



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated September 21, 2022 which reads as follows:

“G.R. No. 231785 (Office of the Ombudsman, *Petitioner v. Gilbert P. Bueno, Respondent*). — This Court resolves a Petition for Review on *Certiorari*¹ under Rule 45 of the Revised Rules of Court assailing the Decision² and the Resolution³ of the Court of Appeals. The Court of Appeals earlier modified the Decision⁴ dated September 18, 2013 and the Resolution⁵ dated October 14, 2013 of the Internal Affairs Board of the Office of the Ombudsman (*Ombudsman*). The Court of Appeals held that Gilbert P. Bueno (*Bueno*) is guilty of committing simple dishonesty.

Facts

The case stemmed from a Petition dated May 5, 2017 filed by Bueno before the Office of the Bar Confidant asking if he could take his lawyer’s oath. The Office of the Bar Confidant referred the matter to the Field Investigation Office of the Ombudsman as it was initially found that Bueno had been misrepresenting himself as a lawyer even though he had not taken his oath and signed the Roll of Attorneys.

The Ombudsman found that Bueno started as a Called to Active Duty Captain with the Judge Advocate General Services of the Armed Forces of the Philippines on August 15, 1986. He was later appointed as Graft Investigation Officer I in the General Investigation and Public Assistance of the Ombudsman for the Armed Forces of the Philippines on April 22, 1993. He signed his Oath of Office on June 1, 1993 as “Atty. Gilbert P. Bueno.” Bueno rose through the ranks until he was assigned as Graft Investigation and

¹ *Rollo*, pp. 3–22.

² *Id.* at 29–38. The July 31, 2015 Decision in CA-G.R. SP No. 133758 was penned by Associate Justice Francisco P. Acosta, and concurred in by Associate Justices Noel G. Tijam (retired member of this Court) and Eduardo B. Peralta, Jr. of the Fourth Division, Court of Appeals, Manila.

³ *Id.* at 40–41. The March 30, 2017 Resolution in CA-G.R. No. SP No. 133758 was penned by Associate Justice Francisco P. Acosta, and concurred in by Associate Justices Elihu A. Ybafiez and Eduardo B. Peralta, Jr. of the Special Former Fourth Division, Court of Appeals, Manila.

⁴ *Id.* at 81–90.

⁵ *Id.* at 91–94.

Prosecution Officer II at the Public Assistance Bureau in the Central Office on October 25, 2006. He was then recalled to the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices by virtue of Office Order No. 314, Series of 2012 and was assigned to the Criminal Investigation, Prosecution and Administrative Adjudication Bureau.

The Ombudsman found that Bueno was either addressed as or addressed himself with the appellation "Atty." before his name in several official documents and communications. Furthermore, Bueno attended the Mandatory Continuing Legal Education and other related trainings conducted by the Ombudsman for lawyers. Then again, Bueno only indicated in the various Personal Data Sheets,⁶ which he submitted to the Ombudsman, that he only finished Bachelor of Laws in 1983 and passed the 1984 Philippine Bar Examinations. However, Bueno did not indicate his attorney's roll number. Neither was there any mention of the fact that he had been formally charged with immorality before the Office of the Bar Confidant.

In his defense, Bueno denied that he misrepresented himself or deceived the Ombudsman that he was a lawyer. He pointed out that he passed the intense background investigation that was conducted by the Armed Forces of the Philippines before he entered Judge Advocate General Services of the Armed Forces of the Philippines. Bueno stressed that the Judge Advocate General Services of the Armed Forces of the Philippines was only requiring the qualification of Republic Act No. 1080 for his position and it was uncontroverted that he had indeed passed the 1984 Bar Examinations. He added that there was nothing on Republic Act No. 1080 and in the Civil Service Commission Resolution (CSC) No. 90-1212 dated December 27, 1990 that required a successful bar examinee to first take their lawyer's oath before they are considered eligible for civil service.

Bueno further asseverated that when he started working at the Ombudsman, his 201 file was merely transmitted from Judge Advocate General Services of the Armed Forces of the Philippines because his mode of employment to the Ombudsman was by transfer and not by application. Thereafter, Bueno merely copied the entries in the Personal Data Sheet, which he had previously submitted to the Armed Forces of the Philippines. He only updated the portions that pertained to his years of work experience and the seminars and trainings that he attended. As to the other documents where the title "Atty." was typed before his name, Bueno maintained that he could not have prepared those documents because he was computer illiterate. He pointed out that he never used the appellation "Atty." before his name whenever he prepared his drafts, Statements of Assets, Liabilities, and Net Worth, and his handwritten Personal Data Sheet. In any case, Bueno contended that there was no harm done when they added "Atty." before his

⁶ *Id.* at 77-80.

name because it was a mere nomenclature that was loosely used. Neither did he use such title to solicit clients, to apply for promotion, or to seek favors.

On September 18, 2013, the members of the Internal Affairs Board of the Office of the Ombudsman rendered its Decision⁷ finding Bueno to be guilty of committing serious dishonesty and for falsifying official documents. The members of the board took note of the fact that Bueno was not a full-fledged lawyer because he did not take his oath and sign the roll of attorneys. Despite this, Bueno held lawyer positions and practiced law. He also did not bother to correct other people whenever they would address him as “attorney.” It was also found that there was a complaint for immorality filed against Bueno, which was the reason why he could not take his oath as a lawyer. Bueno, however, failed to disclose this complaint in his PDS. Thus, the board disposed as follows:

WHEREFORE, premises considered, respondent **GILBERT P. BUENO** is found **GUILTY** of the administrative offenses of **SERIOUS DISHONESTY** and **FALSIFICATION OF OFFICIAL DOCUMENT** and is hereby meted the penalty of **DISMISSAL FROM THE SERVICE** together with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations.

This Decision is immediately executory pursuant to OMB Memorandum Circular No. 01, Series of 2006 dated April 11, 2006, in relation to Section 7, Rule III of Administrative Order No. 07, as amended by Administrative Order No. 17 dated September 7, 2003.

SO DECIDED.⁸

Aggrieved, Bueno filed a Motion for Reconsideration but the same was denied by the Ombudsman.⁹ Left without recourse, Bueno filed a Petition for Review¹⁰ under Rule 43 before the Court of Appeals. On July 31, 2015, the Court of Appeals rendered its Decision¹¹ partially granting his appeal. The Court of Appeals held that Bueno is only guilty of committing simple dishonesty. It pointed out that his position only required a Bar passer. There was no mention that he must be a full member of the Bar in order to be qualified. Still, he was found to have been dishonest when he did not correct other people whenever they would call him “attorney.” As regards the allegation that he did not disclose the charge of immorality, the Court of Appeals dismissed this as it was unsubstantiated. Accordingly, the Court of Appeals disposed as follows:

⁷ *Id.* at 81–90.

⁸ *Id.* at 89.

⁹ *Id.* at 91–94.

¹⁰ *Id.* at 96–108.

¹¹ *Id.* at 29–38.

WHEREFORE, the Petition is **PARTLY GRANTED**. The assailed Decision is **SET ASIDE** and a new one is **ENTERED**, holding that the Petitioner is **GUILTY** of **SIMPLE DISHONESTY** and is hereby **ORDERED SUSPENDED** for a period of **six (6) months** to be served on the finality of this Decision. Petitioner shall be considered only as having been under preventive suspension from his dismissal up to the finality of this Decision and the Office of the Ombudsman is **ORDERED** to pay his salary and such other emoluments that he did not receive during the said period.

SO ORDERED.¹²

Disagreeing with the ruling of the Court of Appeals, the Ombudsman filed a Motion for Reconsideration¹³ dated September 4, 2015 but the same was denied by the Court of Appeals in its Resolution.¹⁴ Exhausting its appellate remedies, the Ombudsman filed a Petition for Review on *Certiorari*¹⁵ before this Court on June 22, 2017.

On May 20, 2021, this Court received a Notice of Death with Motion to Dismiss¹⁶ dated March 1, 2021 from Bueno's counsel stating therein that he died on October 30, 2020. Attached to the said pleading was a copy of his Certificate of Death¹⁷ dated November 3, 2020. It would thus appear that Bueno passed away during the pendency of the appeal before this Court.

Issue

The issue before this Court's resolution is whether the instant administrative case should be dismissed in view of respondent Gilbert P. Bueno's death.

This Court's Ruling

This Court finds the Motion to be meritorious.

This Court has held in the case of *In re: Judge Godofredo Abdul, Jr.*¹⁸ that the death of the respondent during the pendency of their administrative

¹² *Id.* at 37.

¹³ *Id.* at 42–53.

¹⁴ *Id.* at 40–41.

¹⁵ *Id.* at 3–22.

¹⁶ *Id.* at 189–191.

¹⁷ *Id.* at 203–204.

¹⁸ A.M. No. RTJ-17-2486, September 8, 2020 [Per J. Hernando, *En Banc*]. See also *Re: Batingana*, A.M. No. 07-4-188-RTC, January 27, 2021 [Per J. Inting, Third Division] and *Delagua v. Batingana*, A.M. No. RTJ-20-2588, February 2, 2021 [Per *Curiam*, *En Banc*].

case warrants the dismissal of the complaint for three reasons.

First, it would be violative of respondent's constitutional right to due process and to be presumed innocent if the administrative case would still be adjudicated upon despite his death. For one, respondent could no longer present any piece of evidence to substantially prove that he is innocent of the charges. Another, he can no longer avail of any other appellate remedies or apply for clemency. Evidently, respondent's death prevents him from refuting the charges filed against him.¹⁹

Second, the penalty that would be imposed to respondent is personal to him.²⁰ While respondent can no longer be ordered dismissed from service or be suspended from office as he is already dead, imposing a fine on his estate would be unfair to his heirs. Notably, there was no showing that they had any knowledge or had connived with respondent in committing his administrative infraction. Clearly, it would be illogical to continue with the proceedings when there is no one left to punish.

Third, Article 89 (1) of the Revised Penal Code provides that criminal liability would be extinguished upon the death of an accused. As compared to criminal cases where the quantum of proof is proof beyond reasonable doubt, the quantum of proof in an administrative case is only substantial evidence, which is clearly less stringent. Hence, it would only be just if the same rule should be applied to administrative cases.²¹

Thus, in accordance with the prevailing jurisprudence, the instant administrative case should be dismissed.

FOR THESE REASONS, the Motion to Dismiss is hereby **GRANTED**. The instant Administrative Complaint filed against Gilbert P. Bueno is **DISMISSED**. Accordingly, the corresponding death and survivorship benefits are ordered to be **RELEASED** to the heirs of the late Gilbert P. Bueno.

Let entry of judgment be issued immediately.

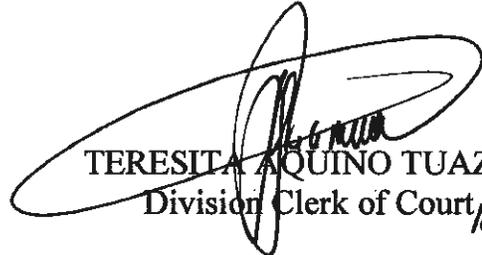
SO ORDERED." (Lopez, M., J., on official business)

¹⁹ See *Flores-Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 02, 2020 [Per J. Leonen, *En Banc*].

²⁰ *Id.*

²¹ *Re: Batingana*, *supra* note 18.

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *pp 2/6*

***HUMAN RESOURCES AND MANAGEMENT DIVISION (reg)**

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***For this resolution only**
Please notify the Court of any change in your address.
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