

## **EN BANC**

**[ G.R. No. 180236, January 17, 2012 ]**

**GEMMA P. CABALIT, PETITIONER, VS. COMMISSION ON AUDIT-  
REGION VII, RESPONDENT.**

**[G.R. NO. 180341]**

**FILADELFO S. APIT, PETITIONER, VS. COMMISSION ON AUDIT  
(COA) LEGAL AND ADJUDICATION, REGION VII, RESPONDENT.**

**[G.R. NO. 180342]**

**LEONARDO G. OLAIVAR, IN HIS CAPACITY AS TRANSPORTATION  
REGULATION OFFICER AND OFFICER-IN-CHARGE OF LAND  
TRANSPORTATION OFFICE, JAGNA, PROVINCE OF BOHOL,  
PETITIONER, VS. HON. PRIMO C. MIRO, IN HIS OFFICIAL  
CAPACITY AS DEPUTY OMBUDSMAN FOR VISAYAS, EDGARDO G.  
CANTON, IN HIS CAPACITY AS GRAFT INVESTIGATOR OFFICER,  
ATTY. ROY L. URSAL, IN HIS CAPACITY AS REGIONAL CLUSTER  
DIRECTOR, COMMISSION ON AUDIT, CEBU CITY, RESPONDENTS.**

## **D E C I S I O N**

**VILLARAMA, JR., J.:**

Three employees from the Land Transportation Office (LTO) in Jagna, Bohol were found by the Ombudsman to have perpetrated a scheme to defraud the government of proper motor vehicle registration fees. They now seek in the present consolidated petitions a judgment from this Court annulling the January 18, 2006 Decision<sup>[1]</sup> and September 21, 2007 Resolution<sup>[2]</sup> of the Court of Appeals (CA) which affirmed with modification the Decision<sup>[3]</sup> of the Office of the Ombudsman-Visayas dismissing them from government service.

The facts follow:

On September 4, 2001, the Philippine Star News, a local newspaper in Cebu City, reported that employees of the LTO in Jagna, Bohol, are shortchanging the government by tampering with their income reports.<sup>[4]</sup> Accordingly, Regional Director Ildefonso T. Deloria of the Commission on Audit (COA) directed State Auditors Teodocio D. Cabalit and Emmanuel L. Coloma of the Provincial Revenue Audit Group to conduct a fact-finding investigation. A widespread tampering of official receipts of Motor Vehicle Registration during the years 1998, 1999, 2000 and 2001 was then discovered by the investigators.

According to the investigators, a total of 106 receipts were tampered. The scheme was done by detaching the Plate Release and Owner's copy from the set of official

receipts then typing thereon the correct details corresponding to the vehicle registered, the owner's name and address, and the correct amount of registration fees. The other copies, consisting of the copies for the Collector, EDP, Record, Auditor, and Regional Office, meanwhile, were typed on to make it appear that the receipts were issued mostly for the registration of motorcycles with much lower registration charges. Incorrect names and/or addresses were also used on said file copies. The difference between the amounts paid by the vehicle owners and the amounts appearing on the file copies were then pocketed by the perpetrators, and only the lower amounts appearing on the retained duplicate file copies were reported in the Report of Collections.<sup>[5]</sup> According to State Auditors Cabalit and Coloma in their Joint-Affidavit, the scheme was perpetrated by LTO employees Leonardo G. Olaivar, Gemma P. Cabalit, Filadelfo S. Apit and Samuel T. Alabat, and resulted in an unreported income totaling P169,642.50.<sup>[6]</sup>

On August 8, 2002, COA Regional Cluster Director Atty. Roy L. Ursal reported the tampering of official receipts to Deputy Ombudsman Primo C. Miro.<sup>[7]</sup> According to Atty. Ursal, the irregularity is penalized under Article 217, in relation to Article 171 of the Revised Penal Code;<sup>[8]</sup> Section 3(e)<sup>[9]</sup> of the Anti-Graft and Corrupt Practices Act, and likewise violates Republic Act (R.A.) No. 6713.<sup>[10]</sup>

In a Joint Evaluation Report, Graft Investigators Pio R. Dargantes and Virginia Palanca-Santiago found grounds to conduct a preliminary investigation.<sup>[11]</sup> Hence, a formal charge for dishonesty was filed against Olaivar, Cabalit, Apit and Alabat before the Office of the Ombudsman-Visayas, and the parties were required to submit their counter-affidavits.

In compliance, Olaivar, Cabalit, Apit and Alabat submitted separate counter-affidavits, all essentially denying knowledge and responsibility for the anomalies. As to Olaivar, he maintained that the receipts were typed outside his office by regular and casual employees. He claimed that the receipts were presented to him only for signature and he does not receive the payment when he signs the receipts.<sup>[12]</sup> Cabalit, for her part, claimed that her duty as cashier was to receive collections turned over to her and to deposit them in the Land Bank of the Philippines in Tagbilaran City. She claimed that she was not even aware of any anomaly in the collection of fees prior to the investigation.<sup>[13]</sup> As to Apit, he admitted that he countersigned the official receipts, but he too denied being aware of any illegal activity in their office. He claimed that upon being informed of the charge, he verified the photocopies of the tampered receipts and was surprised to find that the signatures above his name were falsified.<sup>[14]</sup> Alabat, meanwhile, claimed he did not tamper, alter or falsify any public document in the performance of his duties. He insisted that the initial above his name on Official Receipt No. 64056082 was Apit's, while the initial on Official Receipt No. 64056813 was that of Olaivar.<sup>[15]</sup>

During the hearing before Graft Investigator Pio R. Dargantes, State Auditor Cabalit testified on the investigation he conducted in the LTO in Jagna, Bohol. He testified that he was furnished with the owner's and duplicate copies of the tampered receipts. Upon comparison of the Owner's copy with the Collector or Record's copy, he noticed that the amounts shown in the original copies were much bigger than those appearing in the file copies. State Auditor Cabalit also declared that the basis for implicating Olaivar is the fact that his signature appears in all the 106 tampered

official receipts and he signed as verified correct the Report of Collections, which included the tampered receipts. As to Apit and Cabalit, they are the other signatories of the official receipts.<sup>[16]</sup> In some official receipts, the Owner's copy is signed by F.S. Apit as Computer Evaluator, G.P. Cabalit as Cashier, and Leonardo Olaivar as District Head, but their signatures do not appear on the file copies.<sup>[17]</sup>

On February 12, 2004, the Office of the Ombudsman-Visayas directed<sup>[18]</sup> the parties to submit their position papers pursuant to Administrative Order (A.O.) No. 17, dated September 7, 2003, amending the Rules of Procedure of the Office of the Ombudsman.<sup>[19]</sup> No cross-examination of State Auditor Cabalit was therefore conducted.

Complying with the above Order, the COA submitted its position paper on March 18, 2004. Olaivar, Cabalit and Apit, for their part, respectively submitted their position papers on April 29, 2004, March 18, 2004 and March 15, 2004.

In its position paper,<sup>[20]</sup> the COA pointed out that the signatures of Cabalit, Apit and Olaivar were indispensable to the issuance of the receipts. As to Olaivar, the original receipts bear his signature, thereby showing that he approved of the amounts collected for the registration charges. However, when the receipts were reported in the Report of Collections, the data therein were already tampered reflecting a much lesser amount. By affixing his signature on the Report of Collections and thereby attesting that the entries therein were verified by him as correct, he allowed the scheme to be perpetrated. As to Cabalit, the COA pointed out that as cashier, Cabalit's signature on the receipts signified that she received the registration fees. The correct amounts should have therefore appeared in the Report of Collections, but as already stated, lesser amounts appeared on the Report of Collections, which she prepares. In the same manner, Apit, as computer evaluator, also signed the subject receipts allowing the irregularities to be perpetuated.

In his position paper,<sup>[21]</sup> Olaivar meanwhile insisted that he had no participation in the anomalies. He stressed that his only role in the issuance of the official receipts was to review and approve the applications, and that he was the last one to sign the official receipts. He argued that based on the standard procedure for the processing of applications for registration of motor vehicles, it could be deduced that there was a concerted effort or conspiracy among the evaluator, typist and cashier, while he was kept blind of their *modus operandi*.

Cabalit, for her part, questioned the findings of the investigators. She stressed in her position paper<sup>[22]</sup> that had there been a thorough investigation of the questioned official receipts, the auditors would have discovered that the signatures appearing above her name were actually that of Olaivar. She outlined the standard paper flow of a regular transaction at the LTO. It begins when the registrant goes to the computer evaluator for the computation of applicable fees and proceeds to the cashier for payment. After paying, the typist will prepare the official receipts consisting of seven (7) copies, which will be routed to the computer evaluator, to the district head, and to the cashier for signature. The cashier retains the copies for the EDP, Regional Office, Collector and Auditor, while the remaining copies (Owner, Plate Release and Record's copy) will be forwarded to the Releasing Section for distribution and release.

Cabalit insisted that on several occasions Olaivar disregarded the standard procedure and directly accommodated some registrants who were either his friends or referred to him by friends. For such transactions, Olaivar assumes the functions of computer evaluator, typist and cashier, as he is the one who computes the fees, receives the payment and prepares the official receipts. Olaivar would then remit the payment to her. As the cashier, she has to accept the payment as a matter of ministerial duty.

Apit, meanwhile, stressed in his position paper<sup>[23]</sup> that the strokes of the signatures appearing above his typewritten name on the official receipts are different, indicating that the same are falsified. He also explained that considering that the LTO in Jagna issues around 20 to 25 receipts a day, he signed the receipts relying on the faith that his co-employees had properly accomplished the forms. He also pointed out that Engr. Dano admitted signing accomplished official receipts when the regular computer encoder is out, which just shows that other personnel could have signed above the name of F.S. Apit.

On May 3, 2004, the Office of the Ombudsman-Visayas rendered judgment finding petitioners liable for dishonesty for tampering the official receipts to make it appear that they collected lesser amounts than they actually collected. The OMB-Visayas ruled:

WHEREFORE, premises considered, it is hereby resolved that the following respondents be found guilty of the administrative infraction of DISHONESTY and accordingly be meted out the penalty of DISMISSAL FROM THE SERVICE with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and disqualification from re-employment in the government service:

1. Leonardo G. Olaivar -Transportation Regulation Officer II/ Office[r]-In-Charge  
LTO Jagna District Office  
Jagna, Bohol;
2. Gemma P. Cabalit - Cashier II, LTO Jagna District Office Jagna, Bohol;
3. Filadelpo S. Apit - Clerk II, LTO Jagna District Office Jagna, Bohol;

The complaint against respondent Samuel T. Alabat, presently the Head of Apprehension Unit of the Tagbilaran City LTO, is hereby DISMISSED for insufficiency of evidence.

The complaint regarding the LTO official receipts/MVRRs issued by the LTO Jagna District Office, which are not covered by original copies are hereby DISMISSED without prejudice to the filing of the appropriate charges upon the recovery of the original copies thereof.

SO DECIDED.<sup>[24]</sup>

Petitioners sought reconsideration of the decision, but their motions were denied by the Ombudsman.<sup>[25]</sup> Thus, they separately sought recourse from the CA.

On January 18, 2006, the CA promulgated the assailed Decision in CA-G.R. SP. Nos. 86256, 86394 and 00047. The dispositive portion of the CA decision reads,

WHEREFORE, premises considered, judgment is hereby rendered by US DISMISSING the instant consolidated petitions. The assailed decision of the Office of the Ombudsman-Visayas dated May 3, 2004 in OMB-V-A-02-0415-H is hereby AFFIRMED with a modification that petitioner Olaivar be held administratively liable for gross neglect of duty which carries the same penalty as provided for dishonesty. No pronouncement as to costs.

SO ORDERED.<sup>[26]</sup>

According to the CA, it was unbelievable that from 1998 to 2001, Cabalit and Apit performed vital functions by routinely signing LTO official receipts but did not have any knowledge of the irregularity in their office. With regard to Olaivar, the CA believed that the tampering of the receipts could have been avoided had he exercised the required diligence in the performance of his duties. Thus, the CA held him liable merely for gross neglect of duty.

Petitioners sought reconsideration of the CA decision, but the CA denied their motions.<sup>[27]</sup> Hence, they filed the instant petitions before the Court.

In her petition, petitioner Cabalit argues that

I. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE OMBUDSMAN'S DECISION WHICH GAVE RETROACTIVE EFFECT TO THE NEW ADMINISTRATIVE ORDER NO. 17 IN THE PROCEEDINGS BELOW THAT WAS ALREADY ON TRIAL IN ACCORDANCE WITH ADMINISTRATIVE ORDER NO. 07.

II. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT ALTHOUGH THE TRIAL TYPE HEARING UNDER ADMINISTRATIVE ORDER NO. 07 DID NOT PUSH THRU, PETITIONER WAS STILL ACCORDED HER RIGHT TO DUE PROCESS UNDER THE SUMMARY PROCEEDINGS PURSUANT TO ADMINISTRATIVE ORDER NO. 17.

III. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE DECISION OF RESPONDENT OMBUDSMAN DESPITE HAVING FAILED TO MAKE A CATEGORICAL RULING ON THE ISSUE OF WHETHER THE QUESTIONED AND/OR FORGED SIGNATURES BELONG TO PETITIONER GEMMA CABALIT.

IV. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE