

### THIRD DIVISION

G.R. No. 245855 – ROMEO DC. RESULTA, *petitioner, versus* PUBLIC ASSISTANCE AND CORRUPTION PREVENTION OFFICE (PACPO)-LUZON, represented by MARIVIC B. DELA CRUZ, *respondent.*

Promulgated:

August 16, 2023

~~Misdebat~~

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### CONCURRING OPINION

**CAGUIOA, J.:**

I agree with the *ponencia* that there is no substantial evidence to hold petitioner Romeo DC. Resulta (petitioner) administratively liable for grave misconduct or simple misconduct.<sup>1</sup> I therefore concur in granting the Petition<sup>2</sup> and reversing the Decision<sup>3</sup> dated September 10, 2018 and Resolution<sup>4</sup> dated February 20, 2019 of the Court of the Appeals (CA) – Eleventh Division in CA-G.R. SP Nos. 150967 and 151036, which affirmed the Decision<sup>5</sup> (OMB Decision) dated January 6, 2016 rendered by the Office of the Ombudsman (OMB).<sup>6</sup>

Petitioner, as the District Supervisor of Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) in Tanauan, Batangas, was impleaded in the case initiated by the OMB against officials and employees of QUEDANCOR for alleged irregularities in the implementation of the Consolidated Guidelines on QUEDANCOR Swine Program (CG-QSP) in Region IV.<sup>7</sup> The case was an offshoot of an audit conducted by the Commission on Audit (COA), which essentially revealed, among others, that:

- (1) The guidelines formulated by QUEDANCOR in the acquisition of farm inputs to be loaned to farmer-borrowers under the QSP did not comply with the law on public bidding or Government Procurement Reform Act or Republic Act (R.A.) No. 9184;
- (2) QUEDANCOR extended undue advantage to Metro Livestock and Global Swine in terms of: (a) accrediting them as input suppliers without public bidding and despite non-compliance with the

<sup>1</sup> *Ponencia*, p. 8.

<sup>2</sup> *Rollo*, pp. 26–46.

<sup>3</sup> *Id.* at 55–72. Penned by Associate Justice Geraldine C. Fiel-Macaraig, with Associate Justices Ramon R. Garcia and Eduardo B. Peralta, Jr. concurring.

<sup>4</sup> *Id.* at 74–75.

<sup>5</sup> *Id.* at 93–120. Penned by Graft Investigation and Prosecution Officer II Maria Viviane Cacho-Calicdan, with the approval of Ombudsman Conchita Carpio Morales.

<sup>6</sup> *Ponencia*, p. 11.

<sup>7</sup> *Id.* at 4.

eligibility requirements, including financial and technical incapability; (b) full release of loan proceeds to the input suppliers despite incomplete deliveries; (c) neglect in recording and monitoring of pull-outs/harvests of stocks; and (d) improper offsetting of payables and receivables[.]<sup>8</sup>

In finding that petitioner, together with his co-respondents, are guilty of grave misconduct, the OMB evidently echoed the above-cited findings of the COA and concluded that petitioner acted with gross inexcusable negligence in the supervision and implementation of the CG-QSP in QUEDANCOR, Region IV, District Office of Tanauan, Batangas.<sup>9</sup> The OMB held that the gross inexcusable negligence of petitioner and his co-respondents was shown through their acts of: (1) allowing Metro Livestock and Global Swine to collect loan proceeds despite incomplete deliveries of farm inputs; (2) certifying that expenses were necessary and lawful and duly supported by documents, notwithstanding incomplete deliveries of inputs; (3) allowing the offsetting of accounts receivable against accounts payable in spite of the absence of records of transfer of liabilities from one party to another; and (4) allowing the pull-out of products in the absence of authority to pull-out and made on the sole basis of certifications issued by the input supplier.<sup>10</sup>

In affirming the foregoing, the CA, on the one hand, held that the duty of petitioner to verify documents and deliveries was so basic to be ignored, such that his failure to stay true to the mandate of his office amounted to a flagrant disregard of the law and established rules, and thus, constituted grave misconduct that warrants the supreme penalty of dismissal.<sup>11</sup>

As can be easily gleaned from above, both the OMB and the CA did not bother to delve into or discuss the specific functions or duties of petitioner and his specific acts or omissions, and their relation to the elements of grave misconduct — much less simple misconduct — which would have adequately supported the logical conclusion that he is administratively liable.

The offense of misconduct has the well-settled definition of a transgression of some established and definite rule of action, particularly as a result of a public officer's unlawful behavior, recklessness, or gross negligence.<sup>12</sup> The act or omission must be attended with **intentional** wrongdoing or **deliberate** violation of a rule of law or standard of behavior.<sup>13</sup> This alone is the definition of misconduct that is characterized as merely simple. These elements of intentionality or deliberateness are utterly wanting in this case.

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<sup>8</sup> *Id.* at 2–3.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 5–6.

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Espinosa v. Office of the Ombudsman*, G.R. No. 250013, June 15, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68421>>.

<sup>13</sup> *See id.*



Apart from noting the position of petitioner as a District Supervisor in Tanauan, Batangas, the OMB simply went on to further note his participation in the charge of releasing the full loan proceeds to Metro Livestock and Global Swine, despite incomplete deliveries, as a signatory to the payments who certified that the expenses were necessary and lawful and who approved the disbursements. In other words, the OMB readily concluded that petitioner was guilty of misconduct based solely on his signature, certification, and approval of the payments made. This correlation, however, crumbles in the absence of any evidence that petitioner's acts — reckless or grossly negligent they might have been — were a conscious, intentional, or deliberate violation of a rule of law or a standard of behavior.

As it is, the OMB even found petitioner guilty of grave misconduct. But to qualify as grave, the misconduct must involve **additional elements**, such as **corruption** or **willful intent** to violate the law or to disregard established rules. In other words, grave misconduct is not a mere failure to comply with law. Such non-compliance must be done **deliberately** and **with the intention** to procure benefits for the offender or for some other person.<sup>14</sup>

As an element of grave misconduct, corruption consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his [or her] station or character to procure some benefit for himself [or herself] or for another person, contrary to duty and the rights of others.<sup>15</sup> On the other hand, the element of disregard of rules has been shown in instances of open defiance of a customary rule that must be “clearly manifested by his or her actions.”<sup>16</sup> In *Sabio v. Ombudsman*,<sup>17</sup> the Court recognized several instances tantamount to such disregard of rules:

in the repeated voluntary disregard of established rules in the procurement of supplies; in the practice of illegally collecting fees more than what is prescribed for delayed registration of marriages; when several violations or disregard of regulations governing the collection of government funds were committed; and when the employee arrogated unto [himself or] herself responsibilities that were clearly beyond [his or] her given duties.<sup>18</sup>

Here, there is nothing in the OMB's Decision<sup>19</sup> which clearly and substantially shows that petitioner acted with corrupt motives. Likewise, under pain of repetition, any intentionality on his part to violate any law, rule, or standard of behavior is lacking. As astutely observed by the *ponencia*:

there is sheer dearth of evidence to show that petitioner was motivated by a premeditated, obstinate, or deliberate intent to violate the law, or

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> G.R. No. 229882, February 13, 2018, 855 SCRA 293.

<sup>18</sup> *Id.* at 308.

<sup>19</sup> *Supra* note 5.

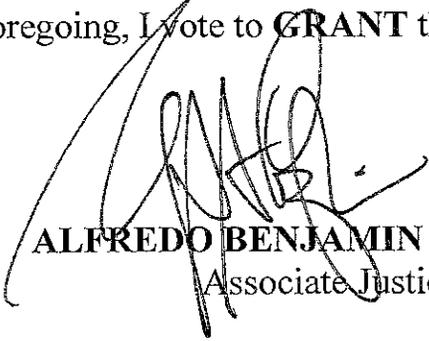


disregard any established rule; or that he wrongfully used his position to procure some benefit for himself or for another person, contrary to duty and the rights of others. The disquisitions of the Office of the Ombudsman and the Court of Appeals, bordering on sweeping generalizations, do not clearly establish petitioner's participation in the purported irregularities. In sooth, the Commission on Audit's report, which was relied upon solely by the Office of the Ombudsman and the Court of Appeals, did not spell out the specific acts attributable to petitioner or his degree of participation in the supposed irregularities.

To be sure, the Office of the Ombudsman and the Court of Appeals could not rely merely on the fact that petitioner was QUEDANCOR's District Supervisor for Tanauan, Batangas to conclude point-blank that he is guilty of the violations imputed against him. The records bear no showing that petitioner approved the disbursements of the expenses without first having verified and validated them, which purportedly led to the release of the loan proceeds in full. In the same vein, there is no evidence showing petitioner's direct participation in allowing the offsetting of accounts receivable against accounts payable between [QUEDANCOR] and the input suppliers. Indeed, the Court cannot automatically infer manifest partiality or fraudulent intent on petitioner's part by the mere fact that he signified his approval of the disbursement vouchers. Indubitably, there is insufficient evidence from which it may be reasonably concluded that petitioner's approval of the disbursement vouchers was done due to corruption, willful intent to violate the law, or persistent disregard of established rules. Without any other evidence to establish the extent of petitioner's participation in the alleged infractions and his deliberate intent to violate the rules, the Office of the Ombudsman and the Court of Appeals ventured into speculations and conjectures, both of which fall short of substantial evidence. Indeed, mere assumption of petitioner's guilt cannot justify the imposition of the harshest administrative penalties against him.<sup>20</sup>

In fine, as what has been emphasized time and again, grave misconduct is not anchored on a mere failure to comply with law or a plain violation thereof. The manifest resolve of the respondent to act with corrupt motives and openly defy the law has to be established by substantial evidence to sustain a finding of administrative liability. Bare circumstances do not qualify as substantial evidence; bare allegations, unsubstantiated by evidence, are not equivalent to proof.<sup>21</sup>

Hence, in view of the foregoing, I vote to **GRANT** the Petition.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

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<sup>20</sup> *Ponencia*, pp. 8-9.

<sup>21</sup> *See Espinas v. Office of the Ombudsman*, *supra* note 12.