeding, the quantum of proof required for a finding of guilt is only substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion and not proof beyond reasonable doubt which requires moral certainty to justify affirmative findings.[22]

In this case, the Court finds substantial evidence to support the charges against respondents for grave misconduct and dishonesty. Records show that Matias sought the help of the police to entrap respondents who were illegally soliciting money from him. Hence, the CISU-NCRPO planned an entrapment operation which took place at the Century Park Hotel, Manila on October 8, 2003. Prior to the entrapment, Matias withdrew P300,000.00 from his bank,[23] which, in turn, recorded the serial numbers of the bills released.[24] During the entrapment, Mapoy received the white envelope containing P300,000.00 marked money from Matias and handed it over to Regalario from whom it was subsequently recovered. After their arrest, respondents were brought to the police station for investigation[25] and subsequently charged of the crime of robbery/extortion. To a reasonable mind, the foregoing circumstances are more than adequate to support the conclusion that respondents extorted money from Matias which complained act amounts to grave misconduct or such corrupt conduct inspired by an intention to violate the law, or constituting flagrant disregard of well-known legal rules.[26] Similarly, respondents have been dishonest in accepting money from Matias. Dishonesty has been held to include the disposition to lie, cheat, deceive or defraud, untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle, lack of fairness and straightforwardness, among others.[27] Hence, their dismissal from the service with all its accessory penalties was in order.

The Court cannot subscribe to the theory of respondents that they were at the Century Park Hotel, Manila on that fateful day to entrap Matias for the crime of corruption of public officers. As correctly found by the Ombudsman, nothing was mentioned in the Disposition Form[28] relied upon by respondents with respect to their planned entrapment of Matias.[29] It was only a request to conduct further investigation which was not even shown to have been approved. Moreover, the respondents' act of letting Matias leave the table after handing the money to them[30] is inconsistent with their purported intent to arrest him for the crime of corruption of public officers. No law officer would let an offender walk away from him. Furthermore, as aptly observed by the Ombudsman, the presence of respondents' witnesses, Ramirez and Maure, at the hotel was not sufficiently established,[31] and no justification was offered to explain their failure to come to the aid of respondents when the latter were being arrested.

All told, the inculpatory evidence herein point to only one thing: respondents are guilty as charged. Consequently, the CA committed reversible error in applying the equipoise rule[32] in resolving respondents' appeal.

WHEREFORE, premises considered, the instant petition is GRANTED. The February 7, 2011 Decision and June

7, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 116179 are hereby REVERSED and SET ASIDE. The Review/Recommendation dated February 1, 2008 of the Office of the Ombudsman is REINSTATED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 44-56. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Noel G. Tijam and Marlene Gonzales-Sison, concurring.

[2] Id. at 58-59.

[3] Id. at 174-182.

[4] Id. at 144.

[5] Id. at 45.

[6] Id. at 131-132.

[7] Id. at 135.

[8] Id. at 115-116.

[9] Id. at 165-173.

[10] Id. at 198. Disposition Form.

[11] Id. at 174-182.

[12] Id. at 180-181.

[13] Id. at 177-180.

[14] Id. at 180.

[15] Id. at 181.

[16] Id. at 183-187.

[17] Id. at 44-56.

[18] Id. at 188-196.

[19] Id. at 61-88.

[20] Id. at 58-59.

[21] Id. at 25-26.

[22] Miro v. Dosono, G.R. No. 170697, April 30, 2010, 619 SCRA 653, 660; Commission on Audit, Regional Office No. 13, Butuan City v. Hinampas, G.R. No. 158672, August 7, 2007, 529 SCRA 245, 260.

[23] Rollo, p. 137.

[24] Id. at 138.

[25] Id. at 135.

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[26] Miro v. Dosono, G.R. No. 170697, April 30, 2010, 619 SCRA 653, 662.

[27] Estarija v. Ranada, G.R. No. 159314, June 26, 2006, 492 SCRA 652, 663.

[28] Rollo, p. 198.

[29] Id. at 178.

[30] Id. at 179-180.

[31] Id. at 178.

[32] Id. at 53.

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