



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated April 12, 2023, which reads as follows:*

**“G.R. No. 223971 (*Evangeline Llanera v. Ernesto A. Keyser and Gloria Castillo*).** — This Petition for Review on *Certiorari*<sup>1</sup> challenges the *Decision*<sup>2</sup> and *Resolution*<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 133159. The *Decision* of the CA dismissed Evangeline Llanera’s (Llanera) petition disputing the Office of the Ombudsman’s (Ombudsman) *Decision*<sup>4</sup> which held her liable for Grave Misconduct and meted out to her the penalty of dismissal from service with the accessory penalty of perpetual disqualification for reemployment in the government service; whereas, the assailed *Resolution* denied Llanera’s motion for reconsideration<sup>5</sup> thereof.

The salient facts follow.

Ernesto A. Keyser (Keyser) and Gloria Castillo<sup>6</sup> (Castillo) filed before the Ombudsman a Joint Complaint Affidavit<sup>7</sup> against Llanera,<sup>8</sup> Imelda Angeles (Angeles), and Antonio Bulneo, Jr. (Bulneo), accusing them of violation of administrative laws and criminal laws such as Republic Act No. 3019<sup>9</sup> and Republic Act No. 6713.<sup>10</sup>

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<sup>1</sup> *Rollo*, pp. 10–25.

<sup>2</sup> *Id.* at 27–34. The September 28, 2015 *Decision* was penned by Associate Justice Ricardo R. Rosario (now a member of this Court), with the concurrence of Associate Justices Edwin D. Sorongon and Ramon Paul L. Hernando (now a member of this Court).

<sup>3</sup> *Id.* at 36. Dated March 29, 2016.

<sup>4</sup> *Id.* at 72–81. The March 12, 2013 *Decision* was penned by Graft Investigation Officer I Cherry Chiara L. Hernando and approved by Overall Deputy Ombudsman Orlando Casimiro on June 20, 2013.

<sup>5</sup> *Id.* at 126–139.

<sup>6</sup> See *id.* at 172. Note: Deceased per letter dated January 13, 2020 of Ernesto Keyser.

<sup>7</sup> *Id.* at 4249.

<sup>8</sup> Note: Referred to as Ghie Llanera in the Joint Complaint Affidavit.

<sup>9</sup> THE ANTI-GRAFT AND CORRUPT PRACTICES ACT, approved on August 17, 1960.

<sup>10</sup> AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES, approved on February 20, 1989.

Keyser and Castillo maintained that they were business partners engaged in the operation of apartelles. Sometime in 2011, Keyser needed to secure a building permit for one of his apartelles. He then met Llanera, an employee of the City Planning and Development Office of Quezon City, who informed him that an approved building plan was required before a building permit could be issued. Moreover, Llanera told him that he must prepare ₱35,000.00 for the drawing of the plans and other expenses.<sup>11</sup>

Thereafter, Llanera sent her runner and representative, Bulneo, to Castillo's apartelle. After confirming that Bulneo was indeed sent by Llanera, Keyser issued Metrobank Check No. 2404637 in Bulneo's name, in the amount of ₱35,000.00<sup>12</sup> for the drawing of the building plans and other expenses. As proof of its receipt, Bulneo issued an acknowledgment receipt thereof.<sup>13</sup>

However, when a month passed and no building permit was issued, Keyser followed up his application. Upon apprising him that there was a problem with the processing of the permit, Llanera referred him to Angeles, also an employee of the City Planning and Development Office. Angeles assured him that she would facilitate the release of the subject permit, hence he transacted with her and readily gave her ₱10,000.00<sup>14</sup> for its procurement. He also gave her ₱6,000.00 for the annual electric permit for one of their apartelles but the said permit was never issued.<sup>15</sup>

Meanwhile, Castillo separately transacted with Angeles and gave her ₱88,000.00 for fire, health, and electrical inspection certificates for her apartelle.<sup>16</sup>

Several months passed yet no permit or certificate was issued from the City Planning and Development Office despite the numerous prompts and inquiries by Keyser. In December 2011, Keyser demanded that Llanera, Angeles, and Bulneo return the monies given to them if the permits and certificates would not be released immediately. At first, Llanera, Angeles, and Bulneo assured them that the permits would be released. However, at the end of the said month, they instead promised to give back the money they received.<sup>17</sup>

Still and all, Llanera, Angeles, and Bulneo failed to fulfill their promise to return the amount of ₱139,000.00. Consequently, Keyser and Castillo filed the instant complaint before the Office of the Ombudsman.<sup>18</sup>

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<sup>11</sup> *Rollo*, pp. 42–43.

<sup>12</sup> *Id.* at 51.

<sup>13</sup> *Id.* at 43.

<sup>14</sup> *Id.* at 52.

<sup>15</sup> *Id.* at 43–44.

<sup>16</sup> *Id.* at 45.

<sup>17</sup> *Id.* at 46.

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



Asserting that she did not violate any criminal or administrative law, Llanera countered<sup>19</sup> that her work as a Project Development Officer II in City Planning and Development Office did not include drafting of building plans and issuing building permits. When she first met Keyser in 2008, she did not have any official transaction with him. As for Castillo, she never met her nor talked to her.<sup>20</sup>

Further, Llanera avowed that sometime in the first quarter of 2011, she met Keyser again when he went to her office to inquire about the procedure and requirements for the issuance of a building permit. She explained to him how to file its application and what documents should accompany the same. Since she told him that she did not know the cost, he asked her to refer him to anyone who could help him. After directing him to Angeles, she did not meet him again until he returned to inquire about the status of his business permit. Subsequently, she found out that he asked Angeles to draft his building plan. She was thus shocked when she learned of the instant complaint against her.<sup>21</sup>

In due course, the Ombudsman rendered its Decision dated March 12, 2013, the *fallo* of which reads:

WHEREFORE, in view of the foregoing, respondents **EVANGELINE LLANERA** and **IMELDA B. ANGELES** are hereby held liable for Grave Misconduct and are hereby meted the penalty of DISMISSAL from the service. The accessory penalty of perpetual disqualification for reemployment in the government service likewise attaches.

Pursuant to Section 7, Administrative Order No. 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, series of 2006, the Mayor of Quezon City is hereby directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number OMB-C-A-12-0200-E to this Office-thru the Central Records Division, 2<sup>nd</sup> floor, Ombudsman Building, Agham Road, Government Center, North Triangle, 1128 Quezon City.

Compliance is respectfully enjoined consistent with Section 15 (3) of R.A. No. 6770 (Ombudsman Act of 1989).

SO ORDERED.<sup>22</sup>

In finding Llanera guilty of Grave Misconduct, the Ombudsman ratiocinated in this wise:

Evidently, the acts of respondents constitute [g]rave misconduct. Respondents facilitated the speedy processing, drafting of building plan and completion of the Certificates being obtained by complainants. There is also an element of corruption as respondents obtained substantial amount of

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<sup>19</sup> Id. at 55–71.

<sup>20</sup> Id.

<sup>21</sup> Id. at 57–58.

<sup>22</sup> Id. at 80.



money from complainants. This act is termed as 'Fixing' as defined and penalized in Republic Act No. 9485 otherwise known as the Anti-Red Tape Act of 2007.

Keyser positively identified Llanera as the one who informed him that he needs to release Php35,000.00 for the drawing of a building plan and for other expenses and the one who sent Bulneo to receive and encash a check worth Php35,000.00. Keyser was firm and consistent throughout his allegations and there was no showing of ill motive on his part as against Llanera. On the other hand, Llanera barely denies that she had an illicit transaction with Keyser....

While Llanera insists that she merely 'assisted' Keyser with his queries, her co-accused Angeles implicated her to be the one who introduced Keyser to her, and this corroborated Keyser's accusations. Angeles even revealed that Llanera 'was only connected during the preparation of [the] plan for the additional third floor apartelle at Dahlia Street,' contrary to Llanera's assertion that she never engage[d] in a transaction with Keyser regarding the drafting of a building plan...<sup>23</sup>

Llanera moved for the reconsideration<sup>24</sup> of the foregoing Decision asserting, *inter alia*, that if indeed she committed misconduct, the same must merely be classified as simple and not grave. Still and all, her motion was denied by the Ombudsman in the Joint Order<sup>25</sup> dated July 31, 2013.

Consequently, Llanera lodged a Petition for Review<sup>26</sup> before the CA. All the same, it was dismissed by the CA in the challenged *Decision*. Disgruntled, Llanera filed a motion for reconsideration<sup>27</sup> thereof which, however, was denied for lack of merit in the equally assailed *Resolution*.

Hence, through the present recourse, petitioner intransigently asserts that the administrative complaint against her be dismissed since the CA erred in finding that she was a fixer under the provisions of Republic Act No. 9485.<sup>28</sup>

Subsequently, in a Verified Manifestation with Motion to Admit,<sup>29</sup> petitioner manifested that Keyser executed an Affidavit of Desistance<sup>30</sup> declaring that he was no longer interested in prosecuting Criminal Case No. 14-05813 entitled *People of the Philippines v. Evangeline Llanera and Antonio Bulneo* filed before the Metropolitan Trial Court, Branch 37 of Quezon City,<sup>31</sup> thus —

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<sup>23</sup> Id. at 78–79.

<sup>24</sup> Id. at 82–96.

<sup>25</sup> Id. at 96–104.

<sup>26</sup> Id. at 105–123.

<sup>27</sup> Id. at 126–139.

<sup>28</sup> AN ACT TO IMPROVE EFFICIENCY IN THE DELIVERY OF GOVERNMENT SERVICE TO THE PUBLIC BY REDUCING BUREAUCRATIC RED TAPE, PREVENTING GRAFT AND CORRUPTION, AND PROVIDING PENALTIES THEREFOR. Approved on June 2, 2007.

<sup>29</sup> *Rollo*, pp. 149-153.

<sup>30</sup> Id. at 156. The affidavit of desistance was prepared on June 20, 2015 but was subscribed and sworn to before Atty. Luis M. De Vera only on September 28, 2016.

<sup>31</sup> Note: Spelled as Bolneo, id.

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2. After carefully and meticulously considering the facts, circumstances, and events surrounding the filing of the captioned case, I came to realize that the same is without basis as the filing of the same court (sic) was made or arose out of my misapprehension and failure to understand the said facts, circumstances and events. I only filed a case against Evangeline Llanera to gain more leverage and to ensure that the money that Antonio Bolneo Jr., and Imelda Angeles got from me will be returned.
3. In view of the foregoing, I finally manifest that I now completely and absolutely exonerate the accused, Evangeline Llanera, from any liability in connection with the above-mentioned criminal case and that I am no longer interested[,] and I hereby desist, in prosecuting the said criminal case.
4. That I fully understood the repercussions of this Affidavit of Desistance and voluntarily and freely executes (sic) the same.
5. That I execute this Affidavit of Desistance so that the above-mentioned criminal case be immediately dismissed and considered finally closed.<sup>32</sup>

Consequently, petitioner implores the Court to consider the same in the resolution of the instant case.

*Does the foregoing affidavit of desistance have any effect on the disposition of the present administrative case against petitioner?*

In this regard, it bears stressing that an affidavit of desistance is viewed with suspicion and reservation because it can easily be secured from a poor and ignorant witness, usually through intimidation or for monetary consideration.<sup>33</sup> Nonetheless, the Court is not unaware that an affidavit of desistance may still be considered in certain cases such as when there is an express repudiation therein of the material points in the complaint-affidavit. In such a case, the affidavit of desistance may be admitted into evidence, absent proof of fraud or duress in its execution.<sup>34</sup>

Guided by the foregoing jurisprudential polestar, the Court scrutinized the affidavit of desistance and is convinced that it did not negate petitioner's administrative liability. Nevertheless, though its execution will not result in the dismissal of the instant case as prayed for by the petitioner, it will certainly affect the degree of petitioner's liability *vis-à-vis* the other pieces of evidence.

The Court elucidates.

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<sup>32</sup> Id.

<sup>33</sup> See *Daquioag v. Office of the Ombudsman*, G.R. No. 228509, October 14, 2019, 923 SCRA 319, 329.

<sup>34</sup> Id. at 329.



In the case at bench, the petitioner was found guilty of Grave Misconduct by both the Ombudsman and the CA.

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 disregard established rules. In grave misconduct, as compared from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rules, **must be manifest and established by substantial evidence.**<sup>35</sup>

Relevantly, substantial evidence is the quantum of evidence required to establish a fact in cases before administrative or quasi-judicial bodies. It has been defined as ‘such amount of relevant evidence [that] a reasonable mind might accept as adequate to justify a conclusion.’ This quantum of evidence ‘is satisfied where there is reasonable ground to believe that [a person] is guilty of the act or omission complained of, even if the evidence might not be overwhelming.’<sup>36</sup> In cases before the Ombudsman, jurisprudence teaches that the fundamental rule in administrative proceedings is that the complainants have the burden of proving, by substantial evidence, the allegations in their complaint. Indeed, Section 27 of the Ombudsman Act is absolute in that findings of fact by the Ombudsman when supported by substantial evidence are conclusive. Contrariwise, when the findings of fact by the Ombudsman are not adequately supported by substantial evidence, they shall not be binding upon the courts.<sup>37</sup>

In the case at bench, the Ombudsman decreed that given the fact that the element of corruption was established by substantial evidence, petitioner is guilty of Grave Misconduct, thus—

Keyser’s narration was corroborated by Angeles’ admissions of her own liability and Angeles’ statements linking Llanera to the transaction. There were also evidence of receipt of money in her own favor, both in connection with the drafting of building plan and facilitating the processing of building permits.

Albeit different in degree, both Llanera and Angeles are guilty of Grave Misconduct in office x x x x. With respect to Llanera, however, the allegations that she received money in exchange for the drafting of building plans and other expenses were likewise proven by substantial evidence, although not by direct evidence that she did so, but by convincing testimonial and circumstantial evidence that she actually was engaged in the illicit transaction with Keyser.

x x x x In the present case, respondents are employees of the City Planning and Development Office of the City Government of Quezon City, which office, issues Locational Clearance for Building Construction

<sup>35</sup> *Ampongan v. Office of the Ombudsman*, G.R. No. 248037, June 28, 2021. Emphasis supplied.

<sup>36</sup> *See Navotas Industrial Corp. v. Guanzon*, G.R. No. 230931, November 15, 2021.

<sup>37</sup> *See Office of the Ombudsman v. Tanco*, G.R. No. 233596, September 14, 2020.



Purposes and for Business Permit Purposes. The respondents, as employees of such office necessarily have connection with the functions and duties of their office. The building plan, which Llanera, and later on Angeles, is asking from Keyser, is one of the requirements for the issuance of the permits being obtained by Keyser. Llanera and Angeles, being employees of such office, necessarily have access with the people whom they know could execute the required documents, and facilitate and approve the permits needed by complainants. It can be deduced from the facts and the evidence submitted that respondents have wrongful intention, and not a mere error of judgment, to engage into a transaction with complainants to facilitate the processing of complainants' documents in exchange for monetary benefit for themselves, and worse, even failed to deliver what they promised. These circumstances made the transaction tainted with corruption, hence the misconduct was considered grave.<sup>38</sup>

In affirming the Ombudsman's findings, the CA made the following disquisition:

[T]he absence of such direct implication of petitioner did not dent the credibility of Keyser. First, it is worthy to stress that petitioner did not offer any explanation why Keyser would incriminate her. We could not find any reason why Keyser would commence criminal and administrative cases against petitioner. Secondly, petitioner also failed to impute any wrongful motive to Bulneo in involving her in the transaction by writing her nickname in the acknowledgment receipt in this wise:

'Received the amount of P35,000.00 for the payment of Bldg. Plan  
c/o Ghie Check no. 240673.'

We see no plausible reason to disbelieve Keyser's positive declarations. Since there is nothing to convince Us that Keyser and Bulneo were actuated by any improper motive, Keyser's statement deserves full faith and credit. In addition, petitioner's defense of denial is inherently weak. To be believed, it must be buttressed by a strong evidence of non-culpability; otherwise, such denial is purely self-serving and without evidentiary value. Thus, the Ombudsman's reliance on Keyser's evidence is sustained.<sup>39</sup>

After a sedulous review of the records of the case, the Court rules and so holds that while there is indeed substantial evidence to prove misconduct, the same is inadequate to prove grave misconduct.

In retrospect, in her Counter-Affidavit,<sup>40</sup> Angeles made the following declarations:

12. That I'm willing to returned (sic) **all** his money and documents as soon as possible. And I ask Mr. Keyser to exclude Ghie Llanera to (sic) his complaint **since Ghie Llanera was only connected during the preparation of plan for the additional 3<sup>rd</sup> floor Apartelle at Dahlia Street.** That Ghie Llanera has no knowledge in the processing of CEI, Health Certificate, and Fire Certificate for Yaya's Apartelle in Labayani

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<sup>38</sup> *Rollo*, pp. 101–103.

<sup>39</sup> *Id.* at 31.

<sup>40</sup> *Id.* at 142–143



Street.<sup>41</sup> (Emphasis supplied.)

Thus, it may be inferred from the foregoing statement that petitioner did not receive any money from the illicit transaction. Upon this point, the fact that petitioner's nickname was mentioned by Bulneo in the acknowledgment receipt of the check amounting to ₱35,000.00 **issued by Keyser in his (Bulneo) name** does not point to the fact that she accepted money for the unlawful activity. *Sans* other evidence, it only establishes that petitioner is the one who would oversee the building plan—a conclusion supported by Angeles' avowal in her counter-affidavit. Verily, the Court has consistently upheld the principle that in administrative cases, to be disciplined for grave misconduct or any grave offense, the evidence against the respondent should be competent and must be derived from direct knowledge and not on mere allegations, conjectures, and suppositions.<sup>42</sup>

Certainly, the totality of evidence when juxtaposed with the said affidavit of desistance bolsters the conclusion that petitioner's participation in the subject illegal transaction was limited to the preparation of the building plan necessary for the application of Keyser's building permit absent any material gain. As the pieces of evidence relied upon by the Ombudsman are insufficient to show the elements constitutive of grave misconduct, *i.e.*, corruption, willful intent to violate the law or persistent disregard of well-known legal rules, petitioner cannot be justly held liable for grave misconduct but only for simple misconduct.<sup>43</sup> As it happened, petitioner who categorically declared that her work had "nothing to do with drafting of building plans,"<sup>44</sup> nonetheless participated in the unlawful transaction of Angeles by exactly doing that — concerning herself in the preparation of Keyser's building plan which, to iterate, was one of the requirements for the issuance of the subject building permit.

Thence, the penalty imposed by the Ombudsman as affirmed by the CA should be modified. Whether under the old rules<sup>45</sup> or the present rules,<sup>46</sup> simple misconduct is punishable with suspension for one month and one day to six months. There being no mitigating or aggravating circumstance, the Court imposes upon the petitioner the penalty of three months suspension.

**WHEREFORE**, the *Decision* of the Court of Appeals dated September 28, 2015 docketed as CA-G.R. SP No. 133159 and its subsequent *Resolution* dated March 29, 2016 are hereby **MODIFIED**. The Court finds petitioner Evangeline Llanera **GUILTY** of Simple Misconduct, and imposes upon her a penalty of three (3) months **SUSPENSION**. In the event the penalty can no longer be enforced due to retirement or severance for any reason from the

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<sup>41</sup> Id. at 143.

<sup>42</sup> Supra note 37 at 10.

<sup>43</sup> Supra note 35 at 7.

<sup>44</sup> *Rollo*, p. 57.

<sup>45</sup> The rules prevailing at the time of the commission of the infraction was the Uniform Rules on Administrative Cases in the Civil Service, CSC Resolution No. 991936 (September 14, 1999).

<sup>46</sup> 2017 Rules on Administrative Cases in the Civil Service, CSC Resolution No. 1701077 (July 3, 2017).



April 12, 2023

service, the same shall be converted into a **FINE** in the amount equivalent to petitioner's salary for three (3) months, and may be deducted from her accrued leave credits or any receivable from her office.

**SO ORDERED."**

By authority of the Court:

*MisDCCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
GRC  
4/9/23

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