

LORETO S. ANDALING, PETITIONER, VS. ANTONIO B. JUMAWAK, MARINA M. TINONGA, NESTOR I. EPO, CORNELIO R. TABAD, SAMUEL L. EMIA, ARFEL D. DAAN, OMAR G. BAYRON, LUZVINA M. SUMITON, A...*G.R. No. 237646. April 28, 2021*

Ponente: INTING, J.

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For the Court's resolution is the Petition for Review on Certiorari[1] assailing the Decision[2] dated June 22, 2017 and the Resolution[3] dated January 29, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 07215-MIN which, among others, affirmed the Decision[4] dated September 22, 2015 of the Office of the Ombudsman (Ombudsman) in OMB-M-A-15-0143. The CA found Loreto S. Andaling (petitioner) guilty of Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service, and imposed upon him the penalty of dismissal from the service.

The Antecedents

The case is rooted on a Joint Complaint-Affidavit[5] dated May 10, 2012 filed by Antonio B. Jumawak, Marina M. Tinonga, Nestor I. Epo, Cornelio R. Tabad, Samuel L. Emia, Arfel D. Daan, Omar G. Bayron, Luzvina M. Sumiton, and Willie James A Wong (collectively, respondents) against petitioner and several others[6] before the Ombudsman. In particular, the case against petitioner; Cipriano E. Plazos (Plazos), Municipal Treasurer; and Urdaneta C. Madridondo (Madridondo), Municipal Accountant was docketed as OMB-M-A-12-0221.[7]

In their Joint Complaint-Affidavit, respondents alleged, among others, that petitioner, who, at the time, was an incumbent municipal councilor, had obtained substantial cash advances in the total amount of P80,229.55 from the Municipal Government of Katipunan, Zamboanga del Norte in the years 2002, 2005 to 2009 and 2011, and failed to liquidate them within the period specified by law and set by the Commission on Audit (COA). Thus, respondents prayed that a formal criminal and administrative investigation be conducted against petitioner.[8]

For his part, petitioner asserted that he had already fully liquidated his cash advances as of July 27, 2012 as evidenced by the Statement of Cash Advances and Liquidations[9] issued by Madridondo. He further explained that the delay in the submission of his liquidation reports was not intentional, but was mere inadvertence on his part.[10]

In its Joint-Resolution[11] dated February 14, 2013, the Ombudsman dismissed the complaint without prejudice due to incomplete evidence and endorsed it to the COA for the conduct of a special audit investigation in connection thereto.[12]

On March 11, 2015, the COA submitted its Final Evaluation Report[13] dated February 16, 2015 to the Ombudsman.[14] In the report, the COA pointed out, among others, that petitioner and his co-respondents in OMB-M-A-12-0221 had failed to liquidate their cash advances within the period required by law and pertinent

rules and regulations.[15] Specifically, in petitioner's case, the COA noted that his total cash advances had accumulated to P127,414.00 for the years 2002 to 2011 before they were fully liquidated by petitioner in 2012.[16]

On the basis of the COA's Final Evaluation Report, the Ombudsman redocketed the case against petitioner and his co-respondents therein as OMB-M-A-15-143.[17]

Ruling of the Ombudsman

In its Decision[18] dated September 22, 2015, the Ombudsman found petitioner administratively liable for his failure to make certain that his cash advances for local travels had all the necessary supporting documents and to liquidate the cash advances within the prescribed 30-day period pursuant to COA Circular Nos. 94-004, 90-331, and 97-002. It pointed out that petitioner only liquidated his cash advances after the lapse of several years and beyond the period set by the COA Auditor per the Demand Letter[19] dated February 6, 2012.[20]

Thus, the dispositive portion of the Decision states:

WHEREFORE, premised on all the foregoing, respondents Loreto S. Andaling, Cipriano B. Plazos and Urdaneta C. Madridondo are held administratively guilty of Grave Misconduct, Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service and are hereby meted out the penalty of DISMISSAL from the service. Such penalty carries with it the cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

x x x

SO ORDERED.[21]

Aggrieved, petitioner and his correspondents filed a Motion for Reconsideration or Reinvestigation,[22] but the Ombudsman denied the motion in its Order[23] dated December 18, 2015.

As a result, petitioner, along with Plazos, Madridondo, and Patchito T. Eguia (Eguia), who was also administratively charged based on the COA's Final Evaluation Report, elevated the case to the CA via a Petition for Review[24] dated January 21, 2016 under Rule 43 of the Rules of Court. In particular, petitioner and Eguia argued, among others, that their reelection operated as a condonation of their alleged misconduct which was supposedly committed during their previous terms.[25]

Ruling of the CA

The CA, in its Decision[26] dated June 22, 2017, denied the Petition for Review for lack of merit.[27] It agreed with the Ombudsman that the doctrine of condonation did not apply to Eguia because he was not reelected to the same position that he held at the time the alleged offenses were committed. In petitioner's case, the CA ruled that he had failed to invoke condonation as a defense before the Ombudsman. It further noted that there was nothing on record to show that he was reelected to the same position of municipal councilor.[28]

Upon the parties' Motion for Reconsideration,[29] the CA amended its earlier ruling, but only insofar as Eguia was concerned.[30] The CA resolved to apply the doctrine of condonation only to Eguia considering that he was reelected during the 2013 and 2016 elections in the Municipality of Katipunan, Zamboanga del Norte, albeit in a different elective position.

The dispositive portion of the Resolution[31] dated January 29, 2018 thus reads:

WHEREFORE, premises considered, Petitioner Patchito T. Eguia's Motion for Reconsideration is GRANTED. The Court's 22 June 2017 Decision [is] hereby MODIFIED only with respect to Petitioner Patchito T. Eguia, as

follows:

That the administrative charges against Petitioner Patchito T. Eguia is ordered DISMISSED considering that the acts charged against him are deemed CONDONED by his reelection.

The Motions for Reconsideration filed by petitioners Loreto S. Andaling, Cipriano B. Plazos and Urdaneta C. Madridondo are hereby DENIED for LACK of MERIT.

SO ORDERED.[32]

Hence, the present petition.

The Issues

Petitioner raises the following issues for the Court's resolution:

I

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED WHEN IT REFUSED TO APPLY THE DOCTRINE LAID DOWN BY THE SUPREME COURT IN AGUINALDO VS. SANTOS.

II

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED WHEN IT REFUSED TO ABSOLVE PETITIONER LORETO S. ANDALING FROM ANY ADMINISTRATIVE LIABILITY.

III

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED WHEN IT REFUSED TO DECLARE THE PENALTY IMPOSED BY THE OFFICE OF THE OMBUDSMAN UPON PETITIONERS AS HARSH, CRUEL AND UNREASONABLE UNDER THE CIRCUMSTANCES.[33]

Petitioner avers that both the CA and the Ombudsman erred in not applying the condonation doctrine in his favor considering that his reelection operated as a condonation of his previous misconduct.[34] Further, he claimed that his delay in liquidating the cash advances cannot be considered as Grave Misconduct as there is no evidence that his omission had been attended by corruption or the willful intent to violate the law or to disregard established rules.[35]

In their Comments,[36] respondents maintained that the Ombudsman and the CA correctly ruled that the doctrine of condonation cannot be applied to petitioner because the records are bereft of any proof that he was reelected to the same position of municipal councilor.[37]

While the case was pending with the Court, petitioner died of hepatic failure on April 14, 2019.[38] Thus, in addition to the above-mentioned issues, the Court will also resolve whether the death of petitioner warrants the dismissal of the present administrative case against him.

The Court's Ruling

At the outset, it bears emphasis that petitioner has already admitted that he was unable to liquidate his cash advances within the period set by the COA. He mainly argues that his reelection as a Member of the Sangguniang Bayan of the Municipality of Katipunan, Zamboanga del Norte operated as a condonation of his previous misconduct pursuant to doctrine laid down in *Aguinaldo v. Hon. Santos*. [39]

The question thus arises: Is the condonation doctrine applicable in petitioner's case notwithstanding its abandonment in the case of *Ombudsman Carpio Morales v. CA, et al.* [40] (*Carpio Morales*)? The answer,

however, is a definitive no.

In the case of *Madreo v. Bayron*[41] (*Madreo*), the Court clarified the prospective application of the abandonment of the condonation doctrine in *Carpio Morales* as follows:

x x x [T]he Court ruled in *Carpio-Morales* that the abandonment of the doctrine of condonation is applied prospectively, it meant that the said doctrine does not anymore apply to public officials re-elected after its abandonment. Stated differently, the doctrine still applies to those officials who have been re-elected prior to its abandonment. That is because when a public official had already been re-elected prior to the promulgation and finality of *Carpio-Morales*, he or she has every right to rely on the old doctrine that his re-election had already served as a condonation of his previous misconduct, thereby cutting the right to remove him from office, and a new doctrine decreeing otherwise would not be applicable against him or her. More telling, once re-elected, the public official already had the vested right not to be removed from office by reason of the condonation doctrine, which cannot be divested or impaired by a new law or a new doctrine without violating the Constitution. x x x[42]

Similarly, in the 2021 case of *Gaudan v. Degamo*[43] (*Degamo*), the Court, citing the case of *Madreo*, ruled in no uncertain terms that "the condonation doctrine is no longer an available defense to a public official who is reelected on or after April 12, 2016. In other words, the reelection of a public official on or after April 12, 2016 would no longer absolve him or her from any administrative liability arising from a previous misconduct that he or she had committed during a prior term." [44]

In this case, petitioner was reelected as a Member of the Sangguniang Bayan of the Municipality of Katipunan, Zamboanga del Norte in the May 2016 elections.[45] While it appears that he ran for a seat as a Provincial Board Member in District II of the Province of Zamboanga del Norte in 2013,[46] there is no conclusive proof on record that he had been successfully elected in the position. On the contrary, petitioner's name is not among those enumerated in the 2013 List of Newly-Elected Officials - Zamboanga del Norte, as provided in the Department of the Interior and Local Government website:[47]

(see image, p. 8)

Thus, in line with *Madreo* and *Degamo*, the Court holds that petitioner's reelection on May 9, 2016, which took place after the abandonment of the condonation doctrine in *Carpio Morales* attained finality, cannot be deemed to operate as a condonation of previous misconduct that he allegedly committed in the years 2002, 2005 to 2009 and 2011.

The Court likewise cannot consider petitioner's reelection as a Member of the Sangguniang Bayan of Katipunan, Zamboanga del Norte in the 2010 elections as a condonation of any misconduct he committed during his two prior terms.[48]

To recall, petitioner's original defense in his Counter-Affidavit[49] dated August 22, 2012 was wholly predicated upon the full liquidation of his cash advances as of July 27, 2012. Moreover, the records show that petitioner had raised condonation as a defense for the first time before the CA,[50] which, at the time of filing of the Petition for Review in January 2016, could have only referred to his reelection in 2010. Then, in the present petition, he again cites his reelection as a Member of the Sangguniang Bayan of Katipunan, Zamboanga del Norte, but this time, he offers proof of his reelection on May 9, 2016 per Certification[51] from the Commission on Elections dated February 20, 2018.

On this point, it bears stressing that condonation is an "affirmative fact" that must be raised at the earliest opportunity, i.e., during the administrative proceedings before the Ombudsman to enable it to fully consider and pass upon the matter.[52] Here, it is indisputable that petitioner had failed to invoke condonation by virtue of his

reelection in 2010 as a defense with the Ombudsman. More than that, he also failed to provide proof of his reelection in 2010 when he raised the matter of condonation before the CA.

Thus, although it is true that petitioner's reelection in 2010 could have possibly operated as a condonation of his purported misconduct in the years 2002 and 2005 to 2009, his failure to invoke it as a defense before the Ombudsman effectively forecloses any consideration of this factual matter in the proceedings before the Court.

The Court shall now resolve the issue regarding the effect of petitioner's death during the pendency of the present administrative case against him.

In the recent case of *Flores-Concepcion v. Judge Castañeda*[53] (Judge Castañeda), the Court dismissed the administrative case against the respondent judge in view of her death during the pendency of the case. It explained as follows:

Hence, when the respondent in a pending administrative case dies, the case must be rendered moot. Proceeding any further would be to violate the respondent's fundamental right to due process. Should it be a guilty verdict, any monetary penalty imposed on the dead respondent's estate only works to the detriment of their heirs. To continue with such cases would not punish the perpetrator, but only subject the grieving family to further suffering by passing on the punishment to them.[54] (Emphasis supplied.)

As it currently stands, the respondent in an administrative case must be given the opportunity not only to be informed of the judgment against him or her, but also to seek reconsideration of that judgment in order to fully satisfy the requirements of due process.[55]

Because petitioner has effectively lost the opportunity to be informed and to seek reconsideration of any judgment against him on account of his death on April 14, 2019, or during the pendency of these proceedings, the Court is constrained to dismiss this administrative case on the ground of mootness in accordance with the doctrine laid down in *Judge Castañeda*. With the dismissal of the case, the Court finds it unnecessary to pass upon the other issues regarding petitioner's administrative liabilities.

WHEREFORE, the administrative case against petitioner Loreto S. Andaling is hereby DISMISSED in view of his death pending resolution thereof.

SO ORDERED.

Leonen (Chairperson), Hernando, Delos Santos, and J. Lopez, JJ., concur.

[*] Referred to as Arfle in some parts of the rollo.

[1] Rollo, pp. 11-31.

[2] *Id.* at 33-57; penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Edgardo A. Camello and Rafael Antonio M. Santos, concurring.

[3] *Id.* at 65-70; penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Edgardo A. Camello and Perpetua T. Atal-Paño, concurring.

[4] CA rollo, Vol. I, pp. 90-99; signed by Graft Investigation and Prosecution Officer I Rosemil Robles Bañaga; reviewed by Director Maria Iluminada S. Lapid-Viva, Evaluation and Investigation Bureau-A; and approved by Deputy Ombudsman for Mindanao, Rodolfo M. Elman.

[5] *Id.* at 117-125.

[6] Petitioner's co-respondents in the complaint include then incumbent Mayor, Crisostomo T. Eguia, Jr. and then incumbent Vice Mayor, Patchito T. Eguia of the Municipality of Katipunan, Zamboanga del Norte; all municipal councilors: Jumar P. Moreno, Ambrosio S. Necesario, Bienvenido P. Drilon, Shiela L. Necesario; Agricultural Technologist, Adelaida A. Eguia, OIC MPDC (Administrative Officer IV), Dick I. Romarate; Municipal Budget Officer, Helen L. Dangase; Municipal Health Officer, Peter Stephen S. Samonte, then incumbent Municipal Treasurer, Ciripriano B. Plazos; and then incumbent OIC-Municipal Accountant, Urdaneta C. Madridondo. See Joint Complaint-Affidavit, id. at 117.

[7] See Joint Resolution of the Office of the Ombudsman dated February 14, 2013 signed by Graft Investigation and Prosecution Officer I Aileen Lourdes A. Lizada, reviewed by Director and GIPO III Maria Iluminada S. Lapid-Viva, and approved by Deputy Ombudsman for Mindanao, Humphrey T. Monteroso, id. at 344-345.

[8] Id. at 119-122.

[9] See Certification signed by Administrative Officer IV Merlyn M. Cabarse, id. at 319.

[10] See Petitioner's Counter-Affidavit dated August 22, 2012, id. at 322-327.

[11] Id. at 344-348.

[12] Id. at 347.

[13] Id. at 351-364.

[14] Id. at 350.

[15] Id. at 356.

[16] Id. at 393-394.

[17] Id. at 91.

[18] Id. at 90-99.

[19] Id. at 156-157.

[20] Id. at 94-95.

[21] Id. at 98.

[22] Id. at 100-108.

[23] Id. at 111-113.

[24] Id. at 2-24.

[25] Id. at 13-14.

[26] Rollo, pp. 33-57.

[27] Id. at 46.

[28] Id. at 47-48.

[29] Id. at 58-63.

[30] Id. at 69.

- [31] Id. at 65-70.
- [32] Id. at 69-70.
- [33] Id. at 19.
- [34] Id. at 21.
- [35] Id. at 28.
- [36] Id. at 104-121.
- [37] Id. at 115.
- [38] See Certificate of Death, id. at 128-A.
- [39] 287 Phil. 851 (1992).
- [40] 772 Phil. 672 (2015).
- [41] G.R. No. 237330 and 237579, November 3, 2020.
- [42] Id. Italics in the original.
- [43] G.R. Nos. 226935, 228238, and 228325, February 9, 2021.
- [44] Id., citing *Madreo v. Bayron*, supra note 41.
- [45] Rollo, pp. 96-98.
- [46] See City/Municipal Canvass Report for Katipunan, Zamboanga del Norte, id. at 95.
- [47] As culled from the 2013 List of Newly-Elected Official - Zamboanga del Norte, Department of the Interior and Local Government
<<http://region9.dilg.gov.ph/index.php/lgu/list-of-newly-elected-officials-neo/391-2013-list-of-newly-elected-officials-zamboanga-del-norte>> (last accessed on February 26, 2021).
- [48] CA rollo, Vol. I, p. 95.
- [49] Id. at 322-327.
- [50] Id. at 14.
- [51] Rollo, p. 96.
- [52] See *Crebello v. Office of the Ombudsman*, G.R. No. 232325, April 10, 2019.
- [53] A.M. No. RTJ-15-2438, September 15, 2020.
- [54] Id.
- [55] Id.

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