

FIRST DIVISION

[G.R. NO. 161098, September 13, 2007]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. CELSO SANTIAGO, RESPONDENT.

DECISION

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on *Certiorari*^[1] assailing the Decision^[2] dated June 18, 2003 and Resolution dated December 8, 2003 of the Court of Appeals in CA-G.R. SP No. 66744.

The facts are:

On July 27, 2000, the City of Manila, through the City Budget Office, released a calamity fund for Barangay 183, Zone 16, same city, in the amount of P44,053.00. This was received by Barangay Chairman Celso Santiago, respondent herein.

On October 3, 2000, Rebecca B. Pangilinan, Mario B. Martin, Rolando H. Lopez and Alfredo M. Escaño, Sr., all barangay kagawad of Barangay 183, filed with the Office of the Ombudsman, petitioner, an administrative complaint for technical malversation, violation of the Anti-Graft and Corrupt Practices Act, dishonesty, grave misconduct and conduct unbecoming of a public officer against respondent, docketed as OMB-ADM-0-00-0828.

The complaint alleges that (a) respondent failed to utilize the calamity fund for the purpose for which it was allocated; (b) he leased a portion of the barangay sidewalk to Amity Food Corporation without the conformity of the barangay *kagawad*; (c) Amity Food Corporation issued checks payable to respondent, not in the name of the Barangay; (d) he did not open any bank account for and in the name of Barangay 183, Zone 16; and (e) he collected fees for the use of the barangay chapel without remitting any single centavo to the barangay treasurer.

Respondent filed a motion to dismiss the administrative complaint denying all the charges and contending that the complaint was filed to harass him.

In a Decision dated May 22, 2001, the Office of the Ombudsman declared respondent guilty of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service and dismissed him from the service, thus:

WHEREFORE, the foregoing premises considered, respondent CELSO R. SANTIAGO, Barangay Chairman of Barangay 183, Zone 16 of the Second District of Manila is hereby found GUILTY of the administrative offenses of DISHONESTY, GRAVE MISCONDUCT and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE with the penalty of DISMISSAL FROM

THE SERVICE pursuant to the pertinent provision of Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989.

The City Mayor of Manila is hereby directed to immediately implement this DECISION in accordance with law and to inform this office of its initial action within fifteen (15) days upon receipt hereof.

SO ORDERED.

Respondent filed a motion for reconsideration and an urgent motion to hold in abeyance the implementation of the Decision, but both motions were denied by the Office of the Ombudsman in an Order dated July 24, 2001.

Thus, respondent filed with the Court of Appeals a "Petition for *Certiorari*, Prohibition and Mandatory Injunction with Prayer for the Issuance of a Temporary Restraining Order." Apparently, the Court of Appeals considered this action a petition for review.

In its Decision^[3] dated June 18, 2003, the Court of Appeals partially granted the petition, thus:

However, assuming *arguendo*, that petitioner is administratively liable, public respondent has no authority to directly dismiss the petitioner from the government service, more particularly from his elective position of Barangay Captain. (*Renato A. Tapiador vs. Office of the Ombudsman*, G.R. No. 129124, March 15, 2002)

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Clearly, public respondent has the duty to investigate and prosecute only for and in its behalf, civil, criminal, and administrative offenses committed by government officers and employees embodied in Sections 15 and 11 of R.A. 6770 (*George Uy vs. the Hon. Sandiganbayan, et al.*, 354 SCRA 651). It cannot directly impose any disciplinary measure upon any erring public officer.

WHEREFORE, in view of all the foregoing, the petition is hereby PARTIALLY GRANTED. The portions of the Decision dated May 22, 2001 rendered by the Office of the Ombudsman in Administrative Case No. OMB-0-00-0828 for *Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service*, ordering the dismissal of petitioner and directing the City Mayor of Manila to implement said Decision are hereby DELETED.

SO ORDERED.

The Office of the Ombudsman filed a motion for reconsideration, but it was denied by the Court of Appeals in its Resolution^[4] of December 8, 2003.

Hence, the present petition.

Petitioner contends, *inter alia*, that the *obiter dictum* in the case of *Tapiador v. Office of the Ombudsman*^[5] to the effect that the Ombudsman has no authority to