

HEIRS OF NELSON CABRERA BUENAFLOR, NAMELY, PURA R. BUENAFLOR, KAREVA R. BUENAFLOR, KENNETH R. BUENAFLOR, PAUL R. BUENAFLOR AND MARK R. BUENAFLOR, PETITIONERS. VS. FIELD INVESTIG...

G.R. No. 232844. July 07, 2020

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

This Petition[1] filed under Rule 45 of the Rules of Court assails the Decision[2] dated January 18, 2017 and the Resolution[3] dated July 13, 2017, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 138415. The CA found no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Office of the Ombudsman (Ombudsman) in rendering its Decision[4] dated January 27, 2014 finding Nelson Cabrera Buenaflor (Buenaflor) guilty of Grave Misconduct.

The Facts

On March 18, 2004, Buenaflor, then President and Chief Executive Officer of Quedan and Rural Credit Guarantee Corporation (QUEDANCOR),[5] issued Memorandum Circular No. 270[6] also known as the Consolidated Guidelines on QUEDANCOR Swine Program (CG-QSP) establishing a credit program to support the swine industry by providing affordable credit for swine raisers to aid them on their fattening and breeding activities. Under the QSP, QUEDANCOR would issue Purchase Orders (POs) to the borrowers upon approval of their loan application.[7] The borrowers then present the POs to an accredited Input Supplier (IS) for the delivery of swine inputs such as hogs, gilts, medicines, feeds, and technical assistance.[8] Thereafter, upon receipt of the swine inputs, the borrowers sign a Joint Acceptance and Delivery Receipt (Receipt).[9] By virtue of said Receipt, the IS collects payment from QUEDANCOR and the sum paid by the latter shall be the borrowers' loan amount.[10]

One such QUEDANCOR-accredited IS was Metro Livestock Incorporated (MLI). QUEDANCOR, through its Regional Office No. 4 and Calapan District Office, issued a Certificate of Accreditation No. R-IV-IS-009[11] to MLI on August 25, 2003.

Subsequently, the Field Investigation Office (FIO) of the Ombudsman filed a Complaint[12] dated June 23, 2009 charging Buenaflor and several other officials and employees of QUEDANCOR for Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service under Rule IV, Section 52A(1) and (20) of the Civil Service Commission Resolution No. 99-1936 entitled Uniform Rules on Administrative Cases in the Civil Service.

In said complaint, the FIO alleged, inter alia, that the implementation of the QSP in the province of Oriental Mindoro was tainted with irregularities. Specifically, QUEDANCOR's failure to comply with the requirements of competitive bidding pursuant to Section 10 of Republic Act (R.A.) No. 9184[13] when it awarded contracts amounting to a total of P48,606,750.00 in favor of MLI.[14] Moreover, the FIO stated that MLI was allowed to participate in the QSP despite non-compliance with the accreditation and eligibility requirements, and limited financial and technical capabilities.[15] According to the FIO, there were borrowers who confirmed that MLI

committed a series of breach thereby affecting the quality of their produce and expected income such as late or non-delivery of feeds and medicines; poor quality of piglets/gilts and non-replacement thereof; insufficient technical assistance; lack of assurance of the quality of inputs being delivered; and difficulty of reimbursing the amount advanced by borrowers for the purchase of feeds/medicines when deliveries were late.[16] The FIO added that its findings were corroborated by the Commission on Audit (COA) in its Audit Observation Memorandum dated February 29, 2008.[17] The complaint was docketed as OMB-C-A-09-0690-K.

In his Counter-Affidavit,[18] Buenaflor argued that there was no violation of existing laws since the provisions on competitive bidding under R.A. No. 9184 applies only if there was actual procurement of infrastructure projects, goods, and consulting services by any branch or instrumentality of the government. He claimed that QUEDANCOR did not engage in any procurement and that the CG-QSP did not contemplate any procurement of goods. Thus, he prayed that the administrative charge against him be dismissed.

The Ombudsman Ruling

In its Decision dated January 27, 2014, the Ombudsman found Buenaflor and five others namely Luis Ramon Paez Lorenzo, Jr., Wilfredo Borreros Domo-Ong, Romeo Cabibi Lanciola, Nellie Mintu Ilas, and Jesus M. Simon, administratively liable for Grave Misconduct. Buenaflor, in particular, for signing, approving, and issuing the CG-QSP.[19] The dispositive portion reads:

WHEREFORE, this Office finds substantial evidence to hold x x x [Buenaflor] x x x GUILTY of GRAVE MISCONDUCT, x x x and hereby orders their DISMISSAL from office with FORFEITURE of retirement benefits, and perpetual disqualification from reemployment in government service.

x x x x x x x x

SO ORDERED.[20]

The Ombudsman denied the Motion for Reconsideration filed by Buenaflor in an Order[21] dated November 4, 2014.

Hence, Buenaflor filed an appeal before the CA.

The CA Ruling

In the herein assailed Decision, the CA sustained the finding of the Ombudsman that the QSP was, in reality, a loan in kind and not in money. As such, the CA opined that QUEDANCOR should have complied with the requirements of public bidding under R.A. No. 9184. On Buenaflor's contention that he was denied due process as he was found guilty of Grave Misconduct when the charge was for Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service, the CA concurred with the ruling of the Ombudsman in that the designation of the offense with which a person is charged in an administrative case is not controlling and one may be found guilty of another offense where the substance of the allegations and evidence presented sufficiently proves one's guilt.[22]

Consequently, Buenaflor's counsel filed a Motion for Reconsideration[23] dated February 16, 2017 and a Manifestation[24] dated March 17, 2017 informing the CA that Buenaflor died on June 11, 2016[25] due to Congested Heart Failure.

In a one-page Resolution dated July 13, 2017, the CA denied the motion for reconsideration.

Unsatisfied, Buenaflor's heirs filed the present Petition for Review on Certiorari asserting their common interest in the retirement benefits of the late Buenaflor which were ordered forfeited by the Ombudsman and affirmed by the CA.[26]

The Issue

The basic issue is whether the late Buenaflor may be held administratively liable for issuing the CG-QSP.

The Court's Ruling

There is merit in the Petition.

At the outset, Buenaflor's death during the pendency of the instant case does not necessarily preclude the disposition of his reconsideration or appeal with finality. Certainly, the Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof because a contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications.[27] The Court reiterates that the demise of the respondent in administrative cases does not generally preclude the finding of administrative liability, and while there are jurisprudentially recognized exceptions[28] to the rule, none are present in this case.

In one case[29] the Court proceeded to resolve respondent public official's administrative case notwithstanding his death to the end that respondent's heirs may not be deprived of any retirement gratuity and other accrued benefits that they may be entitled to receive as a result of respondent's death, as against a possible forfeiture thereof should his guilt have been duly established at the investigation.

Indeed, the resolution of an administrative case may continue notwithstanding the death of the respondent if the latter has been given the opportunity to be heard, or in instances where the continuance thereof will be more advantageous and beneficial to the respondent's heirs, as in this case.[30]

On the merits, the Court notes that the present issue is not novel and has already been settled in the case of *People v. Sandiganbayan, First Division*,[31] which involved essentially the same set of facts. In said case, the Court held that the CG-QSP is outside the scope of R.A. No. 9184 as there was no procurement involved, viz.:

Section 5(n) of RA 9184 defines procurement as the "acquisition of Goods, Consulting services, and contracting for infrastructure Projects" by a procuring entity, and includes the lease of goods and real estate.

Here, QUEDANCOR merely provides credit facilities by which [borrowers] may avail of loans in connection with their swine businesses. [T]he CG-QSP simply laid down the step-by-step procedure to be followed in extending such loans, as follows:

The CG-QSP, which was actually issued by x x x Buenaflor, was designed to establish a credit program for swine raisers. True to its objective, the guidelines provided mechanisms on how the beneficiaries may avail of the credit facility. Paragraph 3.11.1 of the CG-QSP outlines the program's basic lending mechanisms, as follows:

- a. The [borrower] shall apply for loan with QUEDANCOR.
- b. Upon loan approval, QUEDANCOR issues PO to the [borrower].
- c. [B]orrower presents the PO to accredited IS x x x for the delivery inputs.
- d. IS coordinates with the QUEDANCOR-LMG (Loans Management Group) for inspection of required facilities of the borrower. The LMG must see to it that the borrower's facilities such as pigpens, feeding trough, waste disposal system, etc. are in place. If in order, QUEDANCOR issues Authority to Load to IS.
- e. IS delivers inputs to [borrower].

Payment to the IS by Quedancor is conditioned upon the presentation of the joint acceptance and delivery receipt showing that the [borrower] had received the inputs from the IS.

From the foregoing process, along with the rest of the provisions in the CG-QSP, it is clear that the only aim of x

x x Buenaflor for the issuance of the CG-QSP is to provide a swine program for the [borrowers] and to set a general policy and procedure on how the beneficiaries will go about it[.]

To recall, QUEDANCOR is a financial institution created principally for the purposes of inventory financing of production inputs and facilities. In this regard, based on the foregoing guidelines, QUEDANCOR, by lending money to [borrowers], cannot be said to have engaged in the procurement or acquisition of goods or services from input suppliers. As aptly observed by the [Sandiganbayan]:

x x x Public bidding was precluded in the CG-QSP not to purposely skirt the requirements of RA 9184, but because there were reasons to rely on that the purchase of swine inputs was not within the ambit of the Procurement Act. The CG-QSP intended to provide the [borrowers] a "loan in money" and not a "loan in kind." Had the CG-QSP envisioned a "loan in kind", it would have included provisions for the establishment and maintenance of storage and inventories. As the Court sees it, the aim for the policy that Quedancor should be the one to pay the chosen IS instead of directly giving the loan proceeds to the borrower was to ensure that the borrowed money was truly [channeled] to the purpose for which the loan was intended.

Thus, petitioner's argument that respondents are liable for dispensing with the public bidding requirement in the CG-QSP has no more leg to stand on. (Emphasis and underscoring supplied)[32]

Simply stated, there was no violation of R.A. No. 9184 because the CG-QSP issued by Buenaflor does not, in any way, shape or form, involve the process of procurement of goods, consulting services, and contracting for infrastructure projects.

Moreover, QUEDANCOR, through Buenaflor, sought the opinion of the Office of the Government Corporate Counsel (OGCC) specifically on the application of the provisions of R.A. No. 9184 to the QSP. In an Opinion No. 21[33] Series of 2006, the OGCC stated that QUEDANCOR was not engaged in procurement since it was the borrowers who will procure or acquire the goods or inputs from an accredited IS and the payment for which will come from the respective loans from QUEDANCOR. Therefore, according to the OGCC, R.A. No. 9184 will not apply to the QSP.

Verily, the unlawful act upon which the present administrative case is based on does not, in fact, exist. In the absence of substantial evidence to support a finding of administrative liability, the present case against the late Buenaflor must perforce be dismissed.

WHEREFORE, the Petition is hereby GRANTED. The Decision dated January 18, 2017 and the Resolution dated July 13, 2017 rendered by the Court of Appeals in CA-G.R. SP No. 138415 are hereby REVERSED and SET ASIDE. The administrative case against the late Nelson Cabrera Buenaflor is hereby DISMISSED.

SO ORDERED.

Peralta, C.J., (Chairperson), Caguioa, Lazaro-Javier, and Lopez, JJ. concur

[1] Rollo, pp. 10-46.

[2] Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Edwin D. Sorongon and Marie Christine Azcarraga-Jacob, concurring; id. at 59-69.

[3] Id. at 72.

[4] Penned by Associate Special Prosecutor 111 Anna Isabel G. Aurellano and approved by

Ombudsman Conchita Carpio Morales; id. at 134-151.

[5] A government-owned and controlled corporation created under Republic Act No. 7393, entitled Quedan and Rural Credit Guarantee Corporation Act, enacted on April 13,1992; id. at 276-290.

[6] Id. at 343-350.

[7] Id. at 62.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 419.

[12] Id. at 159-176.

[13] AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION OF THE PROCUREMENT ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES, otherwise known as the "Government Procurement Reform Act," approved on January 10, 2003.

[14] Rollo,p. 165.

[15] Id. at 166.

[16] Id.

[17] Id.

[18] Id. at 426-451.

[19] Id. at 14.

[20] Id. at 149-150.

[21] Id. at 152-158.

[22] Id. at 65-66.

[23] Id. at 674-679.

[24] Id. at 681-682.

[25]See Certificate of Death; id. at 683.

[26] Id. at 11.

[27] Arabani, Jr. v. Arabani, A.M. No's. SCC-10-14-P, SCC-10-15-P & SCC-11-17, November 12, 2019 (Minute Resolution).

[28] 1) [W]hen due process may be subverted; 2) on equitable and humanitarian reasons; and 3) the penalty imposed or imposable would render the proceedings useless. (Civil Service Commission v. Juen, 793 Phil. 344, 353 (2016).

[29] Office of the Ombudsman v. Pacuribot, G.R. No. I 93336. September 26, 2018, citing Hermosa v. Paraiso, 159 Phil. 417(1975).

[30] Report on the Financial Audit Conducted in the Municipal Trial Court in Cities, Tagum City, Davac del Norte, 720 Phil. 23, 52(2013).

[31] G.R. No. 214068, July 22, 2019 (Minute Resolution).

[32] Id.

[33] Signed by Government Corporate Counsel Agnes VST Devanadera; rollo, pp. 483-485.

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