

# FIRST DIVISION

[ G.R. No. 214407, March 03, 2021 ]

**COMMISSIONER CECILIA RACHEL V. QUISUMBING, PETITIONER,  
VS. EXECUTIVE SECRETARY PAQUITO N. OCHOA, OFFICE OF THE  
PRESIDENT, AND CHAIRPERSON LORETTA ANN P. ROSALES,  
COMMISSION OF HUMAN RIGHTS, RESPONDENTS.**

## DECISION

**GAERLAN, J.:**

### The Case

This is a Petition for *Certiorari* or Prohibition<sup>[1]</sup> under Rule 65 of the Rules of Court which seeks to set aside the following issuances: (1) the September 24, 2014 Memorandum<sup>[2]</sup> issued by respondent Paquito N. Ochoa (Secretary Ochoa), in his capacity as then Executive Secretary; and (2) Memorandum No. LAPR-M-011142930<sup>[3]</sup> dated October 1, 2014, issued by respondent Loretta Ann P. Rosales (Chairperson Rosales), in her capacity as then Chairperson of the Commission on Human Rights (CHR). The assailed issuances implemented the Office of the Ombudsman's August 28, 2014 Joint Resolution<sup>[4]</sup> in OMB-C-A-13-0334 and OMB-C-A-14-0009, which imposed on petitioner Cecilia Rachel V. Quisumbing the penalty of dismissal from government service.

### The Facts

On October 9, 2013, petitioner Cecilia Rachel V. Quisumbing (Quisumbing), then a Commissioner of the CHR, was administratively charged with Direct Bribery, Grave Misconduct, violation of Sections 3(b), (c), and (e) of Republic Act (R.A.) No. 3019,<sup>[5]</sup> and violation of Section 7(d) of R.A. No. 6713.<sup>[6]</sup> The charges stemmed from several complaint-affidavits filed by members of her staff, namely Ma. Regina D. Eugenio (Eugenio), Elizabeth Diego-Buizon (Buizon), Alexander B. Fernandez (Fernandez), and Jesse K. Ayuste (Ayuste) (hereinafter referred to collectively as the complainants).

According to the complainants, Quisumbing was often cruel, imperious, and disrespectful to her staff. Quisumbing had a tendency to scream at her staff whenever she was addressed incorrectly or her instructions were not followed to the letter.<sup>[7]</sup> Furthermore, Quisumbing would sometimes issue illegal or improper orders to her staff, *e.g.*, she ordered Eugenio to falsify the total number of undistributed T-shirts made for the celebration of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights, and ordered her staff to turn over their salary ATM cards to her.<sup>[8]</sup>

Eugenio further alleged that Quisumbing offered her a promotion, on the condition that her responsibilities would remain the same; and that Quisumbing would receive

and keep the amount of the resultant salary differential as part of the "CRVQ Office Fund." Upon Quisumbing's orders, Eugenio drafted an agreement to that effect but did not sign thereon. The promotion pushed through and Eugenio gave Quisumbing her salary differential for January to July 2013, as shown by acknowledgment receipts.<sup>[9]</sup>

Buizon, Fernandez, and Ayuste accused Quisumbing of several office oppressions, irregularities and abuses, such as shouting at her staff for failing to buy her correct lunch order; sending her staff on non-office-related errands; using government vehicles and chauffeurs for personal trips to dermatology clinics, social clubs, malls, and cinemas; falsifying daily time records; and hiring ghost employees.<sup>[10]</sup>

On February 14, 2014, the Ombudsman placed Quisumbing on preventive suspension for six months pending investigation.<sup>[11]</sup> Quisumbing filed her counter-affidavit, claiming that the allegations against her were fabrications by the complainants who were disgruntled members of her staff with a propensity for dishonesty and insubordination. She also denied being cruel and oppressive to her staff, claiming that she was merely reprimanding and criticizing her staff with justifiable bases; and attributed her increased irritability as a side effect of her treatment for fibromyalgia. She also denied Eugenio's allegations regarding pocketing the latter's salary differential and taking of her staffs salary ATM cards. However, she admitted to maintaining an office fund for the benefit of the whole office staff.<sup>[12]</sup>

After a further exchange of pleadings, the Ombudsman rendered the aforementioned August 28, 2014 Joint Resolution. The anti-corruption agency found probable cause to indict Quisumbing for direct bribery under the Revised Penal Code, violation of R.A. No. 3019, and violation of R.A. No. 6713.<sup>[13]</sup> On the administrative aspect, the Ombudsman found Quisumbing guilty of grave misconduct and violation of Section 7(d) of R.A. No. 6713.<sup>[14]</sup> Quisumbing admitted that she proposed and caused the execution of the written agreement stipulating that Eugenio's salary differential would be remitted to her as part of the "CRVQ Office Fund." Her admission is further substantiated by the acknowledgment receipts showing that she had indeed received a total amount of P41,292.85 in salary differentials from Eugenio, the authenticity of which was not disputed.<sup>[15]</sup> All told, the Ombudsman found that there was substantial evidence to prove Eugenio's allegation that Quisumbing demanded and received the former's salary differential.<sup>[16]</sup> This act constitutes a violation of R.A. No. 6713, Section 7(d) and is also tantamount to grave misconduct. Not only did Quisumbing commit a deliberate violation of a legal rule, but she also used her office to obtain funds for her own personal benefit. The Ombudsman gave short shrift to Quisumbing's claim that the funds were for the benefit of her staff, as she admitted to keeping the same in her office.<sup>[17]</sup> In view of these findings, the Ombudsman meted on Quisumbing the penalty of dismissal from government service, with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government.<sup>[18]</sup>

Aggrieved, Quisumbing filed a Motion for Reconsideration<sup>[19]</sup> on September 15, 2014. On September 24, 2014, Secretary Ochoa issued the first assailed

Memorandum directing Chairperson Rosales to implement the Ombudsman's August 28, 2014 Resolution. The Memorandum reads:

TO: CHAIRPERSON LORETTA ANN P. ROSALES  
Commission on Human Rights

SUBJECT: OMBUDSMAN JOINT RESOLUTION DATED 28 AUGUST  
2014

DATE: 24 September 2014

In compliance with the aforementioned Joint Resolution of the Office of the Ombudsman in the cases docketed as OMB-C-C-13-0354 and OMB-C-A-13-0334 (*MA. REGINA D. EUGENIO v. CECILIA RACHEL V. QUISUMBING, Salary Grade 30, Commissioner, Commission on Human Rights*) and OMB-C-C-14-0011 and OMB-C-A-14-0009 (*MA. REGINA D. EUGENIO, ELIZABETH DIEGO-RUIZON, ALEXANDER B. FERNANDEZ and JESSE K. AYUSTE vs. CECILIA RACHEL V. QUISUMBING, Salary Grade 30, Commissioner, Commission on Human Rights*), you are hereby directed to **DISMISS** Commissioner Cecilia Rachel V. Quisumbing from the service with imposition of all its accessory penalties.

Please submit to the Office, within five (5) days from receipt thereof, your compliance to this directive.

(Signed)

PAQUITO N. OCHOA, JR. <sup>[20]</sup>

In compliance with the foregoing directive, Chairperson Rosales issued the second assailed memorandum, which reads:

FOR : COMM. CECILIA RACHEL V. QUISUMBING

SUBJECT: ORDER OF DISMISSAL FROM SERVICE

DATE : 01 October 2014

Pursuant to its Joint Resolution dated 28 August 2014 in cases docketed as OMB-C-C-13-0354 and OMB-C-A-13-0334 (*Eugenio vs. Quisumbing*) and OM-C-C-14-0011 and C-A-0009 (*Eugenio, et al. vs. Quisumbing*), the Office of the Ombudsman found you guilty of violating Section 7 (d) of R.A. No. 6713 and Grave Misconduct and meted the penalty of DISMISSAL from the service, including all its accessory penalties of (a) cancellation of eligibility, (b) forfeiture of retirement benefits and (c) disqualification for re-employment in the government service.

In view of the said Joint Resolution of the Office of the Ombudsman, the Office of the President through a Memorandum from the Executive Secretary dated 24 September 2014 directed the undersigned to dismiss you from the service with imposition of all its accessory penalties.

WHEREFORE, in compliance with the foregoing Joint Resolution of the Office of the Ombudsman and Directive from the Office of the President,

you are hereby DISMISSED from the service as Commissioner of the Commission on Human Rights effective immediately.

(Signed)

LORETTA ANN P. ROSALES<sup>[21]</sup>

On October 14, 2014, Quisumbing filed the present petition. Subsequently, the CHR and the Solicitor General (on Secretary Ochoa's behalf) filed their respective comments.<sup>[22]</sup> On November 11, 2014, the Office of the Ombudsman issued a Joint Order denying Quisumbing's September 15, 2014 motion for reconsideration.<sup>[23]</sup>

### **The Issue**

The sole issue distillable from the grounds raised by the petition<sup>[24]</sup> is whether or not respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction when they implemented Quisumbing's dismissal despite the pendency of her motion for reconsideration with the Office of the Ombudsman.

Quisumbing argues that the assailed resolutions trample upon the constitutional powers and independence of the CHR and the Office of the Ombudsman. Citing the case of *Bautista v. Salonga*,<sup>[25]</sup> Quisumbing asserts that the assailed memoranda constitutes an "undue executive control or interference" upon the constitutional independence of the CHR.<sup>[26]</sup> Furthermore, the assailed memoranda usurp the Ombudsman's "sole prerogative" to order the immediate implementation of its decisions. Quisumbing claims that under Office of the Ombudsman Administrative Order (A.O.) No. 17, the immediate executory effect of the Ombudsman's decisions applies only to appeals, and not to motions for reconsideration. Since the Ombudsman did not issue an order to implement its August 28, 2014 resolution, the immediate implementation thereof through the assailed memoranda, pending the resolution of Quisumbing's motion for reconsideration, was an undue encroachment upon the Ombudsman's power to enforce its own rulings.<sup>[27]</sup>

Respondents counter that the assailed memoranda were issued pursuant to the President's disciplinary authority over the CHR. Although the CHR is a constitutionally created independent office, it was not placed on the same footing as the other Constitutional Commissions. Consequently, unlike the other Constitutional Commissions, the chairperson and members of the CHR are not impeachable officers and are therefore under the jurisdiction of the Ombudsman. Moreover, since they are appointed by the President, they are likewise under the direct disciplining authority of the President; and the Executive Secretary, as the President's alter ego, has the power to issue a memorandum to implement the Ombudsman's August 28, 2014 resolution.<sup>[28]</sup> The constitutional independence of the CHR is only meant to shield it from presidential pressure or influence, but not from presidential disciplinary authority.<sup>[29]</sup> Furthermore, under the Rules of Procedure of the Office of the Ombudsman and applicable jurisprudence, there is no difference between a motion for reconsideration and an appeal insofar as their effect on the immediate execution of the Ombudsman's decisions is concerned.<sup>[30]</sup> Consequently, the Ombudsman has directed all heads of departments, bureaus, offices, and agencies under its jurisdiction to immediately implement its decisions upon receipt thereof.<sup>[31]</sup> Likewise, the issue has been rendered moot and academic by the Ombudsman's

denial of Quisumbing's motion for reconsideration from which the only remedy is an appeal to the Court of Appeals which, as admitted by Quisumbing, is not a bar to the immediate implementation of her dismissal from government service.<sup>[32]</sup>

### **The Court's Ruling**

The petition has no merit.

The OMB is a constitutional body tasked with the prevention, investigation, and prosecution of corruption in the government. Among the powers given to it by the Constitution is the power to promulgate its own rules of procedure.<sup>[33]</sup> This power is further specified in Section 18 of R.A. No. 6770 (the Ombudsman Act). Likewise, the binding effect of the Ombudsman's decisions is described in Section 27 of the Ombudsman Act.

Pursuant to these provisions, the Ombudsman promulgated its Rules of Procedure.<sup>[34]</sup> Rule III, Section 7 thereof provides:

**SEC. 7. *Finality of decision.*** - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one-month salary, the decision shall be final and unappealable. In all other cases, the decision shall become final after the expiration of ten (10) days from receipt thereof by the respondent, unless a motion for reconsideration or petition for *certiorari* shall have been filed by him as prescribed in Section 27 of R.A. No. 6770.

This provision was amended thrice. On July 31, 2000, A.O. No. 14-00<sup>[35]</sup> added a second paragraph:

**Section 7. *Finality and execution of decision.*** - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one-month salary, the decision shall be final and unappealable. In all other cases, the decision may be appealed within ten (10) days from receipt thereof, unless a motion for reconsideration or petition for *certiorari* shall have been filed by the respondent, as prescribed in Section 27 of R.A. No. 6770.

An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins such appeal and shall be paid his salary and such other emoluments during the pendency of the appeal.

Less than a month later, A.O. No. 14-A-00<sup>[36]</sup> was issued. With the amendments introduced thereby, the provision now read:

**Sec. 7. *Finality and execution of decision.*** - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one-month salary, the decision shall be