

SECOND DIVISION

[G.R. No. 216574, July 10, 2019]

FACT-FINDING INVESTIGATION BUREAU (FFIB) - OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND OTHER LAW ENFORCEMENT OFFICES, PETITIONER, VS. RENATO P. MIRANDA, RESPONDENT.

DECISION

LAZARO-JAVIER, J.:

THE CASE

This Petition for Review on Certiorari^[1] seeks to reverse and set aside the following issuances of the Court of Appeals^[2] in CA-G.R. SP No. 127459 entitled "*Renato P. Miranda v. Office of the Ombudsman-Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices and Fact-Finding Investigation Bureau (FFIB-OMB-MOLEO)*":

1. Decision^[3] dated July 30, 2014 which reversed and set aside respondent's dismissal from the service as decreed by petitioner Office of the Deputy Ombudsman-MOLEO in OMB-P-A-06-0106-A;^[4]
2. Resolution^[5] dated January 13, 2015 which denied petitioner's motion for reconsideration.^[6]

FACTUAL ANTECEDENTS

Sometime in April 2000, the Philippine Marine Corps (PMC) earmarked and released P36,768,028.95 as Combat Clothing Allowance and Individual Equipment Allowance (CCIE) for its enlisted personnel for CY 1999. Each enlisted employee was to get P8,381.25 as Combat Clothing Allowance and P6,337.80 as Individual Equipment Allowance, or a total of P14,719.05. The disbursements were released through nineteen (19) checks in various amounts. PMC Commanding Officer and Deputized Disbursing Officer Major Felicisimo C. Millado and PMC Commandant BGen. Percival M. Subala signed the checks payable to Deputized Disbursing Officer Major Millado.^[7]

Acting on the records forwarded by the Commission on Audit (COA), FFIB-OMB-MOLEO initiated an investigation of subject disbursements. On basis thereof, FFIB-MOLEO charged respondents MGen. Renato P. Miranda (Formerly Col. Miranda, SG 26), BGen. Percival M. Subala (SG 27), Lt. Col. Jeson P. Cabatbat (SG 25), Maj. Adelo B. Jandayan (SG 24), Capt. Felicisimo C. Millado (SG 23), Capt. Edmundo D.

Yurong (SG 23), and Carolyn L. Bontolo (SG 15) with malversation of public funds through falsification of public documents, violation of COA Rules and Regulations, and violation of Section 3(e) of Republic Act 3019 (RA 3019) or the Anti-Graft and Corrupt Practices Act. The case was docketed OMB P-A-06-00106-A.^[8]

PROCEEDINGS BEFORE THE OFFICE OF THE DEPUTY OMBUDSMAN-MOLEO

In its Affidavit-Complaint^[9] dated January 13, 2006, FFIB-OMB-MOLEO alleged that through "random sampling" of liquidation payrolls, COA discovered that some PMC personnel did not receive the P14,719.05 CCIE allowance supposedly intended for each of them. These PMC personnel disowned the signatures appearing on the payrolls and even denied authorizing any representative to receive these allowances on their behalf.^[10] They also pointed out that the liquidation payrolls were prepared following the payrolls system based on rank. This new payroll system meant that the payroll shall be routed to all marine personnel in different locations all over the country. This sharply deviated from the standard procedure of preparing payrolls according to unit assignment to facilitate its release by the liaison officer to the PMC personnel concerned. The PMC personnel further disclosed that they had already been receiving clothing allowance of P200.00 each since long before; but they never received the supposed additional clothing allowance of P8,381.25.^[11]

As for respondent MGen. Renato Miranda, FFIB-OMB-MOLEO found that he did not have the authority to approve the grant of the CCIE. It was the head of office, PMC Commandant BGen. Subala who had such authority conformably with Section 168, Volume 1 of the Government Accounting and Auditing Manual.^[12]

Respondent's Defense

In refutation, respondent argued that it was BGen. Subala who authorized him to approve the corresponding disbursement vouchers. He maintained that when all the conditions and requirements for approval of the disbursement vouchers were present, he had no discretion but to approve the same.^[13]

As regards the other respondent officers, they, too, argued that they signed the checks as part of their ministerial duty considering that the requirements for approval of the disbursements were all complied with.^[14]

RULING OF THE OFFICE OF THE DEPUTY OMBUDSMAN-MOLEO (ODO-MOLEO)

By Decision^[15] dated February 27, 2009, the ODO-MOLEO found five (5) respondent officers, including MGen. Renato P. Miranda, guilty of grave misconduct and dishonesty. They were ordered dismissed from the service. As for Maj. Adelo Jandayan, in view of his retirement from the service, his retirement benefits, except accrued leave credits, were ordered forfeited, with prejudice against re-employment with the government. With respect to BGen. Percival Subala and Carolyn Bontolo, the cases against them were dismissed. The dispositive portion of the decision

reads, viz:

WHEREFORE, finding substantial evidence, this Office finds respondents **COL. RENATO P. MIRANDA, LT. COL. JESON P. CABATBAT, MAJ. ADELO B. JANDAYAN, CAPT. FELICISIMO C. MILLADO,** and **CAPT. EDMUNDO D. YURONG** GUILTY of Grave Misconduct and Dishonesty pursuant to Section 19 in relation to Section 25, RA 6770 otherwise known as The Ombudsman Act of 1989, and are hereby meted out the penalty of DISMISSAL from the service effective immediately with forfeiture of all the benefits, except accrued leave benefits, if any, with prejudice to re-employment in any branch or service of the government including government owned and controlled corporations.

With respect to respondent **MAJ. ADELO B. JANDAYAN**, since he had already retired from the service, the forfeiture of all his retirement benefits, except accrued leave credits, is hereby **ORDERED**, and his reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations is **PROSCRIBED**.

With respect to respondents **BGEN. PERCIVAL M. SUBALA** and **CAROLYN L. BONTOLO**, this case is hereby **DISMISSED**.

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In its Joint Order^[16] dated November 25, 2011, the ODO-MOLEO denied the respective motions for reconsideration of herein respondent MGen. Miranda, (Ret.) Capt. Millado, and Lt. Col. Cabatbat.

PROCEEDINGS BEFORE THE COURT OF APPEALS

On respondent's petition for review, he faulted the ODO-MOLEO for finding him guilty of grave misconduct and dishonesty and ordering his dismissal from the service with all its accessory penalties. He insisted that he approved the CCIE disbursement as part of his ministerial duty. He also rejected the ODO-MOLEO's finding that he conspired with his co-respondents below.

In its Comment^[17] dated January 18, 2013, petitioner FFIB-OMB-MOLEO asserted that the ODO-MOLEO did not err when it found respondent guilty of grave misconduct and dishonesty.^[18]

Under Decision^[19] dated July 30, 2014, the Court of Appeals reversed, thus:

WHEREFORE, the petition is hereby **GRANTED**. The assailed Decision dated 27 February 2009 and the Joint Order dated 25 November 2011 issued by the Office of the Deputy Ombudsman for Military and Other Law Enforcement Officers are **REVERSED** and **SET ASIDE** with respect to petitioner Renato P. Miranda. Accordingly, Renato P. Miranda is

EXONERATED from the administrative charges against him for lack of substantial evidence.

SO ORDERED.^[20]

The Court of Appeals found that no substantial evidence was presented showing that respondent actively participated in the alleged conspiracy to defraud the government. The documents signed by petitioner only showed he approved the release of subject funds upon certification by subordinate officers in charge of evaluating the proposed disbursement that the same was in order and that funds were available for the purpose. The mere fact of signing the documents in question did not make respondent liable for grave misconduct and dishonesty, conformably with the Court's pronouncement in *Albert v. Gangan*.^[21]

Under Resolution^[22] dated January 13, 2015, FFIB-OMB-MOLEO's motion for reconsideration was denied.

THE PRESENT PETITION

Petitioner FFIB-OMB-MOLEO, through the Office of the Solicitor General, represented by then Acting Solicitor General Florin T. Hilbay, Assistant Solicitor General Marissa Macariag-Guillen, and Senior State Solicitor Karen A. Ong, now implores the Court to exercise its discretionary appellate jurisdiction to reverse and set aside the assailed Decision dated July 30, 2014 and Resolution dated January 13, 2015.

Petitioner faults the Court of Appeals for: (1) ruling that respondent cannot be held administratively liable for grave misconduct and dishonesty in the absence of direct evidence of conspiracy with other PMC officers in the release of more than P36 Million in clothing and equipment allowances; and (2) dismissing the complaint in OMB-P-A-06-00106-A on the strength of *Albert v. Gangan*^[23] which authorizes officers to rely on the certifications, recommendations, and memoranda of subordinate officers or staff, before giving their own seal of approval on official documents or transactions.

According to petitioner, respondent together with other PMC personnel clearly participated in the web of conspiracy to defraud the government of a substantial amount through the fictitious grant of CCIE allowances to supposed enlisted PMC personnel who vigorously denied having received the same. Respondent performed the following specific acts which are allegedly indispensable to the consummation of the fraud, viz:

ONE. Through a document captioned *Funds Entrusted to Agent Officer/Teller*, he authorized Maj. Jandayan to receive the P36,768,028.95 CCIE funds, albeit, the latter was not the duly authorized disbursement officer; and

TWO. Although claiming that the CCIE funds were used to purchase clothing and equipment for PMC enlisted personnel, he submitted payroll copies showing that the supposed beneficiaries received checks, not anything in kind. One hundred forty-five

(45) of these supposed beneficiaries, however, attested that they did not receive these funds in full or in part.

Petitioner also rejects respondent's invocation of *Arias* and *Gangan*. Being a mere subordinate officer in the hierarchy of the PMC, respondent cannot validly excuse himself from the duty of thoroughly reviewing the documents which are routed to him in the regular course of the PMC's operations.

Respondent counters,^[24] in the main:

FIRST. No evidence was adduced to prove the elements of corruption nor his clear intent to violate the law and established rules. Neither was it established that he had a disposition to lie, cheat, deceive, or defraud the government.^[25] The Court of Appeals was correct in finding that the documents on record did not on their face show any irregularity which could have prompted him to doubt before affixing his signature of approval.^[26]

SECOND. He relied on the presumption that the reviewing and approving officers who processed the documents had done so in a regular manner. After all, these officers below had already performed the process of verification, ensuring that the acquisition of supplies or equipment was necessary, the funds therefor were available, and disbursement and distribution of the checks were actually done.^[27]

THIRD. The element of corruption is absent in this case. Records do not show that he unlawfully appropriated for himself any amount from the CCIE allowances.^[28] He was not even involved in the distribution or safekeeping of these funds.^[29] Verily, the extent of his participation in approving the release of the CCIE allowances cannot be equated with grave misconduct and dishonesty.

FOURTH. Lt. Col. Dammang presented evidence showing that payments were actually made to the suppliers of the uniform and equipment, means that the CCIE funds were appropriated according to their This simply purpose and the government did not suffer any injury by reason thereof.^[30]

Petitioner, thus, presents the following issues for our resolution:

1. Did the Court of Appeals err when it ruled that in the absence of direct evidence of conspiracy, respondent cannot be held liable for grave misconduct and dishonesty?
2. Did the Court of Appeals correctly rely on *Gangan* and similar cases to support a decree of exoneration in respondent's favor?

RULING

To begin with, the Court clarifies that only questions of law may be raised in a petition for review on certiorari.^[31] Rule 45 of the Revised Rules of Court provides, thus: