

FIRST DIVISION

[G.R. No. 238903, March 24, 2021]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. EMELITA MARAASIN BRAÑA, RESPONDENT.

DECISION

PERALTA, C.J.:

This is a Petition for Review on *Certiorari* seeking to reverse and set aside the Decision^[1] dated July 19, 2017 and the Resolution^[2] dated March 9, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 07575-MIN. The CA reversed and set aside the Decision dated January 27, 2016 and the Order dated May 5, 2016 of the Office of the Ombudsman (*petitioner*) in OMB-CA-15-0090.

The factual antecedents are as follows:

On March 26, 2015, the Department of Finance-Revenue Integrity Protection Service (*DOF-RIPS*) filed a Joint Complaint-Affidavit^[3] charging Emelita Maraasin Braña (*respondent*) with violation of Sections 7 and 8 of Republic Act (*R.A.*) No. 3019 and Section 8 of *R.A.* No. 6713, Articles 171(4) and 183 of the Revised Penal Code (*RPC*), Grave Misconduct, and Serious Dishonesty.

The *DOF-RIPS* alleged that respondent acquired illegal wealth amounting to P8,708,025.98 from the year 2001 to 2013, which were disproportionate to her and her husband's lawful income. The amount was determined after *DOF-RIPS* found irregularities in respondent's Statement of Assets, Liabilities, and Net Worth (*SALN*) in which respondent failed to disclose several real and personal properties, and made misleading and inconsistent declarations.

According to the *DOF-RIPS*, respondent failed to disclose the following real and personal properties in her *SALNs*:

1. A 142-square-meter parcel of land in La Buena Vida Subdivision acquired in September 2008 for P299,000.00 which was not disclosed in respondent's 2008 to 2013 *SALNs*;
2. The construction of a one-storey structure costing P995,401.33 where respondent's Monterey Meat Shop and Hungry Juan Roast Chicken businesses are located. The cost of improvements was never declared in the 2010 to 2013 *SALNs*;
3. 2007 Isuzu Crosswind worth P1,278,120.00 and was not declared in respondent's 2008 *SALN*;

4. One (1) pistol Armscor, caliber .45 with Serial No. 767669 and covered by a license approved on June 25, 2013;
5. Investments in Monterey Meat Shop and Hungry Juan Roast Chicken were not declared in respondent's 2010 to 2013 SALNs; and
6. Business interest in Four B's Marketing registered on December 2, 2009 in connection with respondent's meat shop business in her SALN for 2009.^[4]

The following, on the other hand, were misleading and inconsistent declarations in her SALNs:

1. Ownership of a residential lot in Golden Glow Village located in Carmen, Pueblo, Cagayan de Oro City which was acquired for P600,000.00 and declared in respondent's 2007 to 2013 SALNs. Verification on the property revealed that respondent owns two (2) lots in said village covered by a single Deed of Sale dated 2 September 2001 in the purported total amount of P400,000.00; and
2. Respondent's practice of lumping her personal and other properties with entries like "Cash & Receivable," "Jewelries, Clothing & etc.," "Appliances and Kitchenware," "Furniture, Fixture, book and etc." for the 2000 SALN. In respondent's 2001 to 2007 and 2009 to 2013 SALNs, she consistently lumped under her personal and other properties, the following entries, "Cash & Receivable," "Jewelries, Clothing & etc.," "Appliances/Kitchenware/Computer," and "Furniture, Fixture, books & etc." The same scheme was also used by respondent in her declaration of liabilities in her 2001 to 2007 and 2009 to 2013 SALNs, which makes it difficult to ascertain if there is an increase in respondent's declaration.^[5]

Respondent raised the following defenses:

1. A Deed of Assignment dated July 21, 2003 [was] executed in favor of a certain Ferdinand T. Suan for the lot in La Buena Vida Subdivision. Thus, the issuance of title under her name covering said property was inadvertently issued.
2. The construction cost of the one-storey building in the amount of P995,401.33 where the Monterey Meat Shop and Hungry Juan Roast Chicken are located was declared in the 2010 SALN under "hauling and other equipment used in business."
3. The Isuzu Crosswind was declared in her 2007 SALN as "service car."
4. The pistol owned by her husband is a government-issued firearm, he being a former member of the AFP and current confidential agent of the National Bureau of Investigation; thus, it need not be disclosed in her SALN.

5. No franchise fees were paid for the Monterey Meat Shop and Hungry Juan Investments.^[6]

On January 27, 2016, petitioner rendered a Decision^[7] against respondent. Petitioner dismissed the charge of unexplained wealth for insufficiency of evidence, but found respondent administratively liable for serious dishonesty, and ordered her dismissal from the service with all its accessory penalties, the dispositive portion of which reads:

WHEREFORE, finding substantial evidence against respondent Emelita Maraasin Braña for the administrative offense of Serious Dishonesty, she is hereby meted the penalty of DIMISSAL FROM THE SERVICE, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar from taking civil service examinations.

The charge for Grave Misconduct is **DISMISSED**.

In the event that the penalty of Dismissal can no longer be enforced due to respondent's separation from service, that same shall be converted into Fine in the amount equivalent to respondent's salary for one (1) year, payable to the Office of the Ombudsman, and may be deductible from respondent's retirement benefits, accrued leave credits, or any receivable from her office.

It shall be understood that the accessory penalties attached to the principal penalty of Dismissal shall continue to be imposed.

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 Honorable Secretary of the Department of Finance, is directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number: **OMBC-A-15-0900**, to this Office, thru the Central Records Division, 2nd Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128, Quezon City.

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

SO ORDERED.^[8]

Respondent, thereafter, filed several pleadings assailing the Decision of the petitioner.

Respondent initially filed a Motion for Reconsideration^[9] of the Decision on April 19, 2016 on grounds of errors of facts or law that are prejudicial to her interest.

Several days thereafter, or on May 5, 2016, respondent filed a Petition for Injunction (with Urgent Application for Issuance of Temporary Restraining Order [TRO] or *Status Quo Ante* Order and/or Writ of Preliminary Injunction [WPI])^[10] which

sought to enjoin the petitioner from implementing the Decision. On April 28, 2016, the CA issued a Resolution^[11] denying the Petition for Injunction by reason of lack of jurisdiction. Undeterred, respondent filed a Petition for *Certiorari* (with Urgent Application for Issuance of TRO or *Status Quo Ante* Order and/or WPI) under Rule 65,^[12] docketed as CA-G.R. SP No. 07429-MIN, assailing the implementation of the January 27, 2016 Decision, while her Motion for Reconsideration was pending resolution.

On May 18, 2016, the CA, in a Resolution,^[13] granted the prayer for the issuance of TRO and, on July 19, 2016, granted the issuance of a WPI.

In the meantime, on May 5, 2016, the petitioner issued an Order dismissing the Motion for Reconsideration. Then, on July 25, 2016, respondent filed a Petition for Review under Rule 43 before the CA, assailing the said Order. This petition was docketed as CA-G.R. SP No. 07575-MIN.

On August 31, 2016, the CA issued a Resolution consolidating CAG.R. SP No. 07429-MIN and CA-G.R. SP No. 07575-MIN, after finding that both assailed the January 27, 2016 Decision of the petitioner. Here, the CA dismissed her Petition for *Certiorari* for being moot and academic.^[14]

On July 19, 2017, the CA rendered its Decision,^[15] the dispositive portion of which read:

WHEREFORE, the Petition for *Certiorari* in CA-G.R. SP No. 07429-MIN is hereby DISMISSED for being moot and academic. On the other hand, the Petition for Review under CA-G.R. SP No. 07575-MIN is hereby GRANTED. The Decision dated 27 January 2016 and the Order dated 5 May 2016 issued by the Office of the Ombudsman are hereby REVERSED. The charge of Serious Dishonesty against the [respondent] is hereby DISMISSED for insufficiency of evidence.

SO ORDERED.^[16]

In dismissing the complaint for serious dishonesty, the CA upheld respondent's defense of good faith. It applied *Navarro v. Ombudsman*^[17] and ruled that respondent submitted plausible explanations for the alleged discrepancies in her SALNs, and that she should have been given an opportunity to correct the identifiable errors. With these, the CA maintained that petitioner failed to submit substantial evidence that could have proven respondent's intent to deceive the government, thus the charge for serious dishonesty must fail.

The petitioner filed a Motion for Reconsideration, but the same was denied in a Resolution^[18] dated March 9, 2018.

Hence, the instant petition.

The petitioner raised the following issues:

I.