

EN BANC

[G.R. No. 237330, November 03, 2020]

**ALDRIN MADREO, PETITIONER, VS. LUCILO R. BAYRON,
RESPONDENT.**

[G.R. No. 237579, November 3, 2020]

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. LUCILO R.
BAYRON, RESPONDENT.**

D E C I S I O N

DELOS SANTOS, J.:

Before the Court are two consolidated Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated 8 August 2017 and the Resolution^[2] dated 25 January 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 149375, which reversed and set aside the Decision^[3] dated 18 November 2016 of the Office of the Ombudsman (OMB) in OMB-L-A-13-0564 and dismissed the administrative complaint against Lucilo Bayron (Lucilo), City Mayor of Puerto Princesa, Palawan, by reason of the application of the doctrine of condonation.

Antecedents

During the 2013 elections, Lucilo won as the Mayor of Puerto Princesa City, Palawan. He assumed office on 30 June 2013.

On 1 July 2013, the City Government of Puerto Princesa, represented by Lucilo as city mayor, entered into a Contract of Services^[4] with Lucilo's son, Karl Bayron (Karl), engaging the latter as Project Manager for Bantay Puerto-VIP Security Task Force, with a monthly compensation of P16,000.00, from 1 July 2013 to 31 December 2013.

The Complaint

On 22 November 2013, Aldrin Madreo (Madreo) filed a Complaint-Affidavit^[5] against Lucilo and Karl before the OMB, charging them with the following:

- (1) Administrative offenses of Grave Misconduct, Serious Dishonesty; Conduct Unbecoming of a Public Officer and Conduct Prejudicial to the Best Interest of the Service, docketed as OMB-L-A-13-0564; and
- (2) Criminal offenses of Nepotism, Perjury, Falsification of Public Documents, and Violation of Section 3(e) of Republic Act (RA) No. 3019, docketed as OMB-L-C-13-0500.^[6]

In his Complaint-Affidavit, Madreo alleged that the Contract of Services between the Puerto Princesa City Government and Karl contained a declaration that Karl "is not related within the fourth degree of consanguinity/affinity with the Hiring Authority." Contrary to this declaration, however, Karl is the biological son of Lucilo as evidenced by an official copy of his Birth Certificate.^[7] Madreo argued that such act of concealment was indicative of a clear intention to violate the law,^[8] lack of integrity, and disposition to betray and defraud the public.^[9] He added that they also violated Civil Service Commission Memorandum Circular No. 17-02^[10] which prohibits a person covered by the rule against nepotism to be hired under a contract of service. Finally, Madreo claimed that Karl acted without authority when he issued Office Order No. 001, Series of 2013,^[11] detailing a certain Rigor Cobarrubias, a regular employee, to the City Traffic Management Office.^[12]

In his Consolidated Counter-Affidavit,^[13] Lucilo alleged that the position for which Karl was engaged in a non-career position. He pointed out that the position is confidential in nature, and, as such, his engagement is allowed under the Civil Service Rules.^[14] He added that the complaint should be dismissed outright on the basis of the following grounds: (1) failure to comply with Administrative Order No. 07,^[15] as amended, which requires that a criminal and/or administrative complaint should be under oath; (2) lack of jurisdiction of the OMB since administrative complaints against local elective officials should be filed before the Office of the President; and (3) Madreo's lack of personal interest in the subject matter of the complaint as he was not a resident nor a taxpayer of Puerto Princesa City.^[16]

Additionally, both Lucilo and Karl explained that the latter was not considered a public officer, therefore there was no legal obligation to disclose their relationship. As the position is confidential in nature, it is exempt from the rule against nepotism, and relationship between the parties is immaterial. Further, they claimed that there was no deliberate or willful intent to commit a falsehood as it was the city government, and not Lucilo, which entered into a contract with Karl.^[17]

The 2015 Recall Election

On 8 May 2015 and during the pendency of the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500, a recall election was held for the position of city mayor of Puerto Princesa. After the casting and counting of the votes, Lucilo was proclaimed as the winner and duly elected mayor of Puerto Princesa City.^[18]

On 22 June 2015, Lucilo, through his counsel, filed an Entry of Appearance with Motion to Dismiss,^[19] praying for the dismissal of the administrative complaint in light of his proclamation as the winner of the recall election. He asserted that re-election to office operates as a condonation of the officer's misconduct to the extent of cutting off the right to remove him therefrom.^[20]

May 2016 Elections

During the May 2016 local elections, and while the proceedings in OMB-L-A-13-0564 and OMB-L-C-13-0500 were ongoing, Lucilo was re-elected as mayor of Puerto Princesa City.

Ruling of the OMB, Removal and Reinstatement of Lucilo as City Mayor

On 18 November 2016, the OMB, through Assistant Ombudsman Jennifer Jardin-Manalili, rendered a Decision^[21] in OMB-L-A-13-0564, finding both Lucilo and Karl administratively liable, the dispositive portion of which reads:

WHEREFORE, this Office finds substantial evidence to hold respondents **LUCILO R. BAYRON**, and **KARL M. BAYRON** administratively liable for **SERIOUS DISHONESTY** and **GRAVE MISCONDUCT**. Pursuant to Section 46 (A)(1) and Section 46 (A)(3) respondents are meted the penalty of **DISMISSAL FROM THE SERVICE**, together with the corresponding accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, bar from taking the civil service examinations and perpetual disqualification from holding any public office.

In the event the principal penalty of dismissal can no longer be enforced on respondents, it shall be converted into a **Fine** in the amount equivalent to their basic salary for one year, payable to the Office of the Ombudsman, which amount maybe deducted from any receivable from the government. In the alternative, respondents] may opt to pay the fine directly to the Office of the Ombudsman.

SO ORDERED.^[22]

On the same date, a Resolution^[23] was issued finding probable cause to indict both Lucilo and Karl for Falsification of Public Document.

Lucilo and Karl then filed their respective motions for reconsideration of the above Decision and Resolution.^[24] Pending the resolution of his motion for reconsideration, Lucilo filed before the CA a Petition for Review^[25] on 2 February 2017, alleging, among others, that with his re-elections during the 8 May 2015 recall election and May 2016 local elections, he can no longer be removed from office by reason of the condonation doctrine,^[26] also known as Aguinaldo doctrine, which provides that a public official cannot be removed for administrative misconduct committed during a prior term since his re-election to office operates as a condonation of his past misconduct. Lucilo's petition, however, was simply noted without action by the CA for being premature in view of Lucilo's pending motion for reconsideration with the OMB.^[27]

Meanwhile, the OMB Decision dated 18 November 2016 was implemented by way of several issuances and letters from various government agencies, including the Indorsement Letter^[28] dated 10 January 2017 of the OMB to the Department of Interior and Local Government (DILG) and the Memorandum^[29] dated 15 February 2017 of the DILG-MIMAROPA Region advising Vice-Mayor Luis Marcaida III (Marcaida) to assume office. Marcaida later took his oath as the Mayor of Puerto Princesa City.^[30]

On 20 February 2017, Lucilo filed an Urgent Verified Manifestation^[31] with the OMB, stating that he is abandoning his motion for reconsideration so that he may already avail judicial relief on the justification that the OMB has already effectively denied his motion for reconsideration by causing the immediate implementation of the

judgment of dismissal. Further, with the objective to prevent the immediate implementation of the judgment of dismissal, Lucilo filed a motion for the issuance of a temporary restraining order (TRO) or a *status quo ante* Order before the CA, which was denied, however. Nonetheless, the CA declared the petition for review submitted for decision.^[32]

Subsequently, in a Joint Order^[33] dated 20 March 2017, the OMB modified its earlier ruling, setting aside the Resolution finding probable cause for Falsification of Public Document against Lucilo and Karl, and holding them administratively liable for Simple Dishonesty only. The dispositive portion of the Order reads:

WHEREFORE, considering the foregoing, this Office **PARTIALLY GRANTS** the Consolidated Motion for Reconsideration of respondent Karl M. Bayron. The Motion for Reconsideration of respondent Lucilo R. Bayron in the criminal case, on the other hand, is **GRANTED**.

The assailed Resolution is hereby **SET ASIDE** and all criminal charges against the respondents are **DISMISSED**. On the other hand, the assailed Decision is accordingly **MODIFIED**. Respondents Lucilo R. Bayron and Karl M. Bayron are administratively found guilty only of **SIMPLE DISHONESTY** and meted the penalty of **Three Months Suspension** from service.

In the event the principal penalty of suspension can no longer be enforced on respondents, it shall be converted into a **Fine** in the amount equivalent to their basic salary for three months, payable to the Office of the Ombudsman, which amount may be deducted from any receivable from the government. In the alternative, respondent may opt to pay the fine directly to the Office of the Ombudsman.

SO ORDERED.^[34]

Thereafter, Lucilo filed before the CA an Urgent Manifestation with Reiterative Plea (For Immediate Issuance of Status Quo Ante Order/Preliminary Injunction Pending Final Disposition of the Main Petition),^[35] alleging that while the OMB had already reduced his penalty, the finding of guilt for Simple Dishonesty against him was bereft of any factual or legal basis, hence, he should be totally exonerated.^[36] On the other hand, Marcaida filed a Petition for Leave to Intervene,^[37] praying that he be allowed to intervene in the CA case and that a *status quo ante* order be issued to preserve the status of the parties prior to the issuance of the Joint Order dated 20 March 2017.^[38]

On 22 June 2017, the DILG re-installed Lucilo as mayor of Puerto Princesa City per OMB's directive to implement its Joint Order^[39] dated 20 March 2017.

On 6 July 2017, the OMB modified its disposition once again by setting aside the Joint Order dated 20 March 2017 in so far as Lucilo is concerned. The dispositive portion of its latest Order reads:

WHEREFORE, in view of the foregoing, this Office **GRANTS** complainant-movant Aldrin Madreos Motion for Reconsideration and hereby **RECONSIDERS** and **SETS ASIDE** the assailed Joint Order dated

20 March 2017 modifying the Decision dated 18 November 2016 insofar as it affects respondent Lucilo Bayron.

SO ORDERED.^[40]

Lucilo notified the CA of the supervening order which, in effect, reinstated OMB's judgment of his dismissal from service, and accordingly filed an Urgent Motion to Expedite Decision of the Pending Petition for Review.^[41]

Ruling of the Court of Appeals

On 8 August 2017, the CA rendered the now assailed Decision.^[42] The CA discussed that Lucilo could not be held liable for the charges of Serious Dishonesty and Grave Misconduct based on the circumstances surrounding the execution of the Contract of Services and in view of Lucilo's acquittal in the criminal complaint for Falsification of Public Document. In the main, however, the CA reversed the Decision dated 18 November 2016 of the OMB and dismissed the administrative complaint against Lucilo on the ground that the Aguinaldo doctrine is applicable to his case. The CA ratiocinated:

The cold hard fact is that after the purported misrepresentation, [Lucilo] was re-elected in a recall election held on 8 May 2015 when the *Aguinaldo Doctrine* was still in force. **It must be emphasized that it is the election which operates to condone any misconduct supposedly committed by the public official during a prior term.** In sooth, [Lucilo's] reelection on 8 May 2015 operates as a condonation of his alleged previous misconduct to the extent of cutting off the right to remove him therefrom.

x x x x

THE FOREGOING DISQUISITIONS CONSIDERED, We hereby **GRANT** the *Petition for Review*. The *Decision* dated 18 November 2016 of the Office of the Ombudsman in OMB-L-A-13-0564 is **REVERSED and SET ASIDE**. Accordingly, the Complaint for Serious Dishonesty and Grave Misconduct against petitioner Lucilo Bayron is **DISMISSED**.

The *Petition for Leave to Intervene* filed by Vice-Mayor Luis Marcaida is **DENIED**.

SO ORDERED.^[43]

Madreo, Marcaida, and the OMB filed their separate motions for reconsideration of the Decision of the CA. The OMB, in particular, questioned the applicability of the doctrine of condonation in Lucilo's case as the same had already been abandoned in *Ombudsman Carpio-Morales v. Court of Appeals*^[44] promulgated on 10 November 2015. While the abandonment of the said doctrine was declared to be applied prospectively, the OMB explained that there was no categorical statement from the Court as to what constitutes "prospective application." As such, the OMB is of the opinion that all administrative cases that remain open and pending as of 12 April 2016, the date of finality of *Carpio-Morales*, can no longer avail of the defense of condonation. In any case, the OMB pointed out that Lucilo cannot avail the benefit of the condonation doctrine since he was not re-elected to a fresh term in the 2015