

FIRST DIVISION

[G.R. No. 219501, July 26, 2017]

**POLICE DIRECTOR GENERAL ALAN LA MADRID PURISIMA,
PETITIONER, VS. HON. CONCHITA CARPIO MORALES, IN HER
OFFICIAL CAPACITY AS THE OMBUDSMAN OF THE REPUBLIC OF
THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*^[1] filed by petitioner former Police Director General Alan La Madrid Purisima (Purisima), assailing the Decision^[2] dated July 29, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722, which affirmed the Order^[3] dated December 3, 2014 issued by respondent Conchita Carpio Morales, in her capacity as the Ombudsman, preventively suspending Purisima during the pendency of the consolidated cases against him before the Office of the Ombudsman.

The Facts

In 2011,^[4] the Philippine National Police (PNP) entered into a Memorandum of Agreement^[5] (MOA) with WER FAST^[6] Documentary Agency, Inc. (WER FAST) without going through any public bidding. Under the MOA, the PNP undertook to allow WER FAST to provide courier services to deliver firearm licenses to gun owners.^[7] In turn, WER FAST agreed to donate equipment for an online application system for the renewal of firearm licenses.^[8] PCSupt. Napoleon R. Estilles (Estilles), then Chief of the Firearms and Explosives Office (FEO) under the Civil Security Group (CSG), signed the MOA on behalf of the PNP. Based on the records, the incumbent PNP Chief approved the signing of the MOA on August 24, 2011.^[9]

Subsequently, the PNP's Legal Service (LS) was instructed to review the signed MOA *vis-a-vis* a proposed revised MOA, noting that the signed MOA had not been implemented. In a Memorandum^[10] dated August 7, 2012, the LS opined that the FEO should first formulate rules for accreditation, by which to evaluate any company offering courier services, including WER FAST. It further suggested that the rules should include the qualifications of the company to be accredited, the required scope of courier services, the creation of an accreditation committee, provisions on strict confidentiality, disclaimer, and grounds to terminate accreditation.^[11]

Consequently, on November 19, 2012, the FEO Courier Services Accreditation Board (Accreditation Board) was constituted.^[12] In an undated memorandum^[13] entitled "Policy on Accreditation of FEO Courier Service" (Accreditation Policy), then CSG

Director Police Director Gil Calaguio Meneses (Meneses) laid down the criteria and procedure for the accreditation of courier service providers, as follows:

5. QUALIFICATIONS/CRITERIA FOR ACCREDITATION

A Courier Service provided may be accredited under the following conditions:

5.1 Applicant must be a local entity with appropriate business permits and is **duly registered with the Securities and Exchange Commission (SEC)**[;]

5.2 It has completed and submitted all its reportorial requirements to the [SEC];

5.3 It has updated permits from [the local government unit (LGU)] where its main office is located[;]

5.4 It has **paid all its income taxes for the year**, as duly certified by the Bureau of Internal Revenue (BIR);

5.5 It must have **secured clearances from Directorate for Intelligence (DI)**[;]

5.6 It must have an **extensive network all over the Philippines**; and

5.7 The application shall be made in the name of the company represented by its President or any of its key directors as duly authorized in a board resolution for that purpose.^[14] (Emphases supplied)

On December 18, 2012, Purisima was appointed as PNP Chief.^[15] Thereafter, or on February 12, 2013, Meneses issued a Memorandum^[16] addressed to Purisima (Meneses Memo), stating that the CSG has accredited WER FAST as the courier service to deliver the approved firearms license cards to gun owners, and more importantly, recommended that the delivery of license cards via courier be made mandatory:

7. In compliance [with] the policy guidance of the then TACDS, now the Chief, PNP, to implement the delivery of the approved firearms license cards to the addresses supplied by the applicants, **this office has accredited WER FAST Documentation Agency for the purpose, after complying with all the documentary requirements stipulated in the FEO Policy on Accreditation.**

RECOMMENDATION

8. **Recommend that the delivery of firearms licenses cards of gun owners to their registered addresses**, whether newly purchased firearms or renewed firearm licenses **be made mandatory**, to give force and effect to this new intervention to monitor and control firearms in the hands of gun owners.

9. Approval of para 8 above.^[17] (Emphases supplied)

Purisima approved this memorandum on February 17, 2013.^[18] It was only more than a month after the Meneses Memo was issued, or on April 1, 2013, that the Accreditation Board issued Resolution Number 2013-027,^[19] accrediting WER FAST as a courier services provider to all FEO clients relative to the licensing of firearms (FEO Resolution).

The Proceedings Before the Ombudsman

In 2014, two (2) complaints were filed before the Office of the Ombudsman against Purisima, WER FAST, and other PNP officials relative to the PNP's directive for gun owners to avail of the courier delivery of firearm licenses *via* WER FAST. The first complaint^[20] filed by a private complainant charged Purisima, Estilles, and WER FAST of violating Republic Act (RA) Nos. 6713,^[21] 3019,^[22] 7080,^[23] and 9184.^[24] He alleged, among others, that the MOA was not procured through competitive bidding; it was executed before WER FAST obtained its SEC certificate of registration; WER FAST is not authorized by the Department of Transportation and Communication (DOTC) to deliver mails/parcels to the public; Purisima has close personal ties with WER FAST's incorporator and high ranking officer; Purisima made mandatory the use of courier service for license delivery in favor of WER FAST; and WER FAST was inefficient in delivering the license cards.^[25] He later filed a Manifestation and Motion^[26] with attached Joint-Affidavit^[27] executed by several PNP officials positively identifying Purisima as the one who directed FEO-CSG to accommodate WER FAST as the sole courier delivery service of the firearms license cards.^[28] Purisima filed his Counter-Affidavit^[29] on July 25, 2014.

On October 9, 2014, the second complaint^[30] was filed by the Fact-Finding Investigation Bureau (FFIB) - Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (MOLEO) against several PNP officers involved in the MOA's execution and WER FAST's accreditation as a courier service provider. Attached to the complaint were certifications from various government agencies attesting that WER FAST failed to meet the qualifications for accreditation under the Accreditation Policy.^[31] As regards Purisima, FFIB-MOLEO prayed that he be administratively charged for gross negligence and/or gross neglect of duty, with a prayer for preventive suspension. It alleged that Purisima is administratively liable "for approving the recommendation of Meneses without verifying or checking the records and capability of [WER FAST]."^[32]

Purisima requested^[33] for additional time to file his counter-affidavit and was granted an inextendible period of ten (10) days from receipt of the Order^[34] dated December 1, 2014.

On December 3, 2014, without waiting for Purisima's counter-affidavit, the Ombudsman issued the assailed Order,^[35] which preventively suspended Purisima and other PNP officers, for six (6) months without pay.^[36]

Purisima and another PNP official^[37] filed their respective petitions for *certiorari*

before the CA, docketed as CA-G.R. SP No. 138296 and CA-G.R. SP No. 138722,^[38] which were consolidated in a Resolution dated January 30, 2015.^[39] While these consolidated cases were pending before the CA, Purisima resigned as PNP Chief^[40] and the preventive suspension period had lapsed.^[41]

The CA Ruling

In a Decision^[42] dated July 29, 2015, the CA dismissed the petitions and affirmed the Ombudsman's assailed Order. On the procedural aspect, the CA held that the petitions are moot in view of the lapse of the six-month period of preventive suspension. In particular, the CA noted that Purisima received the Order on December 4, 2014. Counting from this date, his period of preventive suspension lapsed on June 4, 2015. Nevertheless, the CA proceeded to discuss the merits of the case.^[43]

On the merits, the CA held that the Ombudsman is authorized under Section 24 of RA 6770^[44] to preventively suspend without pay any public officer or employee during the pendency of an investigation. It added that the power to issue preventive suspension order is undoubtedly a part of the Ombudsman's investigatory and disciplinary authority.^[45]

The CA further held that the Ombudsman did not gravely abuse her discretion in preventively suspending Purisima for irregularly accrediting WER FAST as courier service provider, noting that the two (2) requisites^[46] for the validity of a preventive suspension order were present.^[47] *First*, the Ombudsman made a prior determination that the evidence was strong based on the documents submitted to them and the following circumstances: (a) BIR certificate; (b) Director of Intelligence certificate; and (c) Department of Science and Technology (DOST) certificate.^[48] Particularly, WER FAST was accredited despite non-payment of taxes for the years 2011 to 2013 as shown by the BIR certification. The Director of Intelligence likewise issued a certification that it has not given clearances to WER FAST. Additionally, WER FAST's business permits for the years 2011 to 2012 indicated "consultancy" as its business, while its Articles of Incorporation stated that the corporation's primary purpose is to act as a business consultant, engage in providing assistance in documentation and registration. The DOST Postal Regulation Committee also issued a certification that it has not accredited WER FAST as a courier service provider. Notably, WER FAST had no proven track record in courier service. It even engaged the services of LBC Express, Inc. precisely because the former lacked the capacity to deliver firearms licenses. Furthermore, it was not compliant with the DOTC's paid-up capital requirement of P500,000.00 to be accredited to operate as a courier service in two or more administrative regions in the country. To highlight, WER FAST was accredited by PNP nationwide despite having a paid-up capital of only P65,000.00.^[49] *Second*, the charge filed against Purisima was Gross Negligence and/or Gross Neglect of Duty, which if proven true, would constitute a ground for his removal from public office.^[50] Thus, the CA concluded that the concurrence of the foregoing elements rendered the preventive suspension order valid.

Aggrieved, Purisima filed the present petition.

The Issues Before the Court

The issues before the Court are: (a) whether or not the petition has been rendered moot and academic; and, (b) if in the negative, whether or not the CA correctly held that the Ombudsman did not gravely abuse her discretion in preventively suspending Purisima.

The Court's Ruling

The petition is denied.

I.

In *Ombudsman v. Capulong*^[51] (*Capulong*), the Court ruled that a case questioning the validity of a preventive suspension order is not mooted by the supervening lifting of the same:

In the instant case, the subsequent lifting of the preventive suspension order against Capulong does not render the petition moot and academic. **It does not preclude the courts from passing upon the validity of a preventive suspension order**, it being a manifestation of its constitutionally mandated power and authority to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

As held in *Capulong*, the Court, in the exercise of its expanded judicial power, may not be precluded from passing upon the order's validity so as to determine whether or not grave abuse of discretion attended the issuance of the same. The result of a finding of a grave abuse of discretion means that the issuance is null and void from its very inception, and thus, bars the same from producing any legal effects. Indeed, "[n]o legal rights can emanate from a resolution that is null and void."^[52] As such, a public officer improperly placed under preventive suspension should be restored to his original position, and accordingly, should have earned his salaries as if he was not preventively suspended for the pertinent period.

"A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use."^[53] In *Osmeña v. Social Security System of the Phils.*^[54] the Court explained the consequence of a finding of mootness:

In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness - save when, among others, a compelling constitutional issue raised requires the formulation of controlling principles to guide the bench, the bar and the public; or when the case is capable of repetition yet evading judicial review.^[55]