

WILLIAM G. GUALANI, IN HIS CAPACITY AS TAXPAYER AND GRAFT AND CORRUPTION CRUSADER, PETITIONER, VS. THE COURT OF APPEALS, (SPECIAL) TWENTY-SECOND DIVISION [COMPOSED OF: HON. HEN...

G.R. Nos. 221253-54. April 26, 2021

Ponente: CARANDANG, J.

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CARANDANG, J.:

Before us are the following consolidated petitions:

(1) G.R. Nos. 227527-28[1] filed by petitioner William Gualani; and G.R. Nos. 231065-68[2] filed by the Office of the Ombudsman, are Petitions for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[3] dated October 13, 2016 and the Resolution[4] dated February 9, 2017 in CA-G.R. SP Nos. 07072-MIN, 07073-MIN; 07520-MIN; and 07521-MIN which reversed and set aside the Decision[5] dated August 14, 2015 of the Office of the Ombudsman in OMB-M-A-15-0091 finding respondents Mayor Oscar S. Moreno and Dr. Glenn Bañez guilty of Grave Misconduct and meted them the penalty of dismissal from service; and

(2) G.R. Nos. 221253-54,[6] a Petition for Certiorari and Prohibition under Rule 65 of the same rules, assailing the November 13, 2015[7] and November 18, 2015[8] Resolutions of the Court of Appeals in CA-G.R. SP Nos. 07072-MIN and 07073-MIN which granted the application for temporary restraining order (TRO) and writ of preliminary injunction filed by respondents and enjoined the Department of the Interior and Local Government (DILG) from enforcing the decision of the Office of the Ombudsman.

Facts of the Case

After having been elected as Mayor of Cagayan de Oro City in 2013, respondent Oscar Moreno (Moreno), designated respondent Dr. Glenn Bañez (Bañez) as Officer-in-Charge (OIC) of the City Treasurer's Office. Upon assumption of office, Bañez reviewed the records of tax payments of all the business establishments in the city.[9]

On November 27, 2013, the City Treasurer's Office through Bañez issued a Notice of Assessment to Ajinomoto Philippines Corporation (Ajinomoto) demanding payment of its deficiency tax in the total amount of P2,924,428.34 for the calendar years 2006-2012 which resulted from the reclassification of monosodium glutamate (MSG) from essential to non-essential commodity.[10]

Ajinomoto, assailed the deficiency tax assessment and filed a Petition for Review against Cagayan de Oro City, through its Mayor Oscar S. Moreno and the Office of the City Treasurer through OIC Bañez. The case was docketed as Civil Case No. 2014-093 and assigned to the Regional Trial Court (RTC) of Misamis Oriental, Branch 17. Ajinomoto protested the retroactive application of the reclassification and asserted that it should not be penalized for the erroneous classification made by the previous administration and should not be imposed with surcharges considering that it was updated in its business tax payments.[11]

During pre-trial, the RTC referred the case to the Philippine Mediation Center for mediation. During the court-assisted mediation, Ajinomoto and the City Government represented by respondent Bañez as OIC City Treasurer signed a Settlement Agreement[12] whereby Ajinomoto agreed to dismiss its suit against the City Government in exchange for a compromised tax assessment amount of P300,000.00 inclusive of the increments (i.e., interest, surcharges, among others) as full settlement of the assessed local business tax for the years 2006-2012. Subsequently, a Joint Motion to Dismiss[13] in Civil Case No. 2014-093 was filed by Ajinomoto and the City Government, through its Assistant Legal Officer, Atty. Raymond Q. Villablanca, with the RTC in view of the full settlement of the revised local business tax. The RTC approved the motion in an Order[14] dated August 22, 2014.

On March 13, 2015, William Guialani (Guialani), former Punong Barangay of Taglimao, Cagayan de Oro City, and petitioner in G.R. Nos. 221253-54 and 227527-28, filed a Verified Complaint[15] before the Office of the Ombudsman charging respondents Moreno and Bañez with Grave Abuse of Authority, Grave Misconduct and Violation of Republic Act No. (R.A.) 6713, otherwise known as the "Code of Conduct of Ethical Standards for Public Officials and Employees." Guialani asserted that respondent Bañez had no authority to enter into any tax compromise with Ajinomoto and that Bañez was only authorized by Mayor Moreno to enter into the settlement agreement. It is Guialani's main contention that respondents cannot validly execute the settlement agreement without the consent of Sangguniang Panglungsod (Sanggunian) in the form of an ordinance, as provided under R.A. 7160, otherwise known as the "Local Government Code of 1991." He alleged that Moreno abused his authority as Mayor when he induced Bañez and conspired with the latter to divert public funds for a purpose not approved by the Sanggunian. Respondents' acts were allegedly attended with willful intent to violate the law or a flagrant disregard of established rules.[16]

Respondents were directed to file their counter-affidavits. Bañez claimed that he found Ajinomoto's offer favorable after consulting with the City Government's lawyers. Consequently, he accepted the payment in check from Ajinomoto. He argued that he cannot be made administratively liable because the settlement agreement was initiated by the mediator and was duly approved by the court.[17] For his part, Moreno averred that he was not aware of the settlement agreement entered into by Bañez with Ajinomoto but was happy when he found out considering that the City Government gained revenues from the said assessment and saved money in the form of litigation cost.[18]

In a Decision[19] dated August 14, 2015, the Office of the Ombudsman found respondents guilty of Grave Misconduct and imposed the penalty of Dismissal from Service. The decretal portion of the said Decision reads:

WHEREFORE, the Office finds respondents Oscar S. Moreno and Glenn C. Bañez GUILTY of Grave Misconduct and are meted the penalty of Dismissal from service, including the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service. Further, the charges of Grave Abuse of Authority and violation of R.A. No. 6713 are dismissed.

In the event that the penalty can no longer be enforced due to respondents' separation from service, it shall be converted into a Fine equivalent to their respective salaries for one (1) year, payable to the Office of the Ombudsman, and may be deducted from their retirement benefits, accrued leave credits or any receivable from the government.

This decision shall be executed as a matter of course. The refusal or failure to comply with this Decision of any officer, without just cause, shall be a ground for disciplinary action against said officer.

The Honorable Secretary of the Department of the Interior and Local Government is directed to implement the penalty meted out against respondents, within ten (10) days from receipt hereof, and to submit to this Office,

within the same period, a Compliance Report indicating the Docket Number of this case.

SO ORDERED.[20]

Respondents Moreno and Bañez filed their separate Motions for Reconsideration with the Office of the Ombudsman.[21] While awaiting the resolution of their motions, Moreno and Bañez filed their respective Petitions for Certiorari[22] under Rule 65 of the Rules of Court before the Court of Appeals of Cagayan de Oro City praying for the issuance of a TRO and/or writ of preliminary injunction against the DILG and their agents and/or representatives, to enjoin their dismissal from the service.[23] Moreno's petition was docketed as CA-G.R. SP No. 07072-MIN[24] while Bañez's petition was docketed as CA-G.R. SP No. 07073-MIN.[25] The two petitions were consolidated.

On November 13, 2015, the CA issued a Resolution[26] granting respondents' Moreno and Bañez prayer for a TRO effective for a period of 60 days, enjoining the DILG, its officers and agents and all persons acting under them, from enforcing, implementing and effecting the dismissal order of the Ombudsman.[27] Thereafter, the DILG filed a Manifestation with Urgent Motion for Clarification[28] praying that the CA clarify who should be recognized as Mayor of Cagayan de Oro City considering that the department received the CA Resolution issuing the TRO a day after the Ombudsman Decision was served and implemented against respondents.[29] The CA issued another Resolution[30] dated November 18, 2015 stating that there is nothing to elucidate as the DILG acknowledged respondents' power and authority by virtue of the TRO issued.[31] Subsequently, respondents' application for a writ of preliminary injunction was granted on January 11, 2016.[32]

On February 15, 2016, the Office of the Ombudsman issued an Order[33] denying respondents' motions for reconsideration.

Respondents filed their respective Petitions for Review under Rule 43 of the Rules of Court before the Court of Appeals of Cagayan de Oro City assailing the Decision and Order of the Office of the Ombudsman in OMB-M-A-15-0091. The petitions were docketed as CA-G.R. SP No. 07520-MIN and CA-G.R. SP No. 07521-MIN, respectively. The CA ordered the consolidation of CA-G.R. SP No. 07520-MIN and CA-G.R. SP No. 07521-MIN with CA-G.R. SP No. 07072-MIN and CA-G.R. SP No. 07073-MIN. Respondents Moreno and Bañez contended that the settlement agreement was an exercise of a purely executive function, the assessment of local taxes.[34] Petitioner Guialani was ordered to file his comment on the petitions. Guialani countered that a settlement agreement is a compromise agreement. It is also a contract which necessitates prior authorization from the Sanggunian.[35]

On October 13, 2016, the CA rendered the herein assailed Decision[36] on the consolidated petitions, reversing the decision of the Office of the Ombudsman. The dispositive portion of the decision reads:

FOR THESE REASONS, the Rule 43 petitions are GRANTED. The 14 August 2015 Decision and 15 February 2016 Order of the Office of the Ombudsman dismissing Mayor Oscar S. Moreno and Dr. Glenn Bañez are REVERSED. The administrative charges of Grave Misconduct (OMB-M-A-15-0091) against these petitioners are DISMISSED for lack of merit.

The Rule 65 petitions are DISMISSED on account of MOOTNESS.

SO ORDERED.[37]

Petitioner Guialani and the Office of the Ombudsman moved for reconsideration of the aforementioned decision but was denied in a Resolution[38] dated February 9, 2017.

The CA held that no prior Sanggunian approval is required for the execution of the settlement agreement,

considered as a continuation of the tax assessment which is purely a local treasurer's function. It cited various sections of the Local Government Code enumerating the powers of the local treasurer to assess, collect and adjust, wholly or partially, tax assessments.[39] The appellate court also cited the case of *Quisumbing v. Garcia*,[40] which states that contracts as used in Section 22(c) of the Local Government Code are those which bind the local government unit into new obligations, with their corresponding terms and conditions, for which the local chief executive needs prior authority from the Sanggunian.[41] The CA, thus, ruled that the settlement agreement arising from the Ajinomoto's protest of the treasurer's tax assessment does not create new obligation for the city government, hence, no prior or additional authorization from the Sanggunian is required.[42] The CA found that corollary to the local treasurer's power to file civil actions to collect delinquent taxes, it also has the power to decide the taxpayer's protest and if he finds the protest meritorious, he shall issue a notice cancelling the assessment wholly or partially.[43]

Not agreeing with the CA Decision, the Office of the Ombudsman and Guialani filed the present consolidated petitions. In their separate petitions, both petitioners argue that the CA erred when it ruled that the settlement agreement between the City Government of Cagayan de Oro and Ajinomoto Philippines which settled the latter's tax deficiency from the amount of P2,924,428.00 to P300,000.00 does not require prior authorization of the Sangguniang Panlungsod of the city.

In G.R. Nos. 227527-28, petitioner Guialani argues that the settlement agreement entered into by Bañez with Ajinomoto for and in behalf of the City Mayor needs the approval of the Sanggunian as required by Section 22(c) of the Local Government Code. Petitioner faults the CA for ruling that the settlement agreement arising from the treasurer's tax assessment does not in any way create any new obligation for the city government, thereby concluding that Section 22 of the Local Government Code does not apply. Guilani insists that the settlement agreement entered into by Bañez is a contract within the definition of *Quisumbing v. Garcia*[44] as it created a juridical necessity or obligation on the part of the City Government to assess, demand and collect the tax deficiency. Considering that the settlement agreement is a contract, respondent Bañez cannot validly enter into such agreement with Ajinomoto without first securing the approval of the Sanggunian as mandated by Section 22(c) of the Local Government Code.[45]

In seeking to hold respondent Moreno administratively liable, petitioner contends that Moreno impliedly approved the settlement agreement considering that he had direct supervision over respondent Bañez and had impliedly consented to latter's act after knowing the transaction even if Moreno had no active participation and did not affix his signature on the settlement agreement.[46] Petitioner maintains that respondents are both guilty of grave misconduct and that their failure to secure the Sanggunian approval on the settlement agreement is tantamount to intentional wrongdoing or deliberate violation of a rule of law or standard of behavior.[47]

In G.R. Nos. 231065-68, the Ombudsman likewise asserts that the CA gravely erred when it ruled that the Settlement Agreement executed between the City Government of Cagayan de Oro and Ajinomoto Philippine Corporation which settled the latter's local government tax deficiency in local government tax from P2,924,428.00 to P300,000.00 does not require prior authorization of the Cagayan de Oro City Sangguniang Panlungsod. The Ombudsman avers that while the Local Government Code enumerates the powers and functions of a local treasurer relating to assessment, collection and adjustment of local taxes, the same is limited or regulated by the appropriate Sanggunian of the local government unit through appropriate laws or ordinances. The Ombudsman maintains that it is only the Sangguniang Panlungsod who has the power to impose taxes and grant tax exemptions, incentives or reliefs through the enactment of pertinent ordinances. Moreover, the local treasurer's power to "adjust" tax assessments is not unbridled as it is limited by the tax rates and computations set out by law and the local treasurer cannot capriciously and whimsically adjust a tax assessment without any basis.[48]

In the Comment[49] filed by public respondents DILG and the Office of the Ombudsman, through the Office of the Solicitor General (OSG), they reiterated the position of petitioners that the appellate court erred in ordering the dismissal of the administrative case against respondents as there is substantial evidence that respondents are guilty of grave misconduct.[50]

In G.R. Nos. 221253-54, petitioner Guialani assails the issuance of TRO and writ of preliminary injunction issued by the CA enjoining the DILG from enforcing the decision of the Ombudsman, for being issued without or in excess of jurisdiction or with grave abuse of discretion. Petitioner asseverates that respondents have no clear and unmistakable right to the Office of the City Mayor and City Treasurer as they have been legally removed from office and there is no material and substantial invasion of their rights nor is there irreparable damage sought to be prevented.[51]

In their Joint-Comment,[52] respondent Moreno argues that he did not give Bañez authority to sign the settlement agreement for and in his behalf and he became aware of the settlement agreement only after Bañez reported to him about the outcome of the case. The execution of the settlement agreement and the Joint Motion to Dismiss do not show his participation for lack of his signatures therein, hence, there is no substantial evidence to hold him liable for grave misconduct. They posit that the settlement agreement was the necessary consequence of the series of mediation conferences involving respondent Bañez and Ajinomoto after the tax assessment was disputed by the latter.[53]

Issue

The issues raised in the consolidated petitions boil down to one primordial question: whether respondents Moreno and Bañez are guilty of grave misconduct, grave abuse of authority and violation of R.A. 6713 in entering into a settlement agreement with Ajinomoto Corporation reducing Ajinomoto's deficiency local government tax from P2,924,428.00 to P300,000.00, without the prior authority from the Sanggunian of Cagayan de Oro City.

Ruling of the Court

The petitions are partially granted. We agree with petitioners that the Settlement Agreement reducing the tax deficiency of Ajinomoto from P2,924,428.00 to P300,000.00 must be authorized by the Sanggunian.

Prefatorily, We emphasize that a tax settlement or compromise is an agreement whereby the taxpayer offers to pay something less than what is due and the government accepts it as a full settlement of his liability. Since it effectively waives a part of the revenues belonging to the government, it must be done in accordance with law. The pertinent provisions of the Local Government Code state, as follows:

Section 132. Local Taxing Authority. The power to impose a tax, fee or charge or to generate revenue under this Code shall be exercised by the sanggunian of the local government unit concerned through an appropriate ordinance.

x x x x

Section 192. Authority to Grant Tax Exemption Privileges. - Local government units may, through ordinances duly approved, grant tax exemptions, incentives or reliefs under such terms and conditions as they may deem necessary. (Emphasis supplied)

It is clear that the power to tax at the local level lies with the Sanggunian of the local government unit through the passage of ordinances. This power of the local government units is derived from the Constitution which grants them the power to create its own sources of revenues and to levy taxes, fees and charges and subject to such guidelines and limitations as the Congress may provide.[54] The authority of provinces, cities and municipalities

to create their own sources of revenue and to levy taxes, therefore, is not inherent and may be exercised only to the extent that such power might be delegated to them either by the basic law or statute.[55]

Corollary to its power to impose tax, the Sanggunian has the power to grant tax exemptions, incentives or reliefs under such terms and conditions as it may deem necessary through ordinances duly approved. A tax relief is a reduction in the amount of taxes that has to be paid by an individual or business entity. It is evident that the settlement agreement entered into by Ajinomoto and respondent Bañez was in the nature of a relief as it resulted in a substantial diminution or decrease of Ajinomoto's tax deficiency which must be duly approved by the Sanggunian through ordinances. The imposition of tax and the grant of tax reliefs are legislative functions and as such, cannot be left to the discretion of the City Mayor or City Treasurer. An ordinance must be enacted by the Sanggunian under such terms and conditions as may be necessary such that there is nothing left to do but to enforce it in accordance with the agreed terms and conditions set therein. Without any such authority, respondents Moreno and Bañez, on their own, have the power to settle a tax deficiency or enter into settlement agreements or compromise with a taxpayer. To do so would only make the agreement susceptible to corruption since the amount of settlement would rest entirely upon the discretion of the City Mayor or the City Treasurer. Thus, it was grave error for the appellate court to rule that the settlement agreement does not require the approval of the Sanggunian.

In absolving respondents from administrative liability, the CA relied on the following provisions of the Local Government Code, enumerating the functions of a local treasurer which includes the assessment, collection and enforcement of local taxes and the power to decide a protest. To quote:

Section 183. Collection of Delinquent Taxes, Fees, Charges or other Revenues through Judicial Action. - The local government unit concerned may enforce the collection of delinquent taxes, fees, charges or other revenues by civil action in any court of competent jurisdiction. The civil action shall be filed by the local treasurer within the period prescribed in Section 194 of this Code.

x x x x

Section 195. - Protest of Assessment - When the local treasurer or his duly authorized representative finds that correct taxes, fees or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests, and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal to the court of competent jurisdiction; otherwise the assessment becomes conclusive and unappealable. (Emphasis supplied)

Specifically, Section 195 gives the local treasurer or his duly authorized representative the power and authority to issue a notice of assessment and should a taxpayer file a protest, decide the protest within 60 days from the time of the filing, by issuing a notice cancelling wholly or partially the assessment if he finds the protest to be wholly or partly correct, or deny the protest should he find the assessment to be correct. As argued by respondents, the assessment, protest, mediation and subsequent settlement was made pursuant to the power vested in the City Treasurer. We are not persuaded. It must be noted that respondent Bañez failed to act on the protest of Ajinomoto within 60 days from the filing thereof, which prompted Ajinomoto to file an appeal before the RTC. By his failure to decide the protest, he is now precluded from claiming his residual power to adjust the deficiency tax assessment arbitrarily or whimsically without any legal justification.

In the case of *California Manufacturing Co., Inc. v. The City of Las Piñas*,^[56] the Court approved the compromise agreement of the parties validly executed with the required City Resolution approving the compromise offer and authorizing the City Mayor and/or the City Treasurer to accept in behalf of the City the settlement offer.^[57] In the same vein, respondent Bañez should have also secured a prior authority from the Sanggunian before signing the settlement agreement since there is no power or authority given to the local treasurer to enter into settlement or compromise involving a duly assessed tax deficiency once a case has been filed in court questioning the assessment.

We are likewise not convinced with the appellate court's position that the settlement agreement was not a "contract" as contemplated in Section 22 of the Local Government Code because it does not create any new obligations on the part of the City Government. Section 22(c) of Republic Act No. 7160 of the Local Government Code is very clear:

Section 22. Corporate Powers. - x x x

x x x x

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the Local Government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall." (Emphasis supplied)

A compromise or settlement agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences, thereby putting an end to litigation.^[58] As it clearly appears from the foregoing provision, prior authorization by the Sanggunian is required before the local chief executive may enter into contracts on behalf of the local government unit.

In the present case, the act of entering into a settlement agreement reducing the tax deficiency with Ajinomoto is evidently a contract, within the purview of Section 22(c) of the Local Government Code requiring approval from the Sanggunian since it involves an obligation to demand and collect payment on the part of the City Government. It is a contract as defined in the case of *Quisumbing v. Garcia*^[59] because it binds the local government unit to new obligations, with their corresponding terms and conditions, for which the local chief executive needs prior authority from the Sanggunian.

Having ruled that a prior authorization is required for the execution of the subject settlement agreement, We now proceed to the issue as to whether respondents Moreno and Bañez are guilty of grave misconduct.

In administrative cases, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the petitioner is guilty of the act or omission complained of, even if the evidence might not be overwhelming.^[60]

Misconduct generally means wrongful, improper or unlawful conduct motivated by premeditated, obstinate or intentional purpose.^[61] To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.^[62] The misconduct must imply wrongful intention and not a mere error of judgment. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.^[63] Grave misconduct is defined as the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer coupled with the elements of corruption, willful intent to violate the law or to disregard established rules.^[64] Corruption, as an element of

grave misconduct, consists in the official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, at the expense or the rights of others.[65]

In the instant case, We find that respondent Bañez is guilty of simple misconduct when he failed to seek authority from the Sangguniang Panglungsod before he settled the tax deficiency of Ajinomoto. Notwithstanding the approval by the trial court of the settlement agreement, We find that Bañez is still administratively liable for disregarding the provision of the Local Government Code that requires that contracts entered into in behalf of the local government unit must be with the prior authorization of the Sanggunian. The law which requires the approval of the Sanggunian was intended to avoid any possible abuse by the City Treasurer or the City Mayor in assessing a taxpayer a deficiency tax assessment only to be adjusted to a reduced amount unilaterally without any legal basis or standard for such reduction. However, since the elements of corruption, clear intent to violate the law or flagrant disregard of established rule are indubitably absent in the present case, and there being no evidence that he has benefitted from the said transaction, he should only be liable for simple misconduct, classified as a less grave offense punishable with suspension for one (1) month and one (1) day to six (6) months for the first offense. Considering that no mitigating or aggravating circumstance can be appreciated in favor of Bañez, thus, the medium penalty of three-month suspension without pay is meted upon respondent Bañez.

However, with respect to Moreno, We find that the evidence is insufficient to establish his liability or culpability over the transaction. Petitioner accuses to Moreno authorizing Bañez to settle the tax deficiency of Ajinomoto and induced and conspired with Bañez to divert public funds. However, there is no single evidence to prove such allegation of diversion of public funds. Petitioner has not shown any overt acts of Moreno and Bañez tending to show that they conspired in settling Ajinomoto's tax deficiency for the purpose of diverting public funds. Moreno's supervision over Bañez is not sufficient basis to hold him liable. The power of supervision involves oversight of a subordinate to ensure that the rules are followed.[66] However, the records are bereft of any evidence to show that Bañez' act of executing the settlement agreement was under the supervision and instruction of Moreno. Nowhere in the records has it been shown that Moreno participated in the execution of the settlement agreement as in fact his signature did not appear therein. Nor has it been established that he gave Bañez any authority to sign in his behalf, as the chief executive of the city. It must be clearly proven that by his acts, respondent Moreno sanctioned the execution of the settlement agreement, absence of which, he could not be held accountable. Hence, We affirm the dismissal of the administrative charges against Moreno.

As to the charges of grave abuse of authority and violation of R.A. 6713, We agree with the Ombudsman that there is no substantial evidence to prove the charges.

We now address the Petition for Certiorari filed by Guialani assailing the two resolutions of the CA enjoining the DILG from executing the decision of the Ombudsman.

The power of the CA to issue a restraining order or an injunctive writ to enjoin orders issued by the Office of the Ombudsman was exhaustively explained in the case of *Carpio-Morales v. Court of Appeals*[67] We enunciated that "[t]he power of the court to issue these provisional injunctive reliefs coincides with its inherent power to issue all auxiliary writs, processes, and other means necessary to carry its acquired jurisdiction into effect under Section 6, Rule 135 of the Rules of Court." [68] It is an inherent power of the CA to issue provisional injunctive reliefs necessary to exercise effectively the jurisdiction conferred to it by law. We quote the pertinent portion of Ombudsman Carpio Morales, to wit:

The grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all

auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.[69]

Based on the foregoing ratiocination, We find that the issuance of the TRO and writ of preliminary injunction by the CA was within its inherent powers. It has been held that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction.[70] The CA having jurisdiction to review the decision of the Office of the Ombudsman in administrative cases, necessarily has the inherent power to issue injunctive writs to protect its jurisdiction and to make its judgment effective.

Be that as it may, We note that in the present case, while the CA issued the resolutions directing the issuance of a TRO and injunction to enjoin the implementation of the Decision on the Ombudsman ordering the dismissal of respondents while their motion for reconsideration was pending before the Office of the Ombudsman. We note that the CA eventually dismissed the petition for certiorari filed by respondents Moreno and Bañez on account of mootness as it has been superseded by respondents' filing of their petitions for review under Rule 43 of the Rules of Court. The CA explained in its ruling, thus:

Back when petitioners motion for reconsideration of the Decision was yet to be resolved, petitioners found no other plain, speedy and adequate remedy to stay the imminent enforcement of the decision and stop the chaos that erupted in the City Hall following the impact of the directive for the City Mayor's dismissal from of office. So, petitioners quickly sought to annul the Decision with a petition for the extraordinary writ of certiorari.

With the subsequent resolution petitioners motion for reconsideration, the ombudsman's Decision became final and opened the avenue for an appeal. With petitioners' filing of the Rule 43 petitions, which constitute the plain, speedy, and adequate remedy at law, the earlier Rule 65 petitions have ceased to be legally viable.[71] (Emphasis supplied)

An issue becomes moot and academic when it ceases to present a justiciable controversy.[72] In such a case, there is no actual substantial relief which a petitioner would be entitled to and which would be negated by the dismissal of the petition.[73] We likewise find that this issue is no longer justiciable because the issuance of the TRO and injunction by the CA was superseded by the subsequent dismissal by the CA of the petition for certiorari filed by respondents Moreno and Bañez.

WHEREFORE, premises considered, the petitions in G.R. Nos. 227527-28 and G.R. Nos. 231065-68 are PARTIALLY GRANTED. The Decision dated October 13, 2016 and the Resolution dated February 9, 2017 of the Court of Appeals in CA-G.R. SP Nos. 07072-MIN, 07073-MIN, 07520-MIN, and 07521-MIN are hereby AFFIRMED with MODIFICATION in that the administrative charge against respondent Oscar S. Moreno is DISMISSED for insufficiency of evidence while respondent Glenn C. Bañez is found GUILTY of Simple Misconduct and meted the penalty of suspension for three (3) months from government service without pay.

The Petition for Certiorari and Prohibition in G.R. Nos. 221253-54 assailing the Resolutions dated November 13, 2015 and November 18, 2015 of the Court of Appeals in CA-G.R. SP Nos. 07072-MIN and 07073-MIN are hereby DISMISSED for being MOOT and ACADEMIC.

SO ORDERED.

Gesmundo, C. J., Caguioa, Zalameda, and Gaerlan, JJ., concur.

[1] Rollo [G.R. Nos. 227527-28], pp. 9-39.

[2] Rollo [G.R. Nos. 231065-68], pp. 14-28.

[3] Penned by Associate Justice Edgardo A. Camello, with the concurrence or Associate Justices Oscar V. Badelles and Perpetua T. Atal-Paño; id. at 39-63.

[4] Id. at 67-73.

[5] Penned by Graft Investigation and Prosecution Officer I Modesto F. Onia Jr.; id. at 91-96.

[6] Rollo [G.R. Nos. 221253-54], pp 3-25.

[7] Penned by Associate Justice Henri Jean Paul B. Inting (now a Member of the Court), with the concurrence of Associate Justices Edgardo A. Camello and Pablito A. Perez; id. at 115-118.

[8] Id. at 143-147.

[9] Rollo [G.R. Nos. 231065-68], p. 153.

[10] Rollo [G.R. Nos. 221253-54], p. 167.

[11] Id.

[12] Rollo [G.R. Nos. 231065-68], pp. 124-126.

[13] Id. at 120-121.

[14] Penned by Presiding Judge Florencia D. Sealana-Abbu; id. at 156-157.

[15] Id. at 106-118.

[16] Id.

[17] Id. at 234-235.

[18] Id. at 153-154

[19] Id. at 91-96.

[20] Id. at 94-95.

[21] Id. at 159-169, 252-269.

[22] Rollo [G.R. No. 221253-54], pp. 54-78, 82-93.

[23] Id. at 78, 93.

[24] Id. at 54.

[25] Id. at 82.

[26] Supra note 7.

[27] Rollo [G.R. No. 221253-54], pp. 117-118.

[28] Id. at 134-139.

[29] Id. at 138.

[30] Supra note 8.

- [31] Rollo [G.R. No. 221253-54], pp. 146-147.
- [32] *Id.* at 173.
- [33] Rollo [G.R. Nos. 231065-68], pp. 98-104.
- [34] *Id.* at 45-48.
- [35] *Id.* at 276-279.
- [36] *Supra* note 3.
- [37] Rollo [G.R. Nos. 231065-68], p. 63.
- [38] *Supra* note 4.
- [39] Rollo [G.R. Nos. 231065-68], pp. 48-50.
- [40] 593 Phil. 655 (2008).
- [41] *Id.* at 672.
- [42] Rollo [G.R. Nos. 231065-68], p. 49.
- [43] *Id.* at 50.
- [44] *Supra* note 40.
- [45] Rollo [G.R. Nos. 227527-28], pp. 16-19.
- [46] *Id.* at 19-24.
- [47] *Id.* at 26-30.
- [48] Rollo [G.R. Nos. 231065-68], pp. 20-25.
- [49] *Id.* at 312-321.
- [50] *Id.* at 316-321.
- [51] Rollo [G.R. Nos. 221253-54], pp. 14-20.
- [52] *Id.* at 166-185.
- [53] *Id.* at 173-185.
- [54] CONSTITUTION, Article X, Section 5.
- [55] *Film Development Council of the Philippines v. Colon Heritage Realty Corporation*, 760 Phil. 519, 537 (2015).
- [56] 608 Phil. 214 (2009).
- [57] *Id.*
- [58] *Chu v. Spouses Cunanan*, 673 Phil. 12, 19 (2011).
- [59] *Supra* note 40.
- [60] *Tolentino v. Atty. Loyola*, 670 Phil. 50, 61 (2011).

- [61] Field Investigation Office of the Office of the Ombudsman v. Castillo, 794 Phil. 53, 61 (2016).
- [62] Office of the Ombudsman-Visayas v. Castro, 759 Phil. 68, 79 (2015).
- [63] Ganzon v. Arlos, 720 Phil. 104, 113 (2013).
- [64] Fajardo v. Corral, 813 Phil. 149, 158 (2017)
- [65] Rodriguez-Angat v. GSIS, 765 Phil. 213, 233 (2015), citing Government Service Insurance System v. Mayordomo, 665 Phil. 131, 148 (2011).
- [66] Office of the Ombudsman v. Fetalvero, Jr., G.R. No. 211450, July 23, 2018.
- [67] 772 Phil 672 (2015).
- [68] Id. at 738.
- [69] Id. at 739, citing City of Manila v. Judge Grecia-Cuerdo, 726 Phil. 9, 26-27 (2014).
- [70] Id.
- [71] Rollo [G.R. Nos. 231065-68], pp. 62-63.
- [72] Tatad v. Commission on Appointments, 584 Phil. 332, 335 (2008).
- [73] Id.

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