

SECOND DIVISION

[G.R. No. 208341, June 17, 2015]

OFFICE OF THE OMBUDSMAN, PETITIONER, VS. MA. NIMFA P. DE VILLA, RESPONDENT.

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the March 27, 2013 Decision^[1] and the July 15, 2013 Resolution^[2] of the Court of Appeals (CA), in CA-G.R. SP No. 121648, which set aside the "Review"^[3] of the Office of the Ombudsman (*Ombudsman*), dated December 28, 2009, in OMB-C-A-02-0451-1.

The Facts

Respondent Nimfa De Villa (*De Villa*), together with Corazon Chavez (*Chavez*), Delia dela Peña (*dela Peña*), Maribel Barba (*Barba*), Nimfa Miña (*Miña*), and Beatriz Meneses (*Meneses*), was charged with Dishonesty, Grave Misconduct, Conduct Unbecoming of a Public Official, and Conduct Prejudicial to the Best Interest of Service before the Ombudsman.

On June 28, 2001, Adelaida Villa (*Villa*), as seller, and spouses Neil and Erma Digman (*Spouses Digman*), as buyers, executed a deed of absolute sale (*June 28 Deed*) covering a parcel of land with an area of 250 square meters, located along Alabang, Zapote Road, Barangay Almanza Uno, Las Pinas City, for a consideration of P8,500,000.00. On the same date, the said document was entered in the Primary Entry Book of the Register of Deeds of Las Pinas (*RD*) and, thus, a new Transfer Certificate of Title (*TCT*) was issued in the name of Spouses Digman. It appeared, however, that the requisite Certificate Authorizing Registration (*CAR*) evidencing payment of the capital gains tax and the documentary stamp tax was issued by the Bureau of Internal Revenue (*BIR*) only later or on November 12, 2001.^[4]

On March 6, 2002, an anonymous letter from a "concerned Las Pinas RD Employee," reporting the rampant anomalous practice in the RD, reached the Ombudsman.^[5] Upon inquiry by the Ombudsman, through the Fact-Finding and Intelligence Bureau (*FFIB*), they found out that there was another deed of sale, dated June 7, 2001 (*June 7 Deed*), of the same property but covering 50,000 square meters, kept in the RD involving the same parties.^[6] The amount of consideration stated in the June 7 Deed was P30,000,000.00.

Spouses Digman, as buyers, paid P142,500.00 for documentary stamp tax while Villa, as seller, paid P570,000.00 as capital gains tax, computed based on a zonal valuation for 250 sq.m. area of the said property. The FFIB contended that the total tax liability from the subject deed of sale should have been P95,850,000.00 as the

land area consisted of 50,000 sq. m., not merely 250 sq. m.^[7]

In her Counter-Affidavit,^[8] De Villa outlined the procedure for the payment of the capital gains tax and the documentary stamp tax for land registration purposes, as follows:

The seller of the property prepares the returns and files for capital gains tax (DGT) and documentary stamp tax (DST). He files the returns, with supporting documents, with the Bureau of Internal Revenue Office where the property is located. The supporting documents will include, among others, the certificate of title for the property, the tax declaration and the deed of sale. The documents are docketed in the Primary-Entry Book. Thereafter the returns and the supporting documents are referred to the Revenue District Officer who issues a Tax Verification Notice. The application is then assigned to a Revenue Officer for processing.

After the application is processed, the Revenue Officer prepares the Certification Authorizing Registration (CAR). The CAR is referred to a group supervisor for approval. After approval, the certificate is referred to the Revenue District Officer for final approval. The capital gains tax and documentary stamp tax are then paid and the certificate of title is released.^[9]

The supporting documents of the June 28 Deed were referred to De Villa on November 9, 2001 as she was the acting revenue officer. She issued the tax verification notice and assigned the application to Mina for computation and evaluation of the taxes due. It was Mina who prepared the CAR, which showed the area of the land as 250 sq. m. with a zonal value of P9.5 M and a selling price of P8.5 M, and the computation of tax due. Meneses reviewed the computation and the audit report made by Mina, and thereafter, De Villa approved the computation.^[10]

De Villa denied the averment that she had conspired with the others to defraud the government by computing the tax liabilities of a 50,000-sq.m. property based on the zonal value of a 250-sq.m. property. She asserted that the tampered CAR found in the RD was not the authentic copy of the original of the quadruplicate CAR found at the BIR office.^[11]

Ruling of the Ombudsman

In its Resolution,^[12] dated July 5, 2005, the Ombudsman held that only Chavez of the Register of Deeds was administratively liable while the complaint against De Villa and the others should be dismissed. The dispositive portion of the resolution reads:

WHEREFORE, respondent CORAZON C. CHAVEZ is hereby found guilty of Grave Misconduct and is hereby meted the penalty of DISMISSAL FROM THE SERVICE. The complaint against respondents DELIA DELA PENA, MARIBEL B. BARBA, NIMFA N. MINA, BEATRIZ M. MENESES and MA. NIMFA P. DE VILLA is hereby DISMISSED.

SO ORDERED.^[13]

The Ombudsman noted that there were two titles bearing the same TCT No. 58620 and covering the same parcel of land but with different land areas. The first title, indicating an area of 250 sq. m., was submitted to the BIR. The second title, with an area of 50,000 sq. m., was submitted to the RD. Also, a comparison of the two copies of CAR revealed that the original copy kept by the RD bore erasures in the entries or boxes for the area and the location while the quadruplicate copy was clean. This created doubt as to the correct measurement of the area and location stated in the original copy kept by the RD.^[14]

The participation of De Villa, Mina and Meneses was considered by the Ombudsman to be in the lawful performance of their official duties because they based their computation on TCT No. 58620 which reflected an area of 250 sq.m. They could not be faulted for the issuance of the new TCT without the required CAR because the June 28 Deed was not presented to them. It was only on November 9, 2001 that the parties in the said transaction applied for the issuance of CAR.^[15]

In its Review,^[16] dated January 24, 2006, however, the Ombudsman modified its previous ruling and found De Villa, Mina and Meneses also guilty of the charges against them. It explained that Chavez and De Villa allowed the registration of the June 28 Deed and issued the new TCT No. T-79109 in the name of Spouses Digman on the same date without the requisite CAR attached to the said deed of sale. The Ombudsman found that the illegal registration of the subject parcel of land would not have been consummated without the direct participation of Chavez, as the Register of Deeds; and De Villa, Mina and Meneses, as Revenue District Officers. It, however, found no evidence to show the direct participation of Barba and Dela Pena. The dispositive portion reads:

WHEREFORE, in view of the foregoing, it is respectfully recommended that the Resolution dated July 5, 2005, be modified.

Accordingly, respondents CORAZON C. CHAVEZ, NIMFA N. MINA, BEATRIZ M. MENESES and NIMFA P. DE VILLA are hereby found guilty of Dishonesty, Grave Misconduct and Conduct prejudicial to the best interest of the service. Consequently, they are hereby recommended to be DISMISSED from service, with forfeiture of all benefits and with prejudice to re-employment in any branch of the government or any of its agencies, including government owned or controlled corporations.

It is likewise recommended that the case against respondents MARIBEL BARBA and DELIA DELA PENA be DISMISSED for lack of substantial evidence.^[17]

Aggrieved, Meneses, De Villa and Chavez filed their motion for reconsideration but the Ombudsman denied the same in its Order, dated December 28, 2009,^[18] for lack of merit.

De Villa then filed a petition for review before the CA under Rule 43 of the 1997 Rules of Civil Procedure assailing the (1) Review of the Ombudsman, dated January 24, 2006, which modified its July 5, 2005 Resolution; and (2) its December 28, 2009 Order which denied the motion for reconsideration of De Villa, Meneses and Chavez.

Ruling of the Court of Appeals

In its assailed decision, the CA granted the petition and reinstated the July 5, 2005 Resolution of the Ombudsman, the dispositive portion of which reads:

WHEREFORE, the petition is granted. The subject "Review" dated January 24, 2006 and Order dated December 28, 2009 of respondent are set aside. The Decision dated July 5, 2005 of GIPO Ma. Isabel A. Alcantara is reinstated.

SO ORDERED.^[19]

The CA stated that there was no substantial evidence to show that, as Revenue District Officer, De Villa had any direct participation in the registration of the June 28 Deed and the issuance of the new title as these functions pertained to the Office of the RD.^[20] Also, the CA did not find any proof of conspiracy between De Villa and the others.

The Ombudsman filed a motion for reconsideration but the same was denied in the assailed CA resolution, dated July 15, 2013.^[21]

Hence, this petition.

GROUND

I

THE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT RESPONDENT NIMFA DE VILLA IS NOT ADMINISTRATIVELY LIABLE BECAUSE "SHE WAS NOT THE ONE WHO ALLOWED THE REGISTRATION OF THE DEED OF SALE DATED JUNE 28, 2001 IN THE NAME OF SPOUSES DIGMAN WITHOUT THE REQUISITE CERTIFICATE AUTHORIZING REGISTRATION ATTACHED TO SUCH DEED;"

II

THE COURT OF APPEALS SERIOUSLY ERRED IN REINSTATING THE "DECISION DATED 05 JULY 2005" CONTAINING THE RECOMMENDATION OF GRAFT INVESTIGATION AND PROSECUTION OFFICER MA. ISABEL A. ALCANTARA CONSIDERING THAT THE SAME HAD BEEN DISAPPROVED.

III

THE COURT OF APPEALS SERIOUSLY ERRED IN SETTING ASIDE THE OFFICE OF THE OMBUDSMAN'S ASSAILED REVIEW DATED 24 JANUARY 2006, FINDING RESPONDENT MA. NIMFA DE VILLA GUILTY OF DISHONESTY, GRAVE MISCONDUCT AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF SERVICE, CONSIDERING

**THAT THERE IS SUBSTANTIAL EVIDENCE TO HOLD RESPONDENT
ADMINISTRATIVELY LIABLE.^[22]**

The Ombudsman contended that the CA erred when it concluded that De Villa was not the one who allowed the registration of the June 28 Deed. She pointed out that the portion of the assailed Review, describing De Villa as land registration examiner, was clearly a typographical error.^[23]

The Ombudsman also claimed that the July 5, 2005 Decision was merely a recommendation which had been disapproved. In the marginal notes, Assistant Ombudsman Apostol wrote, "Please see separate 'Review' of GIPO Ma. Theresa D. Wu, dated 1-24-06." The findings in the Review became the basis of the Ombudsman in adjudging De Villa guilty of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of Service.^[24]

The Ombudsman averred that De Villa had been remiss in her responsibility as Acting Revenue District Officer as she failed to see to it that all the documents submitted to her were in order before signing and certifying that the documentary stamp tax and the capital gains tax had been paid. Had De Villa been more circumspect in her duty, she would have learned that the subject property was actually 50,000 sq.m. and not merely 250 sq.m. The other revenue officers verified the said documents and reviewed the computation of the documentary stamp tax in the amount of P142,500.00 and the capital gains tax in the amount of P570,000.00 based on the zonal valuation of a 250 sq.m. area which De Villa eventually approved. The Ombudsman, thus, concluded that De Villa must have been aware of the anomaly.^[25]

Position of De Villa

In her Comment,^[26] De Villa argued that the issues raised by the Ombudsman were purely questions of fact and not of law. At any rate, she contended that the obligation of the BIR Commissioner or his representative was simply to certify that the transfer was reported and that the capital gains tax or creditable withholding tax, if any, had been paid. She explained that even assuming that it was she who should indicate the data as allegedly provided under Section 58(e) of the NIRC,^[27] her failure to do so did not constitute grave misconduct warranting the penalty of dismissal from the service. The Ombudsman insisted that there was conspiracy but failed to cite specific personal acts committed by her together with the personnel of the RD.

Moreover, De Villa countered that the unexplained delay of the Ombudsman in acting on the case was a ground for its dismissal as the decision of the Ombudsman was rendered on July 5, 2005, reviewed on January 24, 2006, and affirmed only on December 28, 2009.^[28]

Reply of the Ombudsman

In its Reply,^[29] the Ombudsman argued that its July 5, 2005 Decision was a mere scrap of paper and that it could not be reinstated by the CA as this would effectively