



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

OFFICE OF THE OMBUDSMAN, **G.R. No. 188066**
 Petitioner,

Present:

PERALTA, J.,*
Acting Chairperson,
 VILLARAMA, JR.,
 REYES,
 PERLAS-BERNABE,** and
 JARDELEZA, JJ.

- versus -

CYNTHIA E. CABEROY,
 Respondent.

Promulgated:

October 22, 2014

Francisco P. Acosta

X-----X

DECISION

REYES, J.:

This is a petition for review¹ under Rule 45 of the Rules of Court of the Decision² dated November 21, 2008 and Resolution³ dated May 14, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 03498, which reversed and set aside the Consolidated Decision⁴ dated June 30, 2005 of the Office of the Ombudsman-Visayas (Ombudsman) and absolved respondent Cynthia E. Caberoy (Caberoy) of any administrative liability.

* Acting Chairperson per Special Order No. 1815 dated October 3, 2014 *vice* Associate Justice Presbitero J. Velasco, Jr.

** Additional member per Special Order No. 1816 dated October 3, 2014 *vice* Associate Justice Presbitero J. Velasco, Jr.

¹ *Rollo*, pp. 12-39.

² Penned by Associate Justice Francisco P. Acosta, with Associate Justices Amy C. Lazaro-Javier and Rodil V. Zalameda, concurring; *id.* at 44-66.

³ *Id.* at 68-70.

⁴ *Id.* at 83-102, 220-238.

A

Caberoy is the principal of Ramon Avanceña National High School (RANHS) in Arevalo, Iloilo City. She was charged with Oppression and Violation of Section 3(e) and (f) of Republic Act (R.A.) No. 3019 or the “Anti-Graft and Corrupt Practices Act” by Angeles O. Tuares (Tuares) for allegedly withholding her salary for the month of June 2002. The case was docketed as OMB-V-A-03-0239-E. Said case was consolidated with OMB-V-A-03-0572-I, which was a complaint filed by Tuares against Ida B. Endonila, Erlinda G. Gencaya, Clarissa G. Zamora and Victoria T. Calunsod.

Caberoy denied the charge against her, alleging, among others, that the payrolls of June 1 to 15, 2002 and June 16 to 30, 2002 show that Tuares received her salary as shown by her signatures on lines no. 11 of the payrolls.⁵

In the Consolidated Decision dated June 30, 2005 rendered by the Ombudsman, Caberoy was found guilty of Oppression and was meted out the penalty of dismissal from service. The dispositive portion of the consolidated decision provides:

WHEREFORE, premises considered, respondent **CYNTHIA E. CABEROY**, Principal II, Ramon Avanceña National High School, (RANHS), Arevalo, Iloilo City, is hereby found **GUILTY** of **OPPRESSION** and is hereby meted the penalty of **DISMISSAL FROM THE SERVICE WITH CANCELLATION OF CIVIL SERVICE ELIGIBILITY, FORFEITURE OF EARNED LEAVE CREDITS AND RETIREMENT BENEFITS, AND DISQUALIFICATION FROM REEMPLOYMENT IN THE GOVERNMENT SERVICE**. On the other hand, respondents **IDA B. ENDONILA**, Schools Division Superintendent, **ERLINDA G. GENCAYA**, Asst. Schools Division Superintendent, **CLARISSA G. ZAMORA**, Administrative Officer III, all three of the Division of Iloilo City, DepEd Region VI, Iloilo City, and **VICTORIA T. CALUNSOD**, Officer-In-Charge/Secondary School Head Teacher III, Ramon Avanceña National High School, (RANHS) Arevalo, Iloilo City, are found **NOT GUILTY** of the same offense and/or violating **Sec. 3 (f) of R.A. 3019** and thus these cases are considered **DISMISSED** as far as they are concerned. Furthermore, on the administrative aspect of the counter-allegation of **Perjury** against herein complainant **ANGELES O. TUARES**, Ramon Avanceña National High School, Arevalo, Iloilo City, the same is likewise **DISMISSED**, for lack of merit.

SO DECIDED.⁶

Caberoy filed a joint motion for reconsideration, which was denied by the Ombudsman in its Order dated September 19, 2006.⁷

⁵ Id. at 84.

⁶ Id. at 100-101, 236-237.

⁷ Id. at 103-109.

The Ombudsman found that Tuares was not paid any amount in June 2002 because of her failure to submit her clearance and Performance Appraisal Sheet for Teachers (PAST), while the other teachers received their salaries for the same month.⁸ The Ombudsman concluded that Tuares was “singled out by respondent Caberoy as the only one who did not receive any amount from the school on June 2002 because, as established earlier, the former failed to submit her clearance and PAST.”⁹ The Ombudsman also took into consideration several infractions previously committed by Caberoy, which allegedly displayed her “notorious undesirability as a government officer for withholding teachers’ salaries without authority.”¹⁰ According to the Ombudsman, Caberoy could not honestly claim that she had not been forewarned by the Ombudsman of the grave consequences of her repeated illegal act.¹¹

Caberoy filed a petition for *certiorari* with the CA, seeking the reversal of her dismissal from service, and in the assailed Decision dated November 21, 2008, the CA granted Caberoy’s petition. The dispositive portion of the CA decision states:

WHEREFORE, the petition is **GRANTED**. The consolidated decision dated June 30, 2005, of the respondent Ombudsman is hereby **REVERSED** and **SET ASIDE** and another judgment is hereby rendered **ABSOLVING** the petitioner of any liability, with costs *de officio*.

SO ORDERED.¹²

The Ombudsman filed a motion for reconsideration, which was denied by the CA in the assailed Resolution dated May 14, 2009.

In clearing Caberoy from the charge against her, the CA found that no undue injury was caused to Tuares since she received her June 2002 salary. According to the CA, since Caberoy was charged with Violation of Section 3(e) of R.A. No. 3019 and the element of undue injury is absent in this case, Caberoy cannot be held liable for the offense.¹³ The CA also ruled that Caberoy’s “refusal” to release Tuares’ salary was justified and the element of “failure to so act x x x for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage in favor of an interested party, or [discrimination] against another” under Section 3(f) of R.A. No. 3019, is likewise absent.¹⁴ Finally, the CA found that the acts of Caberoy are not constitutive of oppression.¹⁵

⁸ Id. at 94, 230.

⁹ Id. at 95, 231.

¹⁰ Id.

¹¹ Id. at 99, 235.

¹² Id. at 66.

¹³ Id. at 55-59.

¹⁴ Id. at 59-61.

¹⁵ Id. at 61-65.

Lastly, the CA ruled that the Ombudsman's findings and conclusions are not supported by substantial evidence since Caberoy's act of withholding Tuares' salaries was clearly justified.¹⁶

Hence, the present petition, based on the ground that:

THE HONORABLE COURT OF APPEALS' REVERSAL OF THE PETITIONER OFFICE OF THE OMBUDSMAN'S DECISION FINDING [CABEROY] ADMINISTRATIVELY LIABLE FOR OPPRESSION IS AN ERROR OF LAW CONSIDERING THAT ITS FINDINGS IS SUPPORTED BY SUBSTAN[T]IAL EVIDENCE.¹⁷

The Ombudsman argues that it was error for the CA to exonerate Caberoy on the reasons that the withholding of Tuares' salary was justified and that there was no undue injury on her part as she later received her salary. The Ombudsman contends that Caberoy was found guilty of Oppression, which is an administrative offense under the Civil Service law, and is distinct from the crime of Violation of R.A. No. 3019, from which she was absolved. According to the Ombudsman, the quantum of proof in these two offenses (Oppression and Violation of R.A. No. 3019) is distinct and the records of the case disclose that there is substantial evidence to support its decision. The Ombudsman also contests the factual findings of the CA that Tuares actually received her salary, stating that in the summary of payrolls and the checks, Tuares' name does not appear. Moreover, no evidence was presented by Caberoy to prove that Tuares actually received her salary, other than her bare allegation. Finally, the Ombudsman states that Caberoy has already been penalized several times for previous misconduct, which displays her propensity to commit the misdemeanor.¹⁸

Ruling of the Court

Initially, it must be stated that in a petition for review filed under Rule 45 of the Rules of Court, the Court is limited only to a review of errors of law committed by the CA, and the Court is not required to review all over again the evidence presented before the Ombudsman.¹⁹ The rule, nevertheless, admits of exceptions, such as when the findings of the CA and the Ombudsman are conflicting,²⁰ which is what occurred in the present case. Hence, the Court must now look into the matter of whether the CA

¹⁶ Id. at 65.

¹⁷ Id. at 23.

¹⁸ Id. at 24-34.

¹⁹ *Miro v. Mendoza Vda. de Erederos*, G.R. Nos. 172532 and 172544-45, November 20, 2013, 710 SCRA 371, 387.

²⁰ Id.

committed a reversible error when it reversed the findings and conclusions of the Ombudsman.

Tuares charged Caberoy in OMB-V-A-03-0239-E with both Oppression and Violation of Section 3(e)(f) of R.A. No. 3019. The Ombudsman, however, found Caberoy guilty only of Oppression.

Oppression is an administrative offense²¹ penalized under the Uniform Rules on Administrative Cases in the Civil Service,²² which provides:

Section 52. *Classification of Offenses.*—Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

x x x x

14. Oppression.

1st Offense – Suspension for six (6) months and one (1) day to one (1) year;

2nd Offense – Dismissal.

x x x x

Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority.²³ To be held administratively liable for Oppression or Grave Abuse of Authority, there must be substantial evidence presented proving the complainant's allegations.²⁴ Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.²⁵ In this case, the CA correctly overturned the Ombudsman's findings and conclusions, and explained the reasons for exculpating Caberoy, as follows:

²¹ *Reyes, Jr. v. Belisario, et al.*, 612 Phil. 936, 963 (2009).

²² The applicable rules in this case are the Uniform Rules on Administrative Cases in the Civil Service, which took effect in 1999.

²³ *Romero v. Villarosa, Jr.*, A.M. No. P-11-2913, April 12, 2011, 648 SCRA 32, 41-42; *Spouses Stilgrove v. Sabas*, 538 Phil. 232, 244 (2006).

²⁴ *Nedia v. Judge Laviña*, 508 Phil. 9, 19 (2005).

²⁵ *Supra* note 19, at 388.

Evidently, from the foregoing disquisitions, respondent Ombudsman contradicted itself when it found and held that petitioner was guilty of “oppression” for not paying the private respondent her June 2002 salary, because as a matter of fact she has been paid albeit delayed. Such payment is clearly and indubitably established from the table where it was shown that private respondent received on July 17 and 25, 2002, her June 2002 salary in the amounts of P4,613.80 and P4,612.00, respectively.

x x x x

The above narration of facts do not show that petitioner committed acts constitutive of “oppression.” Assuming petitioner’s action is erroneous or overly zealous, this certainly does not merit the most severe penalty of dismissal from government service. Apparently, the petitioner is only protecting herself from any future, adverse consequences if she allows the disbursement of public funds without the appropriate supporting documents. “It is a well-known fact that in the government service an employee must submit his daily time record duly accomplished and approved before one can collect his salary.”

x x x x

Finally, on the contention that the findings and conclusions of the respondent Ombudsman is considered conclusive and deserve respect and finality is true only when the same is based on substantial evidence. As discussed above, the action taken by petitioner in withholding the salaries of private respondent was clearly justified. It was a measure taken by a superior against a subordinate who ignored the basic tenets of law by not submitting the required documents to support payment of her salary and proportional vacation pay for the aforesaid period. x x x.

x x x [I]n this case before us, the records is bereft of substantial evidence to support respondent Ombudsman’s findings and conclusion that petitioner committed oppressive acts against private respondent and violated Sections 3(e) and (f) of RA 3019. On the contrary and as earlier discussed, respondent Ombudsman found and concluded that private respondent was paid her June salary albeit late. Hence, it cannot be gainsaid that the act of respondent Ombudsman in concluding that petitioner is guilty as charged despite absence of substantial evidence to support the same is totally unfounded and is therefore, tantamount to grave abuse of discretion amounting to a lack or excess of discretion. x x x.²⁶ (Citations omitted)

The complaint filed by Tuares against Caberoy charged the latter with “manifest partiality, evident bad faith or gross inexcusable negligence for having ordered the payroll clerk of [RANHS] **to cause the exclusion of [her] name in the payroll of June 2002** x x x and [in spite of] the fact that [she has already] rendered full service during said days x x x without any justifiable reason and without due process and without any authority under the law.”²⁷ A perusal of Tuares’ allegations shows that her claim pertains to the alleged withholding of her salary for the month of June 2002. Records

²⁶ *Rollo*, pp. 61-62, 65-66.

²⁷ *Id.* at 155.

show, however, that Tuares was actually paid her salary for the month of June 2002. Thus, the vouchers for the payroll period of June 1 to 15, 2002²⁸ and June 16 to 30, 2002²⁹ showed Tuares' name on line 11 and her signature acknowledging receipt of her salary for such period. This was, in fact, confirmed in the 2002 salary payrolls submitted by the RANHS Office of the Auditor and summarized by the Ombudsman,³⁰ to wit:

Period	Voucher No.	Date of Check	Tuares' No. in the Payroll	Amount Received
June (Proportional pay & salary)	101-02-6-161	June 25, 2002	Name not found	Name not found
June (Proportional pay)	101-02-6-164	June 28, 2002	Name not found	Name not found
June (Proportional pay)	PS-02-7-182	July 4, 2002	Name not found	Name not found
June (Proportional pay & salary)	PS-02-7-195	July 17, 2002	11	P4,613.80
June (Proportional pay)	PS-02-7-196	July 19, 2002	Name not found	Name not found
June	PS-02-7-200	July 25, 2002	11	P4,612.00
July	101-02-8-231	August 19, 2002	16	P4,694.72

The amounts received and signed for by Tuares correspond essentially to the other amounts she received as salary for the other periods in 2002. On this score, entries in the payroll, being entries in the course of business, enjoy the presumption of regularity under Section 43, Rule 130 of the Rules of Court,³¹ and absent any evidence presented by Tuares showing the contrary, good faith must be presumed in the preparation and signing of such payrolls.³²

Even assuming, as the Ombudsman asserted, that Tuares received her June 2002 salary only on July 2002, the same does not constitute Oppression or Grave Abuse of Authority. The delay in the release of Tuares' salary hardly qualifies as an "act of cruelty or severity or excessive use of authority," especially when she contributed to the cause of the delay, that is, she submitted her Form 48 (Daily Time Record) for June 2002 only on July 11, 2002.³³

²⁸ Id. at 202.

²⁹ Id. at 203.

³⁰ Id. at 92-93.

³¹ *KAR ASIA, Inc. v. Corona*, 480 Phil. 627, 636 (2004).

³² *Sapio v. Undaloc Construction and/or Engr. Undaloc*, 577 Phil. 39, 47 (2008).

³³ *Rollo*, p. 60.

Neither can the Court subscribe to the Ombudsman's conclusion that Tuares was singled out by Caberoy. According to the Ombudsman:

In other words, as far as these fortunate teachers are concerned, checks dated June 25 and 28, 2002 and July 04 and 19, 2002 actually and in paper covered their June 2002 salary; checks dated July 17 and 19, 2002 actually and in paper covered their July 2002 salary; x x x.

Whereas on the part of complainant Tuares, this is what really happened: The checks dated July 17 and 25, 2002 were technically for services rendered in June 2002 as corrected by COA but the amounts corresponding to complainant's salary for the whole month of June 2002 was actually received by her only in July 2002 and that in effect means that she did not really receive any amount from the school in June 2002; x x x.

Viewed from the discussion above, it is therefore crystal clear that complainant was singled out by respondent Caberoy as the only one who did not receive any amount from the school on June 2002 because, as established earlier, the former failed to submit her clearance and PAST.³⁴

It must be stressed that like other grave offenses classified under the Civil Service laws, bad faith must attend the act complained of. Bad faith connotes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.³⁵ There must be evidence, independent of the fact of such delay, which will lead to the inevitable conclusion that it was for the purpose of singling out Tuares. 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.³⁶ "Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on."³⁷ Except for the Ombudsman's deduction based on the dates of issuance of the vouchers and the checks as shown in the payroll, the records of this case are bereft of evidence that will support its view that the delay in the release of Tuares' salary indicated that she was singled out. Moreover, as correctly pointed out by the CA, "[t]he certifications issued by Acting Bookkeeper Hayde S. Momblan will show that it was not only [Tuares] who was not included in the June 2002 payrolls; there were other teachers who were not included because they failed to submit the required year-end clearance. x x x Evidently, [Tuares] was not singled out or discriminated against as insisted by her and respondent Ombudsman."³⁸

³⁴ Id. at 94-95.

³⁵ *Andrade v. Court of Appeals*, 423 Phil. 30, 43 (2001).

³⁶ *Litonjua v. Justices Enriquez, Jr. and Abesamis*, 482 Phil. 73, 100-101 (2004).


³⁷ *SPO2 Alcover, Sr. v. Bacatan*, 513 Phil. 77, 83 (2005), citing *Alfonso v. Ignacio*, 487 Phil. 1, 7 (2004). See also *Borromeo-Garcia v. Judge Pagayatan*, 588 Phil. 11, 18 (2008).

³⁸ *Rollo*, p. 61.

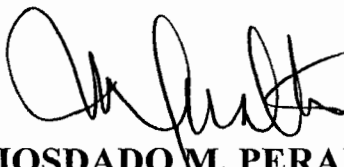
All told, the Court finds that the CA did not commit a reversible error in exonerating Caberoy from the charge against her.

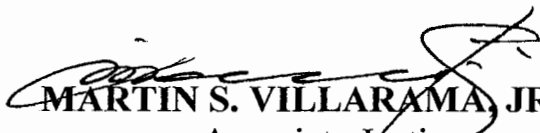
WHEREFORE, the petition for review is **DENIED** for lack of merit.

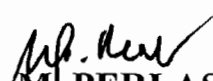
SO ORDERED.

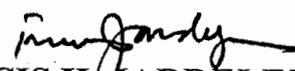

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

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.



DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



MARIA LOURDES P. A. SERENO
Chief Justice