

SECOND DIVISION

[G.R. No. 176127, January 30, 2009]

**RODOMIEL J. DOMINGO, PETITIONER, VS. OFFICE OF THE
OMBUDSMAN KATHRYN JOY B. PAGUIO, ALLAN JAY M.
ESGUERRA, AND NEIL PATRICK H. CELIS, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Assailed in this petition is the Decision^[1] dated 20 September 2006 as well as the resolution^[2] dated 5 January 2007 of the Court of Appeals in CA-G.R. SP No. 92597, affirming *in toto* the decision of the Office of the Ombudsman^[3] (OMB) in OMB-C-A-05-0007-A, finding Rodomiel J. Domingo (petitioner) guilty of violation of Section 4(b) of Republic Act (R.A.) No. 6713^[4] and imposing upon him the penalty of suspension for a period of six (6) months.

The antecedent facts follow.

A complaint-affidavit was filed before the Office of the Ombudsman by *Sangguniang Kabataan* (SK) officials Kathryn Joy Paguio, Allan Jay Esguerra and Neil Patrick Celis (respondents) against petitioner as Barangay Chairman and Barangay Treasurer Fe T. Lao (Lao), both of Barangay 686, Zone 75, District V, Manila, for malversation, falsification of public document, dishonesty and grave misconduct.^[5]

Respondents alleged that petitioner and Lao misappropriated the cash advance taken by respondents from the SK funds amounting to P16,784.00 in the year 2002. They added that petitioner gave a

false statement in his *Justification* supporting the 2003 Barangay Budget and Expenditures by declaring that his *barangay* had no incumbent SK officials at that time contrary to the fact that respondents are duly elected and incumbent SK officials of the *barangay*.^[6]

In support of their claims, respondents presented as evidence: (1) the Audit Observation Memorandum dated 9 February 2004 issued by the Office of the City Auditor of Manila;^[7] (2) the photocopy of the certified true copy of the allegedly falsified *Justification*;^[8] (3) the certificate of canvass of voters and proclamation of the winning candidates for SK Chairman and Council members during the SK election on 15 July 2002;^[9] and (4) the affidavit of Esguerra, Danilo Baldivia and Paolo Tagabe attesting to the fact that their services were hired by respondent Paguio to paint the *barangay* sidewalk.^[10]

Petitioner denied the allegations in his counter-affidavit and asserted that all

financial transactions of the *barangay*, particularly the expenditures, were supported by pertinent documents and properly liquidated. He explained that the check covering the sum of P16,784.00, the object of the alleged misappropriation, had been properly liquidated with the submission of pertinent documents as of 26 June 2003.^[11]

In his reply-affidavit, petitioner questioned the authenticity of the *Justification* in that his signature therein was forged.^[12]

The OMB rendered judgment finding petitioner guilty of violation of Section 4(b) of R.A. No. 6713, the dispositive portion of which reads:

WHEREFORE, finding respondent Barangay Chairman Rodomiel J. Domingo of Barangay 686, Zone 75, District V, Manila, GUILTY of violation of Section 4(b) of R.A. [No.] 6713, he should be meted the penalty of suspension from office for a period of six (6) months pursuant to Section 11 of the same Act.

Let the charge for Dishonesty based on the alleged misappropriation of public funds against both respondents be DISMISSED without prejudice to its [refilling] upon finding of irregularities by the Office of the City Auditor of Manila in the barangay transactions after the completion of the audit.^[13]

The charge of misappropriation was dismissed for being premature since the audit of the subject *barangay* transaction had not been concluded by the Office of the City Auditor. The OMB also dismissed the charge of falsification of public document on the ground that questions pertaining to the authenticity of a signature in a document necessitate judicial determination.^[14] Respondents did not appeal from the dismissal of these charges.

However, petitioner was held administratively liable for the irregular submission of a falsified instrument to the Manila Barangay Bureau (MBB) in connection with his barangay's 2003 budget.

Petitioner filed a motion for reconsideration which the OMB denied on 11 October 2005.^[15] The OMB reiterated that petitioner was not made administratively liable for falsification of the contested document but for the submission of the same. It explained that being the Chief Executive Officer of the barangay, petitioner assumes full responsibility on the propriety of all documents submitted in support of the proposed budget and thereafter made part of the records of the proper agency. Moreover, petitioner did not contest the certification appearing thereon as to the existence of the assailed document in the records of the *barangay* bureau.^[16]

After denial of his motion for reconsideration, petitioner filed a petition for review with the Court of Appeals. The appellate court denied the petition and affirmed the OMB's *decision in toto*.

Aggrieved, petitioner filed the instant petition seeking the reversal of the Court of Appeals' decision on two grounds: first, that he cannot be held administratively liable for any act beyond his control and knowledge under R.A. No. 6713; and

second, that the imposition of the penalty of six (6)-month suspension is excessive.

Petitioner argues that the act for which he was indicted is clearly beyond his knowledge and control. He stresses that he could not have possibly falsified his own signature. Moreover, he insists that if he indeed was responsible for the insertion of the *Justification*, he could have put his genuine signature instead of falsifying it. He also maintains that he has no access or control over the submission of documents relative to the release of funds for specific projects, as the responsibility rests either with the Barangay Secretary or Treasurer.^[17] Finally, petitioner challenges his suspension from office as excessive in view of the fact that no undue injury or damage is done to the cause of public service, or to respondents themselves.^[18]

The OMB maintains that its findings are supported by substantial evidence. The submission of a *Justification* which contains a false declaration runs afoul of the conduct a public servant must exhibit at all times, *i.e.*, highest sense of honesty and integrity.

With respect to the penalty imposed, the graft office defends its propriety stressing that it is in accordance with R.A. No. 6713.^[19]

Respondents merely echo the stance of the OMB with the argument that by submitting the falsified *Justification* in connection with the 2003 *barangay* budget, petitioner failed the mark of professionalism required of a Barangay Chairman.^[20]

Petitioner's fundamental point is that one can not be indicted for the submission of a document which he himself has repudiated. The Court of Appeals shared the OMB's view that petitioner had failed to controvert the existence of the *Justification* and its entry into the records of the MBB as certified by the Chief of its Barangay Assistance Unit.

While generally this Court may not review the factual findings of the Ombudsman, especially when affirmed by the Court of Appeals,^[21] we take exception in this case as the findings are contradicted by the evidence on record.^[22]

At the outset, petitioner had questioned the existence of the *Justification*, claiming that his purported signature thereon was forged. The OMB rightfully deferred ruling on the authenticity of the signature on the *Justification* on the ground that said finding necessitates a judicial determination. However, the OMB held petitioner liable for the submission of the *Justification* to the MBB. It explained that the failure of petitioner to contest the certification appearing on the *Justification* as to its existence in the records of the *barangay* bureau should lead to the conclusion that the document came from petitioner, he being the chief executive officer of the *barangay*. This conclusion is clearly *non sequitur*. It is also illogical. The OMB cannot defer ruling on the issue of falsification and in the same breadth not only assume the same document as falsified but on that assumption proceed to hold petitioner liable.

On the merits, the Court is also unconvinced that there is substantial evidence establishing petitioner's culpability. Petitioner had a hand in the preparation and submission of the documents in support of the budget, such as the 2003 *barangay*