



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
JAN 23 2023
BY: [Signature]
TIME: [Signature]

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PETER Q. MARISTELA,
Petitioner,

G.R. No. 241074

Present:

- versus -

LEONEN, J., *Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

JOSE MARIA M. MIRASOL,
Respondents.

Promulgated:

AUG 22 2022

[Signature]

X-----X

DECISION

LOPEZ, J., J.:

The offense that petitioner is being held liable for is Conduct Prejudicial to the Best Interest of the Service, which consists of any act that would tarnish the image and integrity of his public office. As a City Councilor, petitioner should have known better. Whether the act of giving the money was for vote-buying or otherwise, the fact that he did offer money was already sufficient to tarnish the image and integrity of his public office.

For this Court's resolution is the Petition for Review on *Certiorari*¹ dated September 13, 2018 assailing the Decision² dated February 27, 2018 and

¹ *Rollo*, pp. 11-27.

² Penned by Associate Justice Stephen C. Cruz, with Associate Justices Romeo F. Barza and Carmelita Salandanan Manahan, concurring; *id.* at 31-37.

Resolution³ dated July 16, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 148858, which affirmed the Decision⁴ dated September 30, 2014 and the Order⁵ dated September 14, 2016 of the Office of the Ombudsman (*Ombudsman*). The Ombudsman found petitioner Peter Q. Maristela (*Maristela*) administratively liable for Conduct Prejudicial to the Best Interest of the Service and meted him the penalty of suspension from office without pay for nine months and one day.

The Antecedents

On February 3, 2014, Jose Maria M. Mirasol (*Mirasol*) filed a complaint with the Ombudsman against Maristela, the then City Councilor of Puerto Princesa, Palawan, for violation of Republic Act (R.A.) No. 3019, otherwise known as *the Anti-Graft and Corrupt Practices Act*, and R.A. No. 6713, or *the Code of Conduct and Ethical Standards for Public Officials and Employees*.⁶

Mirasol accused Maristela of bribing Rene Godoy (*Godoy*), the barangay captain of Sta. Monica, with ₱25,000.00 and other favors (e.g. the uninterrupted approval of his projects) in exchange for his vote for a certain Punong Barangay Gabuco in the Association of Barangay Councils (ABC) election.⁷ Mirasol claimed that Maristela gave Godoy ₱20,000.00 on December 11, 2013 at the Game Fowl Farm of Reynario Batongbakal (*Batongbakal*),⁸ who acted as middleman and helped Maristela and Godoy meet.⁹ Five days later, Maristela handed an additional ₱5,000.00 at Centro Hotel in Barangay San Pedro, Puerto Princesa. John Inocencio (*Inocencio*), Godoy's driver, witnessed both meetings, which Inocencio took videos of.¹⁰ Mirasol averred that the acts complained of violated Section 3 of R.A. No. 3019 and Section 4(c) of R.A. No. 6713.¹¹

In his Counter-Affidavit, Maristela denied the allegations against him, calling them hearsay.¹² He argued that Godoy and Inocencio's affidavits should not be given weight since the supporting evidence were obtained in violation of his right to privacy of communication.¹³ He raised that it was Godoy who arranged a meeting with him and arrived with a hidden camera to record the events that followed, which goes against the Anti-Wire Tapping Law.¹⁴ He also presented the affidavit-testimony of Batongbakal.

³ Id. at 38-39.

⁴ Penned by Graft Investigation and Prosecution Officer I Maylen C. Balanon and reviewed by Director Joaquin F. Salazar; CA *rollo*, pp. 26-33.

⁵ *Rollo*, pp. 67-71.

⁶ Id. at 31.

⁷ Id. at 31-32. See also CA *rollo*, p. 27.

⁸ Id. at 32.

⁹ Id. at 51.

¹⁰ Id. at 32.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

On September 30, 2013, the Ombudsman rendered a Decision¹⁵ finding Maristela guilty of the administrative offense of Conduct Prejudicial to the Best Interest of the Service and meting him the penalty of nine months and one day of suspension from office without pay. The Ombudsman also issued a Resolution¹⁶ dated September 30, 2014 finding probable cause to indict Maristela for violation of Section 3(a) of R.A. No. 3019 and Article 212 of the Revised Penal Code and directing the filing of the corresponding criminal informations against him. Maristela moved for reconsideration, but the Ombudsman denied the same in an Order¹⁷ dated September 14, 2016.

Aggrieved, Maristela appealed to the CA *via* Rule 43 of the Rules of Court. In a Decision¹⁸ dated February 27, 2018, the CA affirmed the Ombudsman's decision finding Maristela administratively liable. According to the CA, Maristela failed to prove that the meeting between him and Godoy was premeditated.¹⁹ While it may be true that Inocencio's act of secretly recording the meeting went against the constitutional prohibition protecting the privacy of communications, the violation is not within the scope of the Anti-Wire Tapping Law because it does not have an audio recording.²⁰ In any event, the Ombudsman did not take the video into consideration when it rendered its decision.²¹ Even granting that premeditation did exist, it does not change the fact that Maristela took advantage of an opportunity to offer a bribe to Godoy or that Inocencio was within earshot of the conversation so as to hear and see everything that transpired during the meeting, including the handing of the money.²² In sum, the CA concluded that there was enough first-hand evidence to prove that Maristela willfully committed the felony.²³ The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant petition is **DISMISSED** for lack of merit. Accordingly, the assailed Decision and Order of the Office of the Ombudsman dated September 30, 2014 and September 14, 2016, respectively, are **AFFIRMED**.

Let the Office of the Ombudsman be furnished with a copy of this decision.

SO ORDERED.²⁴ (Emphases in the original)

¹⁵ CA *rollo*, pp. 26-33.

¹⁶ *Rollo*, pp. 60-65.

¹⁷ *Id.* at 67-71.

¹⁸ *Id.* at 31-37.

¹⁹ *Id.* at 34.

²⁰ *Id.* at 35.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 35-36.

Maristela moved for reconsideration, but the CA denied it in a Resolution²⁵ dated July 16, 2018. Hence, this Petition.

Petitioner argues that Godoy and Inocencio's acts against him – like setting a meeting several times, recording the meetings, and using the said recordings to cause the filing of the complaint – were motivated by premeditation, bias, malice, ill-motive, and partisanship.²⁶ He repeats that the CA should not have appreciated and given due course to the affidavit-testimonies of Godoy and Inocencio because of their obvious bias and ill-motive.²⁷ Finally, petitioner stresses that there was no substantial evidence to find him administratively liable.²⁸

Issue

The sole issue before this Court is whether the CA correctly held petitioner administratively liable for conduct prejudicial to the best interest of the service.

Our Ruling

We deny the Petition.

It is well-settled that in administrative proceedings, only substantial evidence is required to support a finding of guilt.²⁹ Substantial evidence, or such amount of evidence as a reasonable mind might accept as adequate to support a conclusion, is satisfied when there is reasonable ground to believe that a person is responsible for the misconduct complained of, despite the evidence being neither overwhelming nor preponderant.³⁰

Here, both the Ombudsman and the CA found that petitioner tried to influence Godoy to vote for Punong Barangay Gabuco in the ABC elections by handing Godoy ₱25,000.00 for his vote.³¹ It bears noting that in this jurisdiction, the Office of the Ombudsman's factual findings are considered conclusive when supported by substantial evidence.³² They are accorded due weight and respect, especially when affirmed by the CA.³³ Accordingly, this Court is convinced that the Ombudsman and the CA's findings are supported by substantial evidence. Even without taking the video recording into consideration, the Ombudsman was

²⁵ Id. at 38-39.

²⁶ Id. at 17.

²⁷ Id.

²⁸ Id.

²⁹ *Office of the Ombudsman-Visayas, et al. v. Castro*, 759 Phil. 68 (2015).

³⁰ Id. at 77. (Citations omitted)

³¹ CA rollo, p. 29.

³² Supra note 29 at 77.

³³ Id.

still able to put its foot down on petitioner's reprehensible act of influencing Godoy's vote.

Petitioner insists that Godoy's invitation for a meeting is part of some malevolent and premeditated scheme, which is purportedly clear from Inocencio's act of clandestinely taking a video of the two meetings.³⁴ He cites their competing political affiliations as sufficient motivation to explain Godoy's acts against petitioner.³⁵ Petitioner posits that the surrounding circumstances between him and Godoy indicate how they have a strain in their relationship, considering that Godoy had to look for Batongbakal as a middleman for Godoy and petitioner to meet.³⁶ Petitioner also emphasizes that the CA should not have considered the testimonial affidavits of Godoy and Inocencio, as their relationship taints their credibility as witnesses and makes them biased.³⁷ Petitioner raises the fact that Inocencio was a loyal driver of Godoy "who was willing to do illegal and immoral things for the latter. To provide untruthful statements for his employer would not be impossible or difficult for him."³⁸

To be sure, after respondent proved his allegations with substantial evidence, the burden of proof shifted to petitioner. Yet, apart from not being able to present any evidence to support these positions, petitioner merely raised speculative arguments. Petitioner repetitively discusses how Godoy and Inocencio had an axe to grind against him, without presenting proof. As observed by the CA:

Suffice it to say that petitioner failed to discharge this evidentiary burden. For one, the allegations concerning "premeditation, bias, malice, ill-motive and partisanship" are essentially conditions of the mind that must have overt or physical manifestations to countenance belief. Admittedly, the events as petitioner remembers them are themselves conjectures or simple denials to the sworn affidavits of the witnesses. None of it is evidence *per se*. Agreeing to a meeting at a particular place, for instance, does not equate to premeditation or malice, neither is the act of recording the event as it unfolded. Premeditation requires planning and thoughtful design, which the records do not show, let alone support. Malice, on the other hand, implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity; it contemplates a state of mind affirmatively operating with furtive design or ill will. If malice attended the meeting, it would mean that Godoy met with petitioner for sole (*sic*) purpose of enticing the councilor to offer him bribe (*sic*). This allegation is rather far-fetched and frankly unsupported by either the facts or the evidence. Even petitioner's witness, Batongbakal, disclosed that Godoy sought out the councilor to obtain the latter's assistance in expediting his barangay projects.

³⁴ *Rollo*, pp. 18-19.

³⁵ *Id.* at 18.

³⁶ *Id.* at 21.

³⁷ *Id.*

³⁸ *Id.* at 22.

x x x Regardless, it must be pointed out that the existence of the video or the contents thereof were not taken into consideration by the Office of the Ombudsman in determining the merits of the allegation. It relied entirely on the sworn disclosures or first-hand accounts of the witnesses who were present at the meeting.

Viewed in light of the standards necessary for filing MRs, petitioner's version of the story is nothing like the "newly discovered" evidence needed to resuscitate the judgment of the Office of the Ombudsman. They are mere allegations that the rules do not consider as equivalent to proof. It must be noted that he who alleges must prove the same with the requisite quantum of evidence, short of which, the judgment stands.

Even granting that premeditation or malice did exist, the same does not change the fact that petitioner took advantage of an opportunity to offer bribe (*sic*) to Godoy nor does it change the fact that Inocencio was within earshot of the conversation as to hear and see everything that transpired during the meeting, especially the handing of money. In short, there is enough first-hand evidence to prove that petitioner willfully committed the felony even without reliance to or presentation of the video.³⁹

Needless to say, petitioner's speculations and conjectures fall short of the requisite quantum of proof.

Finally, petitioner asserts that the money he handed to Godoy "could possibly be a loan for the electricity and water bills of Godoy."⁴⁰ Curiously, petitioner's use of the words "could possibly" does not help his cause. For indeed, being the offeror of the amount, he was in the best position to know what the money was for. That he is himself oscillating between two viewpoints boggles the mind of this Court. While petitioner alludes to Batongbakal's testimony,⁴¹ Batongbakal merely denied seeing petitioner hand over money to Godoy, which does not disprove that petitioner gave Godoy money during their meeting at Game Fowl Farm. Moreover, Batongbakal's testimony only accounts for one meeting and does nothing to shield petitioner from the meeting at Centro Hotel.

Petitioner points out that "nothing more was mentioned about the alleged vote-buying after the two meetings in Godoy's Sinumpaang Salaysay."⁴² Petitioner sorely misses the point. Suffice to state that the offense that he is being held liable for is Conduct Prejudicial to the Best Interest of the Service, which consists of any act that would tarnish the image and integrity of his public office. In *Office of the Ombudsman-Visayas, et al. v. Castro*,⁴³ this Court explained the nature of this administrative offense:

³⁹ Id. at 34-35. (Citations omitted)

⁴⁰ Id. at 23.

⁴¹ Id. at 25.

⁴² Id. at 23.

⁴³ *Supra* note 29.

The respondent's actions, to my mind, constitute conduct prejudicial to the best interest of the service, an administrative offense which need not be related to the respondent's official functions. In *Pia v. Gervacio*, we explained that acts may constitute conduct prejudicial to the best interest of the service as long as they tarnish the image and integrity of his/her public office. Additionally and contrary to the CA's ruling, conduct grossly prejudicial to the best interest of the service may or may not be characterized by corruption or a willful intent to violate the law or to disregard established rules.

In *Manhit v. Office of the Ombudsman (Fact Finding & Intelligence Bureau)*, the Court had the occasion to define "gross" and "prejudicial" in connection with the offense of conduct prejudicial to the best interest of the service, as follows:

The word "gross" connotes "something out of measure; beyond allowance; not to be excused; flagrant; shameful" while "prejudicial" means "detrimental or derogatory to a party; naturally, probably or actually bringing about a wrong result."

In *Mariano v. Roxas*, the Court ruled that the offense committed by a CA employee in forging some receipts to avoid her private contractual obligations, was not misconduct but conduct prejudicial to the best interest of the service because her acts had no direct relation to or connection with the performance of her official duties." We similarly ruled in *Cabalitan v. Department of Agrarian Reform* that the offense committed by the employee in selling fake Unified Vehicular Volume Program exemption cards to his officemates during office hours was not grave misconduct, but conduct prejudicial to the best interest of the service.

Notably, the Court has also considered the following acts or omissions, among others, as constituting conduct prejudicial to the best interest of the service: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to safekeep public records and property, making false entries in public documents and falsification of court orders.⁴⁴

Indeed, as a City Councilor, petitioner should have known better. Whether the act of giving the money was for vote-buying or otherwise, the fact that he did offer money was already sufficient to tarnish the image and integrity of his public office. Here, petitioner handed Godoy money twice, and both in public places. This Court cannot imagine the kind of derogatory impression that such acts would have left on petitioner's constituents, should persons have witnessed them on both occasions.

That complainant did not file a case against Godoy – and allegedly singled out petitioner – does not vindicate from his administrative liability. In any event, the CA has already ruled that the Ombudsman should also investigate Godoy's acceptance of the bribe. Hence:

⁴⁴ Id. at 79-80. (Citations omitted)

Finally, as to whether respondent is in *pari delicto* for not returning the bribe, We rule that he is not. First off, said principle is a rule in civil law, specifically governed by Articles 1411 and 1412 of the Civil Code under the chapter on void or inexistent contracts, and presupposes a situation where the parties are similarly situated in terms of culpability, and therefore cannot have action against each other. This, on the other hand, is an administrative case whose main objective is to probe into petitioner's fitness to stay in public office. The illicit agreement he entered into with respondent is not the focus of the action but the fact that he engaged in a criminal act using his office as platform to advance his agenda. Thus, regardless of Godoy's complicity in the offense, petitioner must be held accountable for his conduct that is prejudicial to the best interest of the service.


This is not to say, however, that Godoy is any less guilty. After all, under Section 3(a) of R.A. No. 3019 (and as keenly mentioned by the Office of the Ombudsman in its Resolution dated September 30, 2014), both the officer offering the bribe and the officer on the receiving end thereof, are equally accountable therefore. On this note, We strongly urge the Office of the Ombudsman to look into Godoy's participation as well and, with equal acuity it showed on petitioner's case, mete out the penalty for his involvement in the commission of the crime.⁴⁵

In sum, this Court finds no substantial reason to deviate from the findings of the Ombudsman and the CA. Petitioner has failed to show that the CA wantonly deviated from procedural norms and erroneously applied substantive law when it rendered its assailed rulings.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated February 27, 2018 and the Resolution dated July 16, 2018 of the Court of Appeals in CA-G.R. SP No. 148858 are hereby **AFFIRMED**. Petitioner Peter Q. Maristela is guilty of Conduct Prejudicial to the Best Interest of the Service and is meted the penalty of suspension from office without pay for nine (9) months and one (1) day.


Should the penalty of suspension no longer be enforced due to petitioner's separation from service, the penalty shall be converted into a fine in an amount equivalent to petitioner's salary for six (6) months, payable to the Office of the Ombudsman, and may be deductible from his retirement benefits, accrued leave credits, or any receivable from his office.

SO ORDERED.

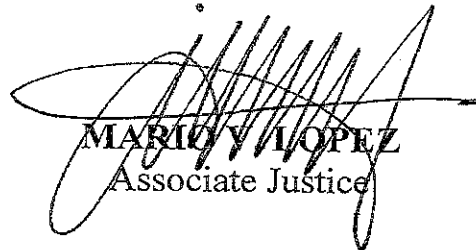

JHOSEP LOPEZ
Associate Justice

⁴⁵ *Rollo*, pp. 35-36. (Citations omitted)

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice

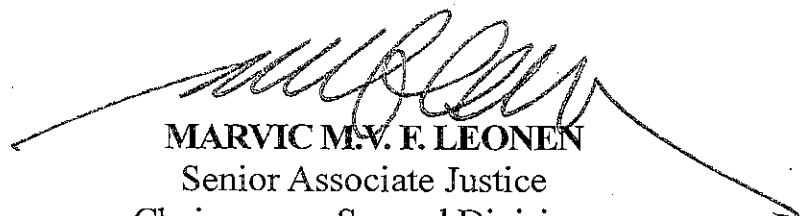

AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

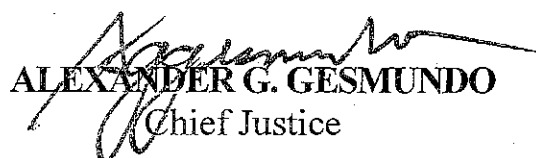
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

