



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**CANDIDA E. GABORNES and G.R. No. 237245
PEDRO GABORNES,**

Petitioners, Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,

HERNANDO,
INTING,
GAERLAN, and
ROSARIO,* JJ.

**OFFICE OF THE
OMBUDSMAN, FRANCISCO G.
CATALOGO, FLORENCIO
ALMEDA, JR., ROLANDO
GACHO and JOSE B.
MACAWILE,**

Promulgated:

Respondents.

SEP 15 2021

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DECISION

INTING, J.:

Assailed in this Petition for Review on *Certiorari*¹ are the Decision² dated August 7, 2017 and the Resolution³ dated January 30, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 137204 which affirmed the Joint Resolution⁴ dated December 12, 2013 and Order⁵ dated July 31, 2014 of the Office of the Ombudsman (OMB) in OMB-V-C-12-0440 and OMB-V-A-12-0506, which found Candida E. Gabornes (Candida) and Pedro Gabornes (Pedro) guilty of Grave Misconduct and ordered their dismissal from the service.

* Designated additional Member per Special Order No. 2835 dated July 15, 2021.

¹ *Rollo*, pp. 3-24.

² *Id.* at 240-256; penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Jane Aurora C. Lantion and Franchito N. Diamante, concurring.

³ *Id.* at 275-276.

⁴ *Id.* at 160-180; signed by Assistant Special Prosecutor II Joseph F. Capistrano with the recommending approval of Acting Director Lalaine D. Benitez, and approved by Ombudsman Conchita Carpio Morales.

⁵ *Id.* at 182-188; signed by Assistant Special Prosecutor III Lalaine D. Benitez with the recommending approval of Overall Deputy Ombudsman and concurrent Acting Special Prosecutor Melchor Arthur H. Carandang, and approved by Ombudsman Conchita Carpio Morales.

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The Antecedents

Francisco G. Catalogo, Florencio A. Almeda, Jr., Rolando I. Gacho, Jose D. Sabulao, Sr., and Janet B. Macawile (collectively, complainants) were members of the *Sangguniang Bayan* of the Municipality of Lawaan, Eastern Samar. They filed before the OMB a criminal complaint for Illegal Use of Public Funds and violation of Section 3(e)⁶ of Republic Act No. (RA) 3019,⁷ docketed as OMB-V-C-12-0440; and an administrative complaint for Dishonesty/Abuse of Authority, docketed as OMB-V-A-12-0506, against Municipal Mayor Candida, Municipal Accountant Pedro, (collectively, petitioners), and Municipal Treasurer Ruben Baet (Ruben).⁸

Complainants alleged that Candida, with the complicity of Pedro and Ruben, caused the issuance of checks⁹ in the amount of ₱30,601.14 on March 19, 2012 and in the amount of ₱11,200.00 on April 3, 2012, respectively, for the purchase of “spare parts and tires” of a Mitsubishi Montero Sports Utility Vehicle (SUV) with Plate No. HBB 550 which is privately owned by Candida.¹⁰

Petitioners admitted the transactions, but asserted that they were done in good faith as the vehicle was used for official duties. They argued that considering that the municipality, which did not have a service vehicle of its own, benefited by using the SUV, it was only fair that it should share in the maintenance thereof.¹¹

OMB's Joint Resolution

On December 12, 2013, the OMB rendered a Joint Resolution in

⁶ Section 3 of Republic Act No. (RA) 3019 provides:

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

X X X X

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

⁷ Entitled “Anti-Graft and Corrupt Practices Act,” approved on August 17, 1960.

⁸ *Rollo*, p. 160.

⁹ Check Nos. 0000636216 and 0000636296, *id.* at 161.

¹⁰ *Rollo*, pp. 161, 241.

¹¹ *Id.* at 162-163.

OMB-V-C-12-0440 and OMB-V-A-12-0506 finding substantial evidence to hold petitioners criminally and administratively liable for using public funds for a private purpose.¹² It held:

WHEREFORE, premises considered, it is respectfully recommended that:

- 1) On the basis of a finding of probable cause against respondents Candida E. Gabornes, Pedro B. Gabornes and Ruben R. Baet, two (2) Informations for the complex crime of Malversation thru Falsification of Public Documents, and two (2) Informations for Violation of Section 3 (e) of RA 3019 be filed against them with the Sandiganbayan;
- 2) On the basis of a finding of substantial evidence against respondents Candida E. Gabornes, Pedro B. Gabornes and Ruben R. Baet, for Grave Misconduct the penalty of dismissal from service be meted on them.

x x x x

SO RESOLVED.¹³

Petitioners filed a motion for reconsideration on the administrative aspect of the Joint Resolution but the OMB denied it in its Order¹⁴ dated July 31, 2014.

Petitioners appealed to the CA.

Ruling of the CA

On August 7, 2017, the CA rendered its Decision affirming the OMB, viz.:

WHEREFORE, premises considered, the *Petition for Review* is Dismissed. The Joint Resolution dated December 12, 2013, and Order dated July 31, 2014, of the Office of the Ombudsman, are Affirmed.

SO ORDERED.¹⁵

¹² *Id.* at 164, 167.

¹³ *Id.* at 179-180.

¹⁴ *Id.* at 182-188.

¹⁵ *Id.* at 255-256.

The CA denied petitioners' Motion for Reconsideration¹⁶ on January 30, 2018.¹⁷

The Petition

Petitioners are now before the Court asserting that:

THE COURT OF APPEALS SERIOUSLY ERRED IN DISMISSING THE AMENDED PETITION FOR REVIEW OF PETITIONERS AND AFFIRMING THE JOINT RESOLUTION DATED DECEMBER 12, 2013 AND ORDER DATED JULY 31, 2014 OF THE PUBLIC RESPONDENT FINDING PETITIONERS ADMINISTRATIVELY LIABLE FOR GRAVE MISCONDUCT THEREBY IMPOSING THE SUPREME PENALTY OF DISMISSAL FROM SERVICE WHEN THE ELEMENTS OF CORRUPTION, CLEAR INTENT TO VIOLATE THE LAW OR FLAGRANT AND PALPABLE BREACH OF DUTY ARE NOT MANIFEST IN THIS CASE.

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT TAKING INTO ACCOUNT SEVERAL DECISIONS OF THE SUPREME COURT THAT THE SUBSEQUENT RE-ELECTION OF PETITIONER CANDIDA E. GABORNES RESULTS TO CONDONATION OF HER ADMINISTRATIVE LIABILITY, IF ANY.¹⁸

Petitioners argue that their mistakes, if any, are not actionable absent clear showing that they were motivated by malice or gross negligence amounting to bad faith. As the Commission on Audit (COA), in its Annual Audit, found no irregularity in the disbursements and transactions subject of the instant case, therefore, there is no basis to hold them liable.¹⁹ They also aver that dismissal was unduly harsh and grossly disproportionate to the infraction.²⁰

For her part, Candida further invokes the "condonation doctrine" which holds that a reelected local official may not be held administratively accountable for misconduct committed during his/her prior term of office.²¹ Because the subject matter of the case took place

¹⁶ *Id.* at 257-264.

¹⁷ *Id.* at 276.

¹⁸ *Id.* at 8-9.

¹⁹ *Id.* at 11-13.

²⁰ *Id.* at 17.

²¹ *Id.* at 18.

prior to the ruling in *Ombudsman Carpio Morales v. CA, et al.*²² (*Carpio Morales*), and following its pronouncement that the abandonment of the condonation doctrine applies only prospectively, Candida can still invoke the doctrine in her favor.²³

The OMB filed its Comment²⁴ asserting that petitioners failed to point out any reversible error on the part of the CA; and that petitioners cannot invoke the condonation doctrine as it was already abandoned in the *Carpio Morales* case.²⁵

Complainants, herein private respondents, meanwhile manifested that they are waiving their right to file a comment.²⁶

Issues

1. Whether petitioners are guilty of Grave Misconduct.
2. Whether the condonation doctrine is applicable in this case.

The Court's Ruling

The petition is partially granted.

Administrative proceedings are governed by the “substantial evidence rule.” This means that a finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the respondent has committed the acts in the complaint.²⁷ Additionally, findings of fact of the OMB are conclusive when supported by substantial evidence and are accorded due respect and weight, especially when they are affirmed by the CA.²⁸ Generally, the findings of the OMB are accorded great weight and respect, if not finality by the courts, by reason of their special knowledge and expertise over matters falling under their jurisdiction.²⁹

²² 772 Phil. 672 (2015).

²³ *Rollo*, p. 22.

²⁴ *Id.* at 284-293.

²⁵ *Id.* at 286.

²⁶ *Id.* at 338-339.

²⁷ *Office of the Ombudsman v. Bernardo*, 705 Phil. 524, 534 (2013).

²⁸ *Bagong Kapisanan sa Punta Tenement, Inc. v. Dolot*, 694 Phil. 305, 316 (2012).

²⁹ *Atty. Chavez v. Garcia, et al.*, 783 Phil. 562, 572 (2016).

In the case, there is no question that the subject checks were disbursed for the purchase of spare parts of Candida's private vehicle.

As found by the OMB, petitioners processed and facilitated the release of public funds for the purchase of spare parts of Candida's privately owned vehicle despite the irregularities that surrounded the preparation of the supporting documents for the disbursement thereof.³⁰ The CA agreed and found that the process conducted for the release of the subject fund was questionable and irregular considering that the checks were issued absent supporting documents other than an unnumbered and undated disbursement voucher.³¹

Also, both OMB and the CA found no evidence to support petitioner's allegation that the subject vehicle was constituted as the official service vehicle of the municipality that may be used by its employees every time a service vehicle would be needed. Assuming that the municipality benefited from the use of the subject vehicle, such use merely brought incidental advantage to the public. Ultimately, the disbursement of the municipality's funds was for the promotion of Candida's personal interest.³²

"Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence committed by a public officer." It is considered grave "if it involves additional elements such as corruption or willful intent to violate the law or to disregard established rules, which must be proven by substantial evidence."³³ Grave Misconduct pertains to "wrongful, improper or unlawful conduct committed in connection with the performance of official functions, motivated by a premeditated, obstinate or intentional purpose, coupled with the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule."³⁴

"Corruption, as an element of Grave Misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his [or her] station or character to procure some benefit for himself [or herself] or for another person, contrary to duty and the rights of others."³⁵

³⁰ *Rollo*, pp. 176-178.

³¹ *Id.* at 250.

³² *Id.* at 247-249.

³³ *De Guzman v. Office of the Ombudsman, et al.*, 821 Phil. 681, 699.

³⁴ *Moreno v. Court of Appeals*, G.R. No. 238566, February 20, 2019.

³⁵ *De Guzman v. Office of the Ombudsman, supra* note 33 at 699.

As correctly observed by the CA, petitioners, in their capacities as Municipal Mayor, Accountant, and Treasurer, had control and responsibility over the funds of the Municipality of Lawaan. However, they unlawfully and wrongfully used their positions by affixing their signatures on patently irregular documents to facilitate the illegal release of public funds. Their acts were prejudicial to the government because the funds were spent for private use when it should have been utilized for the public interest. There was willful intent on their part to violate the law and disregard established rules in the handling of public funds for which they should be held liable.³⁶

Under Section 50, Rule 10 of the 2017 Revised Rules on Administrative Cases in the Civil Service (RRACCS),³⁷ the offense of Grave Misconduct carries the penalty of dismissal even for the first offense. This is because public office is a public trust and only those who can live up to the most exacting standards are worthy of being part of the civil service.³⁸

However, the Court finds that the principle of condonation applies to Candida.

The condonation doctrine was abandoned on April 12, 2016 when the *Carpio Morales* case attained finality. Despite its abandonment, however, the condonation doctrine can still apply to pending administrative cases provided that the reelection is also before the abandonment. It is for cases filed after April 12, 2016, that the impleaded public official can no longer resort to the condonation doctrine.³⁹

Indeed, the prospective application of the ruling in *Carpio Morales* applies to cases where the complained acts of the elected public official, the filing of the administrative case against him/her and his/her reelection took place prior to the abandonment of the doctrine.⁴⁰ For so

³⁶ *Rollo*, p. 252.

³⁷ The 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), as per CSC Resolution No. 1701077, promulgated on July 7, 2017 and took effect on August 17, 2017. However, the previous RACCS remains applicable to pending cases filed before its effectivity, provided it will not unduly prejudice substantive rights, in accordance with Section 124, Rule 23 of the 2017 RACCS. See *Camsol v. Civil Service Commission*, G.R. No. 238059, June 8, 2020.

³⁸ *Moreno v. Court of Appeals*, *supra* note 34, citing *Duque III v. Veloso*, 688 Phil. 318, 328 (2012).

³⁹ *Office of the Ombudsman v. Malapitan*, G.R. No. 229811, April 28, 2021.

⁴⁰ *Ching v. Bonachita-Ricablanca*, G.R. No. 244828, October 12, 2020.

long as the elective official had already been reelected prior to April 12, 2016, he/she may avail of the doctrine of condonation as a valid defense to the administrative complaint against him/her.⁴¹

In the case, the subject checks were issued in March and April of 2012. The complaints before the OMB were filed in September 2012. Candida ran and was elected in the 2013 elections. All the events took place before April 12, 2016, thus, Candida can still invoke the condonation doctrine.


The condonation doctrine provides that a public official cannot be removed for administrative misconduct committed during a prior term, since his or her reelection to office operates as a condonation of the officer's previous misconduct to the extent of cutting off the right to remove him/her therefor.⁴²

Thus, insofar as Candida is concerned, her administrative liability for Grave Misconduct committed in 2012 is deemed condoned by her reelection in 2013.

Finding no error in the pronouncements made by the CA, save for the applicability of the condonation doctrine in this case, the Court hereby affirms its Decision and Resolution with modification.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The Decision dated August 7, 2017 and the Resolution dated January 30, 2018 of the Court of Appeals in CA-G.R. SP No. 137204 are **AFFIRMED** with **MODIFICATION** in that the administrative complaint against petitioner Candida E. Gabornes docketed as OMB-V-A-12-0506 is **DISMISSED**.

SO ORDERED.



HENRY JEAN PAUL B. INTING
Associate Justice

⁴¹ *Id.*

⁴² *Id.*

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

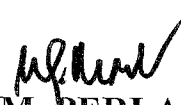

RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice



