



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated July 20, 2022 which reads as follows:

“G.R. Nos. 241569 and 241622 (JONEL R. BANAL, Petitioner v. EDGARDO TALLADO, Respondent). — Administrative cases dealing with accusations of immorality should be disposed with circumspection since they often deal with the intricacies of one’s private life and intimate relationships, dalliance or otherwise. Thus, while administrative or quasi-judicial bodies are not bound by the technical rules of procedure in the adjudication of cases, this rule should not be construed as a license to disregard fundamental evidentiary rules¹ lest we set a dangerous precedent of upholding even those craftily concocted accusations against a public official or employee’s personal life. Evidence with some modicum of admissibility must be presented, otherwise there can be none with probative value to be relied upon to sustain an imputation.²

This resolves the Petition for Review on *Certiorari*³ under Rule 45 of the Revised Rules of Court, assailing the Decision⁴ dated December 15, 2017 and Resolution⁵ dated July 20, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 147998 and CA-G.R. SP No. 149843. The assailed CA issuances dismissed the Complaint for disgraceful and immoral conduct that Jonel R. Banal (Banal) filed against then Camarines Norte Governor Edgardo A. Tallado (Tallado) before the Office of the Ombudsman (OMB). The facts are

¹ *Miro v. Vda. De Erederos*, 721 Phil. 772, 796 (2013).

² *Lepanto Consolidated Mining Company v. Dumapis*, 584 Phil. 100, 111 (2008).

³ *Rollo*, pp. 35–55.

⁴ *Id.* at 14–32. Penned by Associate Justice Ramon M. Bato, Jr, with the concurrence of Associate Justices Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy.

⁵ *Id.* at 8–13. Penned by Associate Justice Ramon M. Bato, Jr, with the concurrence of Associate Justices Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy.

as follows:

Sometime in October 2014, a scandalous video and nude photos supposedly of Tallado and his alleged mistress were uploaded on several unowned Facebook accounts with names such as *Josie Tallado*, *Gov Egay Tallado*, and *Kaye de Jesus Sex Scandal*, *Gov Edgardo Tallado Sex Scandal*, and *Governor Egay Tallado Photo Video Sex Scandal*.⁶

Around the same time that the compromising contents were circling the internet, Tallado's wife, Josefina Tallado (Josie), and her aide/friend Darlene Francisco (Darlene), were reportedly missing. An emotional Tallado appeared before the press and gave details on the last known whereabouts of his wife that might help with the search efforts. But a few days thereafter, Josie and Darlene appeared on a morning television show with lawyer, Atty. Lorna Kapunan, revealing that they deliberately left home because they felt threatened by Tallado. In the television interview, Josie narrated that she has lingering suspicions that her husband has a mistress, and that she has seen the alleged sex video and nude photos, and confronted her husband about it. She felt that her husband suspected that she was responsible for the publication of the sordid materials on social media which caused Tallado's ire, fomenting threats against her and Darlene's lives.⁷

On October 27, 2014, after the flag ceremony at the Camarines Norte Provincial Capitol, Tallado apologized to his family, the alleged mistress, and his constituents for the scandal brought about by the uploaded video and photos.⁸ In connection with this, Civil Service Commission (CSC) Chairman Francisco Duque (Duque) stated in an interview with another television news program that an administrative case may still be filed by the wife or any taxpayer against Tallado despite his public apology. Duque said infidelity constitutes disgraceful and immoral conduct, which is a ground for disciplinary action under the Administrative Code of 1987.⁹

This series of events prompted Banal, as a resident of Camarines Norte, to charge Tallado with disgraceful and immoral conduct before the OMB. Banal attached the following video clippings to support his Complaint: (1) Josie's interview on ABS-CBN's *Umagang Kay Ganda*;¹⁰ (2) Josie's interview with ABS-CBN news anchor Noli De Castro;¹¹ (3) Tallado's apology speech;¹² and (4) Duque's interview with ABS-CBN's *TV Patrol*.¹³ Several news clippings from *Tonite*¹⁴ and *X-Files*¹⁵ reporting on the alleged illicit affair of the governor, as well as a copy of collated photos¹⁶ purportedly

⁶ *Id.* at 37–38.

⁷ *Id.* at 36–38.

⁸ *Id.* at 38.

⁹ *Id.* at 38–39.

¹⁰ *Id.* at 37 and 109.

¹¹ *Id.* at 38 and 109.

¹² *Id.*

¹³ *Id.* at 38–39 and 109.

¹⁴ *Id.* at 110–111.

¹⁵ *Id.* at 112–113.

¹⁶ *Id.* at 108.

taken out of the alleged sex video, were also submitted.

Tallado vehemently denied Banal's allegations. He argued that the statements made by Josie in her television interviews cannot be made the basis of any liability for being hearsay and self-serving due to want of opportunity to controvert them head on. Tallado also denied part in the alleged nude photos and sex video, and averred that they were created by his political rivals. He questioned the authenticity of the materials, claiming that they could have been easily fabricated through modern technology. He pointed out that Banal had not claimed personal knowledge of the author and content of the propagated materials, and all he had were prejudiced assumptions and conclusions.¹⁷

In a Decision¹⁸ dated September 7, 2015, the OMB found Tallado administratively liable, *viz.*:

WHEREFORE, judgment is rendered finding respondent [Tallado] administratively liable for **Disgraceful and Immoral Conduct** for which he is meted the penalty of [s]ix (6) months suspension and [o]ne (1) day without pay pursuant to Section 10, Rule III, Administrative Order No. 07, as amended by Administrative Order No. 17, in relation to Section 25 of Republic Act No. 6770.

In any event however, that the penalty of Suspension can no longer be enforced due to respondent's separation from service, the penalty shall be converted into a FINE in an amount equivalent to respondent's salary for six (6) months, payable to the [OMB], and may be deductible from respondent's retirement benefits, accrued leave credits or any receivables from his office.

The Honorable Secretary, Mel Senen S. Sarmiento, Department of Interior and Local Government, is hereby directed to implement this DECISION against [Tallado] immediately upon receipt thereof pursuant to Section 7, Rule III of Administrative Order No. 07, as amended by Administrative Order No. 17 (Ombudsman Rules of Procedure) in relation to Memorandum Circular No. 1, series of 2006, dated 11 April 2006, and to promptly inform this Office of the action taken hereon.

SO ORDERED.¹⁹ (Emphasis in the original)

Meanwhile, Tallado was reelected as governor of Camarines Norte in the May 9, 2016 national and local elections.²⁰

Tallado filed a Motion for Reconsideration with Motion to Defer Implementation of the Order, and a Supplement pleading. But before its

¹⁷ *Id.* at 59-61.

¹⁸ *Id.* at 81-86.

¹⁹ *Id.* at 84-85.

²⁰ *Id.* at 61.

resolution, the Department of the Interior and Local Government (DILG) already implemented the order to suspend in compliance with the OMB Decision.²¹ This prompted Tallado to file a Petition for *Certiorari* and Prohibition with Prayer for Temporary Restraining Order (TRO), Order of Status Quo Ante, or Mandatory Injunction to Restore with the CA.²²

In a Resolution dated December 16, 2016, the CA issued a writ of preliminary mandatory injunction enjoining implementation of the OMB decision.²³

Subsequently, Tallado received a copy of the OMB Order dated September 26, 2016, approved on December 29, 2016, denying his Motion for Reconsideration,²⁴ the dispositive of which reads:

WHEREFORE, respondent [Tallado]'s Motion for Reconsideration with Motion to Defer Implementation of the Order and Supplement to the Motion for Reconsideration are DENIED for lack of merit.

SO ORDERED.²⁵

Tallado then filed a Petition for Review under Rule 43 before the CA, which was later consolidated with the *certiorari* proceedings.²⁶ The CA resolved whether Tallado should be held administratively liable for disgraceful and immoral conduct.²⁷

In its assailed Decision²⁸ dated December 15, 2017, the CA applied the condonation doctrine in favor of Tallado, ruling that elective officials cannot be held administratively liable for misconduct committed during their previous term of office. The CA explained that the doctrine was abandoned in the seminal case of *Carpio-Morales v. Court of Appeals*²⁹ on November 10, 2015; hence, when Banal commenced his Complaint on November 14, 2014, the condonation doctrine was still “good law.”³⁰ In any case, the CA found no substantial evidence to hold Tallado administratively liable. The CA observed that the photos relied upon by Banal and the OMB were never authenticated — there was no record that the originals of the pictures were ever produced nor was the source alleged or identified. The CA disposed, thus:

WHEREFORE, the instant consolidated petitions are **GRANTED**. The Decision dated September 7, 2015 and the

²¹ *Id.* at 61–62.

²² *Id.* at 62.

²³ *Id.* at 64–65.

²⁴ *Id.* at 65.

²⁵ *Id.*

²⁶ *Id.* at 65–66.

²⁷ *Id.* at 67.

²⁸ *Id.* at 14–32. Penned by Associate Justice Ramon M. Bato, Jr, with the concurrence of Associate Justices Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy.

²⁹ 772 Phil. 672 (2015).

³⁰ *Rollo*, p. 69.

subsequent Order/s issued by the [OMB] and/or the [DILG] in connection with OMB-L-A-15-0101 are **ANNULLED** and **SET ASIDE**. The Preliminary Mandatory Injunction is made **PERMANENT**. The complaint for Disgraceful and Immoral Conduct against [Tallado] is hereby **DISMISSED**. In accordance with Section 7, Rule III of the Rules of Procedure of the [OMB], as amended, Tallado is entitled to be paid the salary and other emoluments that he did not receive by reason of the suspension implemented pursuant to the Assailed Decision.

SO ORDERED.³¹ (Emphasis in the original)

Banal's Motion for Reconsideration was denied in the assailed Resolution³² dated July 20, 2018.

Banal now seeks remedy from the Court, mainly arguing that the CA erred in dismissing the Complaint against Tallado. Procedural issues were raised,³³ but paramount in the resolution of the present case are the questions on the application of the condonation doctrine in absolving Tallado from administrative liability; and the sufficiency of the nude photos and news articles on tabloids and television news to hold Tallado liable for disgraceful and immoral conduct. Banal contends that it was improper to apply the condonation doctrine as it was already abandoned in *Carpio-Morales*,³⁴ and further faults the CA for applying the strict rules on evidence in resolving the administrative case.³⁵ Hence, we shall rule on the following issues:

- I. Whether respondent Edgardo Tallado can be absolved by his reelection; and
- II. Whether sufficient evidence was presented to hold respondent Edgardo Tallado administratively liable for disgraceful and immoral conduct.

Tallado cannot benefit from the condonation doctrine

It is settled that the so-called condonation doctrine in administrative cases had already been abandoned in *Carpio-Morales*. The Court had also categorically ruled that such abandonment should be *prospectively applied*.³⁶ Nuanced interpretations on such prospective application, however, ensued. For one, in its Office Circular No. 17³⁷ dated May 11, 2016, the OMB opined that the condonation doctrine is no longer applicable to all open and pending

³¹ *Id.* at 74–74–A.

³² *Id.* at 8–13. Penned by Associate Justice Ramon M. Bato, Jr, with the concurrence of Associate Justices Zenaida T. Galapate-Laguilles and Maria Elisa Sempio Diy.

³³ *Id.* at 45–47.

³⁴ *Id.* at 47–48.

³⁵ *Id.* at 50–51.

³⁶ 772 Phil. 672 (2015), *supra* note 29.

³⁷ Dated May 11, 2016.

cases as of the date of the finality of the *Carpio-Morales* ruling on April 12, 2016, regardless of when the administrative infraction was committed, when the disciplinary complaint was filed, or when the concerned public official was reelected. Here, the CA ruled that the abandoned doctrine may still benefit Tallado since the Complaint against him was filed on November 14, 2014 or before the Court promulgated *Carpio-Morales* on November 10, 2015. In *Gaudan v. De Gamo*,³⁸ the Court declared OMB Office Circular No. 17 void for being an erroneous application of the prospectivity rule in *Carpio-Morales*. Similarly, the CA was mistaken in this case.

For the condonation doctrine to apply, the respondent-official in an administrative case must be reelected. In other words, reelection is the determinative factor for a respondent-official to be considered absolved from a previous infraction. Application of the condonation doctrine should thus be reckoned from the date of the respondent-official's reelection. Simply put, an official subjected to disciplinary proceedings may only benefit from the doctrine of forgiveness **if reelected before its abandonment on April 12, 2016**. The date of the commencement of the administrative case against him or her is irrelevant. As we have clarified in *Madreo v. Bayron*:³⁹

The re-election of the public official is the most important element for the application of the doctrine of condonation. Logically so as it is the event that triggers the application of the doctrine being the act that manifests the body politic's expressed or implied forgiveness of the public official's offense or misconduct. x x x It can be said then that it is the re-election which would ultimately give rise to the application of the condonation doctrine and the final act or event which vests upon the public official the right not to be removed from office.

Taking into account the above preliminary considerations, **when the 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 or her reelection 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 doctrine without violating the Constitution. These are the decisive reasons behind the prospective applicability of the abandonment of the doctrine of condonation x x x.

³⁸ G.R. No. 226935, February 9, 2021.

³⁹ G.R. No. 237330, November 3, 2020

X X X X

Thus, the Court now clarifies in simple and direct terms. The defense of condonation is no longer available if the public official's re-election happens on or after 12 April 2016. With the abandonment of the condonation doctrine in *Carpio-Morales*, which became final on 12 April 2016, any re-elections of public officials on said date and onwards no longer have the effect of condoning their previous misconduct.⁴⁰ (Emphases supplied)

Verily, since Tallado was reelected in the May 2016 elections or after the condonation doctrine was abandoned with finality on April 12, 2016, the exculpatory effects of reelection under the condonation doctrine no longer apply.

*No substantial evidence to hold
Tallado administratively liable*

Notwithstanding the inapplicability of the condonation doctrine, the CA did not err in dismissing the administrative charge against Tallado for the paucity of evidence. Although sufficiency or insufficiency of evidence is a question of fact, which is generally beyond the scope of this review, the conflicting conclusions of the OMB and the CA impel us to reexamine the evidence relied upon by the OMB in holding Tallado administratively liable.⁴¹

CSC Memorandum Circular No. 15,⁴² Series of 2010 defines disgraceful and immoral conduct as follows:

SEC. 1. Definition of Disgraceful and Immoral Conduct —
Disgraceful and Immoral Conduct refers to an act which violates the basic norm of decency, morality and decorum abhorred and condemned by the society. It refers to conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community.

Section 4 of the same circular explains that “[t]he acts consisting of the administrative offense of [d]isgraceful and [i]mmoral conduct may be committed in a scandalous or discreet manner, within or out of the workplace.”⁴³

In *Leus v. St. Scholastica's College Westgrove*,⁴⁴ the Court further explained that disgraceful and immoral conduct under civil service laws refers to an act or behavior which is proscribed because it is detrimental to conditions upon which the existence and progress of human society depends.

⁴⁰ *Id.*

⁴¹ *Miro v. Vda. De Erederos*, *supra* note 1 at 787.

⁴² “Amending Certain Provisions of the Rules on the Administrative Offense of Disgraceful and Immoral Conduct,” approved on August 5, 2010

⁴³ *Id.*

⁴⁴ 752 Phil. 186, 211 (2015).

It cannot be judged based on personal bias, specifically those colored by particular mores. Concomitantly, constitutionally guaranteed rights, such as the right to privacy, should be taken into consideration in cases involving immorality accusations to the extent that they protect actions or behaviors, which may otherwise be frowned upon by the majority.⁴⁵

Pertinent to the present controversy, the Court has held in several cases⁴⁶ that a married person's extramarital relations constitute disgraceful and immoral conduct. Such illicit affair is repugnant to the constitutionally recognized sanctity of marriage, which is likewise affirmed by our statutes as a special contract of permanent union. Accordingly, public officials have been sanctioned for their dalliances with married persons or for their own betrayals of the marital vow of fidelity.⁴⁷ **In all those cases, however, it should be emphasized that substantial evidence was presented to prove the imputed disgraceful and immoral conduct.**

In *Fabian v. Agustin*,⁴⁸ among the acts condemned by the Court as disgraceful and immoral was the illicit affair of the respondent district engineer, a married man, with the woman who participated in various biddings for government project constructions. Notably, the woman herself lodged the complaint against respondent, and presented the compromising letters that she identified to have received from respondent. Sworn statements of several witnesses, who personally saw the incident wherein the district engineer forcibly embraced and attempted to kiss complainant and touch her private parts, were also presented to corroborate the charges. Moreover, respondent admitted that he "lived and shared the nights"⁴⁹ with complainant. These positive declarations and pieces of evidence were considered substantial to hold respondent administratively liable.

In *Ceniza v. Atty. Ceniza, Jr.*,⁵⁰ a disbarment case filed by the wife against a legal officer, the Court adopted the findings of the OMB that the statements made under oath by the parties' own daughter, corroborated by the affidavits of two uninterested persons who witnessed respondent's illicit affair, together with surveillance photographs taken by the same witness, sufficiently proved the immorality charge against respondent.

Similarly, in the more recent case of *Re: Incident Report of the Security Division and Alleged Various Infractions Committed by Mr. Cloyd D. Garra*,⁵¹ a judicial staff employee of the Philippine Judicial Academy, respondent himself, admitted that he cohabits with another woman while still married to

⁴⁵ *Id.* citing *Anonymous v. Radam*, 565 Phil. 321, 327 (2007).

⁴⁶ *Re: Incident Report of the Security Division and Alleged Various Infractions Committed by Mr. Cloyd D. Garra*, A.M. 2019-14-SC, February 10, 2020; *Ceniza v. Ceniza, Jr.*, A.C. No. 8335, April 10, 2019; *Leus v. St. Scholastica's College Westgrove*, 752 Phil. 186, 213 (2015); *Babante-Caples v. Caples*, 649 Phil. 1, 6 (2010); *Elape v. Elape*, 574 Phil. 550, 554 (2008); and *Acebedo v. Arquero*, 447 Phil. 76, 85 (2003); and *Fabian v. Agustin*, 445 Phil. 429, 447 (2003).

⁴⁷ *Anonymous v. Radam*, 565 Phil. 321, 327-328 (2007).

⁴⁸ 445 Phil. 429, 446 (2003).

⁴⁹ *Id.*

⁵⁰ A.C. No. 8335, April 10, 2019.

⁵¹ A.M. 2019-14-SC, February 10, 2020.

his wife. Hence, the Court found substantial evidence to hold respondent administratively liable for disgraceful and immoral conduct.

Indeed, in administrative cases, the quantum of proof necessary to sustain a charge is substantial evidence, that is, such relevant evidence that a reasonable and unprejudiced mind might accept as adequate to support a conclusion.⁵² Substantial evidence is more than a scintilla. Such standard is satisfied only when there is reasonable ground to believe, based on the evidence submitted, that the respondent is responsible for the misconduct complained of.⁵³

In this case, Banal charges Tallado with disgraceful and immoral conduct for his alleged illicit and scandalous affair. To support his allegation, he presented: (1) collated images of supposedly of Tallado and his mistress, purportedly cut out from the alleged sex video uploaded on unowned Facebook accounts; (2) newspaper clippings from tabloids, namely, *Tonite* and *X-Files*; (3) video clip of Tallado's public apology; (4) video clippings of Josie's television interviews; and (5) Duque's television interview. The OMB then hastily ruled:

This Office finds substantial evidence to hold [Tallado] liable for Disgraceful and Immoral Conduct.

[Tallado's] nude photos with another woman other than his lawful wife, **which he did not dispute**, establish his extra-marital affairs. The nude photos **appear** to have been taken by [Tallado] and the woman identified as de Jesus. Such extra-marital affair is a conduct inconsistent with morality. [Tallado] is occupying the highest elective position in Camarines Norte. He is, therefore, expected to observe high moral standards in all his dealings, official or otherwise, and be an example of uprightness. He failed to adhere to this exacting standards [*sic*].⁵⁴ (Emphases supplied)

Two things struck our attention in reviewing the OMB's Decision: first, contrary to the OMB's observation, Tallado vehemently denied that he was the man in the alleged nude photos;⁵⁵ and second, the OMB made a perfunctory conclusion based on an assumption that the photos submitted reflect the truth of what they claim to represent. As correctly observed by the CA, however, the pieces of evidence submitted were not authenticated and, as such, can hardly be considered as substantial to prove that Tallado is guilty of the scandalous and illicit affair imputed against him.

Foremost, Banal has no personal knowledge that Tallado was indeed engaged in an extramarital relationship, a scandalous one at that. He merely relies on the alleged sex video⁵⁶ and nude photos that he saw on the internet

⁵² *Office of the Ombudsman v. Coronel*, 526 Phil. 351, 364 (2006).

⁵³ *Miro v. Vda. De Erederos*, *supra* note 1 at 788.

⁵⁴ *Rollo*, p. 83.

⁵⁵ *Id.* at 60-61.

⁵⁶ Not in evidence.

and the news, the original source of which or their authenticity he similarly lacks personal knowledge of. It is a basic rule in evidence that one who makes assertions on what he or she merely learned, read, or heard from others is testifying on mere hearsay, which cannot be solely relied upon as proof of the truth of what he or she has learned, read, or heard.⁵⁷ “Mere uncorroborated hearsay or rumor does not constitute substantial evidence.”⁵⁸ Under the Rules on Electronic Evidence (A.M. No. 01-7-01-SC),⁵⁹ an “[a]udio, photographic and video evidence of events, acts, or transactions shall be admissible *provided* that it shall be shown, presented or displayed to the court and shall be identified, explained or authenticated by the person who made the recording or by some other person competent to testify on the accuracy thereof.”⁶⁰

Needless to say, these requirements are necessary to ensure the integrity and reliability of such evidence, given that videos and photographs can easily be created or tampered with through digital imaging technology, which is readily accessible and user-friendly these days more than ever. Anyone with a digital camera, a computer, a basic software, and practical knowledge can manipulate videos, photos, or audios to make even the most unimagined become a reality; hence, there is the need for circumspection in admitting and giving weight to evidence of such nature.

The newspaper and video clippings submitted with neither the authors nor the sources shown to have affirmed the contents thereof similarly fall short of corroborating the nude photos as proof of Tallado’s illicit affair. We have consistently ruled that evidence “derived solely from unverified news articles on the internet, with neither the authors nor the sources shown to have affirmed the contents thereof”⁶¹ are “hearsay evidence, twice removed, and are thus without any probative value, unless offered for a purpose other than proving the truth of the matter asserted.”⁶²

In *Lagman v. Medialdea*,⁶³ the Court dismissed the petitions, which relied merely on unverified news reports from known newspaper and broadcast networks such as *Philstar*, *Sunstar*, *Inquirer*, *Bombo Radyo*, *ABS-CBN*, and *CNN Philippines*. At most, such news reports and articles are admissible only as evidence that such publication exists with the tenor of the news therein stated.⁶⁴

Unless properly verified and affirmed, the authors of the newspaper and television reports, like Banal, had no personal knowledge of the identity of the persons involved in the video and photos or of the truth behind the imputed

⁵⁷ *Miro v. Vda. De Erederos*, *supra* note 1 at 790.

⁵⁸ *Id.*

⁵⁹ Approved on July 17, 2001.

⁶⁰ A.M. No. 01-7-01-SC, Rule 11, SEC. 1. Italics ours.

⁶¹ *Lagman v. Medialdea*, 812 Phil. 179, 312 (2017); *Feria v. Court of Appeals*, 382 Phil. 412, 423 (2000)

⁶² *Id.* at 255; and *State Prosecutors v. Muro* (Resolution), 321 Phil. 474, 479 (1995).

⁶³ *Id.*

⁶⁴ *Feria v. Court of Appeals*, 382 Phil. 412, 423 (2000).

infidelity that they reported about.⁶⁵ Besides, none of these news articles and video clippings directly attest to the claim that Tallado was involved in an illicit affair. Contents of the news articles are quoted herein to lend credence to this conclusion, viz.:

Tonite:

HUMINGI ng tawad si Gov. Edgardo Tallado sa kaniyang pamilya at sa mamamayan ng Camarines Norte dahil sa kontrobersiyang kinasasangkutan nito.

Sa pagharap sa media ni Tallado pasado 9:00 kahapon ng umaga sa provincial capitol ng naturang lalawigan, muli itong humingi ng pag-unawa sa kanyang mga constituents lalo na sa kaniyang pamilya kung may nagawa man siyang kasalanan.

Bagama't hindi naman nito inamin at hindi rin itinanggi kung siya nga ang nasa mga larawang kumakalat ngayon sa internet kasama ang isang hubad na babae, nanawagan ito na sana'y itigil na ang pagpapakalat ng nasabing mga litrato.

Humingi rin siya ng tawad sa babaeng nakaladkad ngayon sa naturang iskandalo na natukoy lamang sa pangalang "Kate."

Hiniling din niya na huwag idadamay ang kaniyang trabaho sa problemang kinakaharap niya ngayon at ng kaniyang asawa na si Josefina dahil ang mga ito'y dalawang magkahiwalay na bagay.

Bago matapos ang kanyang pahayag na tumagal ng 11 minuto, sinabi nito na umaasa pa rin siyang magiging maayos ang lahat dahil napakahalaga aniya sa kaniya ng kaniyang pamilya.

Napag-alaman na sa ilang araw na pananatili niya sa Metro Manila ay hindi siya nagkaroon ng pagkakataong makausap ang kaniyang asawang si Josefina na siyang nagsiwalat sa publiko ng umano'y pambabae ng kaniyang mister na naging sanhi ng kanilang pagtatalo na ayon sa kaniya ay nauwi pa sa paghabanta sa kaniyang buhay.

X-Files:

KUMAKALAT ngayon sa social media ang umano'y litrato ni Camarines Norte Gov. Edgardo Tallado at ng 24-anyos na sinasabing mistress nito.

Pinaniniwalaang alas-6:00 kahapon ng umaga nang i-post sa social media ang tatlong larawan ng isang lalaki at isang babae na nasa "romantic moment."

Sa ngayon, mahigit 1,254 na ulit nang nai-share ang nasabing larawan na may 674 likes at mahigit 500 comments mula sa iba't-ibang tao, karamihan mga taga-Camarines Norte.

Magugunitang sa paglitaw sa publiko ni Josie Tallado ilang araw matapos mapabalitang nawawala ito, tahasang sinabi ng ginang na kaya

⁶⁵ See *People v. Carugal*, 395 Phil. 527, 537 (2000).

siya nagalit sa mister ay dahil sa nakita niyang mga larawan ng kanyang mister at umano'y babae nito.

Maliban pa rito ang pagkakaroon daw ng sex video ng asawang gobernador.

Una na ring sinabi ni Josie na isa siya sa mga pinagbibintangan ng asawa nang unang lumabas sa social networking site ang mga larawan na dahilan ng kanilang pag-aaway at nauwi pa sa pananakot nito sa kanya.

Ayong kay Atty. Adan Botor, legal officer ng provincial government ng lalawigan, na ang naturang usapin, totoo man o hindi ay hindi na dapat pang isapubliko dahil ito ay isang personal na isyu ng mag-asawa na sila rin ang makakapagbigay solusyon.⁶⁶

Likewise, perusal of the submitted video clippings reveals interviews of Josie, stating nothing more than her lingering suspicions on her husband's extramarital entanglement, her claim that she saw the alleged sex video and nude photos, and her supposition that her husband was responsible for the threats against her and her aide/friend's lives.

Finally, Tallado's public apology, by itself, likewise cannot serve as a substantial basis to conclude that he was guilty of the accusations against him. The unverified video clip of Tallado's speech merely stated his desire to mend his relationship with his family, which was wrecked by the scandal; his apologies to his constituents and the woman named as his alleged mistress for being dragged into the scandal; and his call to the people responsible for the ignominy to stop proliferating the malicious contents. No statement was made from which we could judiciously infer that Tallado was the one in the scandalous photos or, at the very least, that he was actually involved in an extramarital affair. The most that we could deduce from the speech was that he was dealing with a family issue, and that his constituents and a certain woman were also caught in the middle of a foul situation due to the malicious publications.

In all, we cannot subscribe to Banal's proposition to assign probative value to his unauthenticated evidence and consider them substantial to support his imputation against Tallado. In *Miro v. Vda. De Erederos*,⁶⁷ we emphasized that while it is true that administrative or quasi-judicial bodies like the OMB are not bound by the technical rules of procedure in the adjudication of cases, this rule should not be construed as a license to disregard fundamental evidentiary rules. To be clear, we are not looking for Tallado's admission or proof beyond reasonable doubt, but evidence with some modicum of admissibility must be presented, otherwise, there can be none with probative value to be relied upon to sustain the imputation. Truth be told, the Court considered Banal's evidence despite being inadmissible if the rules on evidence were strictly applied. Still, it was found utterly bereft of probative value for being uncorroborated by other competent evidence which is not

⁶⁶ *Rollo*, pp. 111 and 113.

⁶⁷ 721 Phil. 772, 796 (2013).

hearsay. Admissibility of evidence is different from its probative value. As we have held in *Lepanto Consolidated Mining Company v. Dumapis*:⁶⁸

[T]he admissibility of evidence should not be confused with its probative value. Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue. Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence. The distinction is clearly laid out in *Skippers United Pacific, Inc. v. National Labor Relations Commission*. In finding that the Report of the Chief Engineer did not constitute substantial evidence to warrant the dismissal of Rosaroso, this Court ruled:

According to petitioner, the foregoing Report established that respondent was dismissed for just cause. The CA, the NLRC and the Labor Arbiter, however, refused to give credence to the Report. **They are one in ruling that the Report cannot be given any probative value as it is uncorroborated by other evidence and that it is merely hearsay, having come from a source, the Chief Engineer, who did not have any personal knowledge of the events reported therein.**

x x x x

The CA upheld these findings, succinctly stating as follows:

Verily, the report of Chief Engineer Retardo is utterly bereft of probative value. It is not verified by an oath and, therefore, lacks any guarantee of trustworthiness [*sic*]. **It is furthermore, and this is crucial, not sourced from the personal knowledge of Chief Engineer Retardo.** It is rather based on the perception of "ATTENDING SUPT. ENGINEERS CONSTANTLY OBSERVING ALL PERSONNELS ABILITY AND ATTITUDE WITH REGARDS TO OUR TECHNICAL CAPABILITY AND BEHAVIOURS WITH EMPHASY [*sic*] ON DISCIPLINE" who "NOTICED 3/E ROSAROSO AS BEING SLACK AND NOT CARING OF HIS JOB AND DUTIES" **Accordingly, the report is plain hearsay. It is not backed up by the affidavit of any of the "Supt." Engineers who purportedly had first-hand knowledge of private respondents supposed "lack of discipline", "irresponsibility" and "lack of**

⁶⁸ 584 Phil. 100 (2008).

July 20, 2022

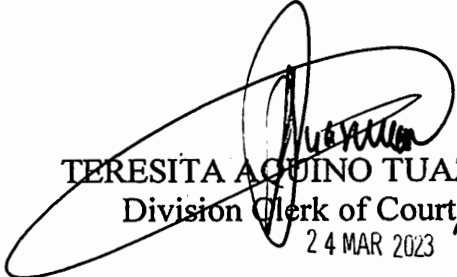
diligence” which caused him to lose his job[.]⁶⁹
(Citations omitted, emphasis in the original)

We stress, substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁷⁰ To be sure, a reasonable and an unprejudiced mind will not carelessly jump to a conclusion based on unauthenticated and hearsay evidence.⁷¹

FOR THESE REASONS, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated December 15, 2017 and Resolution dated July 20, 2018 of the Court of Appeals in CA-G.R. SP No. 147998 and CA-G.R. SP No. 149843 are **AFFIRMED**. The Decision dated September 7, 2015 of the Office of the Ombudsman is **ANNULLED** and **SET ASIDE**. The Preliminary Mandatory Injunction issued by the Court of Appeals in the Resolution dated December 16, 2016 is made **PERMANENT**. The complaint for Disgraceful and Immoral Conduct against Edgardo Tallado is hereby **DISMISSED**.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
24 MAR 2023

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⁶⁹ *Id.* at 110-111.

⁷⁰ *Id.* at 111.

⁷¹ *See Office of the Ombudsman v. Coronel, supra note 52.*