

EN BANC

[G.R. No. 171481, June 30, 2008]

CORAZON C. BALBASTRO, APPELLEE, VS. COMMISSION ON AUDIT, REGIONAL OFFICE NO. VI, APPELLANT.

D E C I S I O N

CARPIO MORALES, J.:

Petitioner – former principal of the Iloilo City National High School (ICNHS or the school) in Molo, Iloilo City – assails via petition for review the Amended Decision of the Court of Appeals dated January 18, 2006, which affirmed the decision of the Office of the Ombudsman (Visayas) of April 11, 2002 finding her guilty of Grave Misconduct and dismissing her from government service.

Acting on a February 12, 1999 letter-complaint filed by the officers of the ICNHS Teachers and Employees Association, against petitioner, the Ombudsman-Visayas (Ombudsman), in OMB-VIS-INQ-99-0183, requested respondent Commission on Audit Regional Office No. VI (COA Region VI) to conduct a fact-finding investigation thereon.

Upon order of the COA Region VI, State Auditors Arlene T. Tagonon and Marie Elaine G. Dolorfino conducted a comprehensive audit of the accounts of the ICNHS for the period January 1998 to March 1999 and submitted a report thereon on August 16, 1999. The audit report enumerated the following irregularities which it found to have been probably committed by petitioner and Lydia Ocate, the Disbursing Officer of ICNHS:

1. Late remittance of GSIS, PAG-IBIG and Medicare contributions, thus depriving the employees of availing themselves of loans and receiving benefits granted by these institutions;
2. Non-reflection as government funds in the books of account of miscellaneous fees received by the Principal from the City Government of Iloilo amounting to P184,536.76, which funds were spent for purposes other than those for which they were intended;
3. Spending the amount P161,150 purportedly for repair of projects which were not implemented and were without appropriation;
4. Disbursement by the school of a total of P467,254.55 for costumes of participants in the Ati-Atihan, but only P48,275 of which was spent for the designer's fees; and there was no appropriation for the disbursement of the said amount, which was sourced from the school's Personal Services Funds; and

5. Fifty laborers' names appearing as payees in the payrolls significantly differ from those in other payrolls, casting doubt as to the documents' authenticity.

[1]

A copy of the audit report was forwarded to the Ombudsman for its evaluation.

On the basis of the audit report of COA Region VI, Director Virginia Palanca-Santiago of the Office of the Ombudsman recommended on April 12, 2000 the upgrading of the inquiry in OMB-VIS-INQ-99-0183 into an administrative and criminal case. The administrative case was eventually docketed as OMB-VIS-ADM-2000-0441, and the criminal case as OMB-VIS-CRIM-2000-0494.

On July 7, 2000, COA Region VI, upon the request of Director Palanca-Santiago, submitted to the Ombudsman the complaint-affidavit of auditors Arlene Taganon and Elaine Dolorfino.

By Order of December 11, 2000 issued in OMB-VIS-ADM-2000-0441 and OMB-VIS-CRIM-2000-0494, [2] "*Commission on Audit, Regional Office No. VI v. Corazon Balbastro and Lydia Ocate*," the Ombudsman ordered the therein respondents to file their "counter-affidavit and controverting evidence to the herein attached complaint filed against you by COMMISSION ON AUDIT, REGIONAL OFFICE NO. VI" (underscoring in the original).

Corazon Balbastro, herein petitioner, filed her Answer dated January 31, 2001 alleging that the charges of the ICNHS Teachers & Employees Association are a mere duplication of the administrative charges filed against her at the Department of Education, Culture and Sports (DECS), Region VI entitled "*Ninfa Bata, et al. v. Corazon Balbastro*."

Petitioner later filed a Supplemental Answer dated July 4, 2001 [3] reiterating her original claim that the charges in the letter-complaint merely duplicate the pending DECS case, and denying the charges set forth in the COA audit report.

When the cases were called for preliminary conference on July 5, 2001 by the Ombudsman, only petitioner's co-respondent Ocate and the latter's counsel appeared. In view of the absence of counsel's for COA and for petitioner, the preliminary conference was rescheduled initially to August 7, 2001, but finally to September 7, 2001.

On September 7, 2001, only Atty. Rose Edith Togonon and Arlene Togonon of the COA, and therein respondent Ocate and her counsel, appeared. Petitioner again failed to show up despite notice, prompting the Ombudsman to consider petitioner's and her counsel's two consecutive absences as a waiver of petitioner's right to ask for a formal hearing and to present evidence on her behalf. [4]

The Ombudsman thereafter issued the aforementioned April 11, 2002 Decision in OMB-VIS-ADM-2000-0441 (Ombudsman decision) finding petitioner guilty of Grave Misconduct and imposing upon her the penalty of dismissal from the service with all its accessory penalties. Therein respondent Ocate was exonerated for lack of evidence.

The Ombudsman held petitioner guilty of the irregularities stated in the audit report, except with respect to late remittances of GSIS, PAG-IBIG and Medicare contributions. Albeit those remittances were indeed late, the Ombudsman gave petitioner the benefit of the doubt that she was not responsible for the delay.

With regard to the discrepancies in the payrolls, the Ombudsman noted that the same had already been the subject of another case, OMB-VIS-ADM-2000-0382 to 0391, in which petitioner and Ocate had already been penalized.

Petitioner's motion for reconsideration of the Ombudsman Decision was denied by Order dated September 19, 2002, hence, she filed a petition for review with the Court of Appeals.

The appellate court, while ruling that the COA audit report was "enough basis to sustain the Ombudsman's finding of guilt of petitioner," held that the Ombudsman had no power to directly impose sanctions against government officials and employees, its power being only limited to recommending the appropriate sanctions to the disciplining authority, which in this case is the DECS. Accordingly, the Court of Appeals, by Decision dated April 29, 2005, set aside the challenged Ombudsman decision insofar as it directly imposed on petitioner the penalty of dismissal.

On motion for reconsideration of the Ombudsman, however, the appellate court - on the basis of this Court's ruling in *Ledesma v. Court of Appeals*^[5] that the Ombudsman has the power, not only to determine the administrative penalty of an erring public official, but also to compel the head of the agency concerned to implement the penalty imposed – promulgated an Amended Decision dated January 18, 2006 which affirmed the Ombudsman's imposition of the penalty of dismissal against petitioner.

Without filing a motion for reconsideration of the Amended Decision, petitioner filed the present petition.

Petitioner asserts that the Court of Appeals erred and gravely abused its discretion when it held that she was not denied due process in the proceedings before the Ombudsman and that the Ombudsman decision was supported by evidence and applicable jurisprudence.

Petitioner maintains that she was denied due process and that the proceedings before the Ombudsman were attended by serious irregularities. Thus she claims that she had not been furnished the sworn complaint of COA Region VI, thus giving her the mistaken impression that OMB-VIS-ADM-2000-0441 merely involved the allegations in the letter-complaint dated February 12, 1999 mentioned earlier; and that the letter-complaint, which requested for a comprehensive audit of the ICNHS, merely dwelt on the matter of late remittances to the GSIS, PAG-IBIG and BIR, hence, those were the only matters she responded to in her Answer filed with the Ombudsman.

The petition fails.

If indeed petitioner was not furnished a copy of the sworn complaint of COA Region VI, she could have easily manifested the same in her Answer; instead, she remained totally silent thereon and went on merely to argue that the allegations **in**