

EN BANC

[G.R. No. 167711, October 10, 2008]

THE OFFICE OF THE OMBUDSMAN, PETITIONER, VS. RAMON C. GALICIA, RESPONDENT.

DECISION

REYES, R.T., J.:

GENERALLY, the Ombudsman must yield to the Division School Superintendent in the investigation of administrative charges against public school teachers.

The rule and the exception are at focus in this petition for review on *certiorari* of the Decision^[1] of the Court of Appeals (CA) divesting the Ombudsman of jurisdiction.

The Facts

Culled from the records, the facts are as follows:^[2]

Respondent Ramon C. Galicia was a former public school teacher at M.B. Asistio, Sr. High School (MBASHS) in Caloocan City. Based on the academic records that he submitted forming part of his 201 file, Galicia graduated from the Far Eastern University with a degree in civil engineering but failed to pass the board examinations. He also represented himself to have earned eighteen (18) units in education in school year (SY) 1985-1986, evidenced by a copy of a Transcript of Records (TOR) from the Caloocan City Polytechnic College (CCPC). Likewise, he passed the Teachers' Professional Board Examination (TPBE) given on November 22, 1987.

Subsequently, on December 2001, Reynaldo V. Yamsuan, then Principal of the MBASHS, reviewed the 201 files of his teaching staff. He took note that the TOR submitted by Galicia was not an original copy, but only stamped with "verified correct from the original" signed by Administrative Officer Rogelio Mallari. Pursuant to a Division Memorandum, Yamsuan required Galicia and other teachers with similar records, to secure authenticated copies of the TOR that they submitted. All of the teachers who were given the said instruction complied, with the exception of Galicia.

Yamsuan proceeded to verify the authenticity of the said TOR by requesting for confirmation from the school. Yamsuan was surprised to receive a reply from Marilyn Torres-De Jesus, College Registrar of CCPC, stating that they had no record of the said TOR, and more importantly, that they had no records that Galicia, indeed, took up eighteen (18) units of education in SY 1985-1986. The letter of De Jesus stated:

This has reference to the herein attached photocopy of Transcript of Records of MR. RAMON C. GALICIA which you forwarded in our office for

authentication dated November 29, 2002.

Relative to this, we would like to inform you that on the basis of our records kept in this office, MR. RAMON C. GALICIA has no records from the 18 units of Education 1st Semester 1985-1986.^[3]

Acting on his findings, Yamsuan lodged an affidavit-complaint for falsification, dishonesty, and grave misconduct against Galicia before the Ombudsman.^[4]

In his Counter-Affidavit,^[5] Galicia contended that the complaint was malicious and motivated by revenge. Yamsuan had an axe to grind against him. Earlier, he filed a falsification case against Yamsuan. The two likewise clashed on account of Galicia's chairmanship of the teachers' cooperative.

Galicia stressed that the TOR he submitted was authentic, as shown by the signature of then College Registrar Rolando Labrador. He argued that the certification from the present college registrar that CCPC had no record of his TOR did not prove that the document was spurious. Rather, it only proved that CCPC's filing system of scholastic records was disorganized. This, according to Galicia, explained why the school's copy of the TOR could not be found. Moreover, Galicia argued that the TPBE was a highly specialized type of exam that could only be passed if the examinee acquired academic units in education. If he did not take up the said eighteen (18) units in education, then he could not have possibly passed the TPBE which he took on November 22, 1987.

During the preliminary conference, Galicia presented for comparison the original of the TOR and Certificate of Grades (COG), as well as the original copies of the other documents in his 201 file. A *subpoena duces tecum* was subsequently served upon Prof. Marilyn T. De Jesus, Registrar of CCPC, to appear before the Evaluation and Preliminary Investigation Bureau for the purpose of certifying the authenticity of Galicia's school records. De Jesus, however, declined to certify the documents because no copies were on file in the school. In her reply letter, De Jesus stated:

x x x we would like to inform your good office that since I was appointed as the College Registrar only June 20, 1997, I cannot certify whether or not the attached documents were issued by the Caloocan City Polytechnic College. **But, we would like to inform you that based on the records kept in this office, the attached two documents are not available in our file and MR. RAMON C. GALICIA has no records from the 18 units of Education, 1st Semester, 1985-1986.**^[6]

Ombudsman Disposition

After the parties submitted their reply, rejoinder, and respective memoranda, the Ombudsman gave judgment with the following disposition:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered finding Galicia RAMON C. GALICIA, Guilty of Dishonesty for which the penalty of Dismissal From the Service, Forfeiture of Leave Credits and Retirement Benefits and Temporary Disqualification for Re-employment in the Government Service for a period of One (1) Year from the Finality of

this Decision, is hereby imposed, pursuant to Section 52 (A-1) OF THE Uniform Rules on Administrative Cases (CSC Resolution No. 991936).^[7]

While stating that Galicia presented the original of the questioned documents during the preliminary conference,^[8] the Ombudsman nevertheless found that the absence of a certification from the College Registrar destroyed the TOR's credibility. Said the Ombudsman:

In the preliminary conference of the case held on September 10, 2002, the respondent, together with his counsel presented for comparison the original copies of the following documents: (1) transcript of records (FEU for Civil Engineering), (2) transcript of records, Caloocan City Polytechnic College of the 18 units subject signed by the then Registrar Rolando Labrador; (3) Certification of grades also signed by then Registrar Rolando Labrador; and (4) PBET (teachers board examination grade 73.75% issued by the Civil Service).

All these documents (transcript from the Far Eastern University and the Caloocan City Polytechnic College) were duly signed by their respective registrar.^[9]

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It is therefore clear that the pieces of evidence on record tend to establish the fact that **the Official Transcript of Records submitted by the respondent is spurious, owing to the fact that he does not have any record of having attended and/or obtained the eighteen (18) units of teaching education subjects.**

The photocopy of his Official Transcript of Records does not in any way rebut the evident findings against him, as the same prove to be weak as specie of evidence. If, indeed, the respondent has obtained the eighteen (18) units of teaching education which he claims, then he could easily prove the same apart from the mere photocopy of this Official Transcript of Records. **Stated otherwise, if the respondents did took (*sic*) eighteen (18) units of teaching education subjects, then the same can be easily established by the records of the college itself. However, the Caloocan City Polytechnic College has been consistent in its stand that the respondent has no record of having obtained the teaching education units in question.**^[10] (Emphasis supplied)

Galicia filed a motion for reconsideration, raising the issue of jurisdiction for the first time. He argued that it is not the Ombudsman, but the Department of Education, through the School Superintendent, which has jurisdiction over administrative cases against public school teachers, as mandated by Republic Act (R.A.) No. 4670, or the Magna Carta for Public School Teachers.^[11]

Galicia further challenged the jurisdiction of the Ombudsman by invoking Section 20 of R.A. No. 6770 or the Ombudsman Act^[12] which enumerates the instances when the Ombudsman may not conduct an administrative investigation. Under the said

provision, the Ombudsman may not conduct investigation if the following requisites concur:

1. Complainant has an adequate remedy in another judicial or quasi-judicial body;
2. The complaint pertains to a matter outside the jurisdiction of the Ombudsman;
3. The complaint is trivial, frivolous, vexatious or made in bad faith;
4. Complainant has no sufficient personal interest in the subject matter of the grievance; or
5. The complaint was filed after one year from the occurrence of the act or omission complained of.^[13]

According to Galicia, all of the above conditions were present in the case filed against him. An adequate remedy existed in the Office of the Secretary of Education; the matter was outside the jurisdiction of the Ombudsman; the complaint was made in bad faith; and complainant Yamsuan had no sufficient personal interest in the matter.

Lastly, Galicia claimed that the Ombudsman lacked jurisdiction inasmuch as the complaint was filed only in 2002, thirteen (13) years from the time he allegedly committed the dishonest act in 1989. According to him, this violated Section 20(5) of R.A. No. 6770, which mandated that all complaints must be filed within one year from the occurrence of the act charged.^[14]

The Ombudsman denied Galicia's motion for reconsideration.^[15] It declared that the Ombudsman's disciplining authority extended over all illegal, unjust, and improper acts of public officials or employees, as expressly provided by the 1987 Constitution and the Ombudsman Act.

Even granting that R.A. No. 4670^[16] gave the School Superintendent jurisdiction over administrative cases against public school teachers like Galicia, it did not operate to oust the Ombudsman from its disciplining authority over public employees. There was, in fact, as argued by the Ombudsman, concurrent jurisdiction between the two.

Galicia elevated the case to the CA.

CA Decision

On January 20, 2005, the CA reversed and set aside the decision of the Ombudsman,^[17] disposing as follows:

WHEREFORE, in view of the foregoing, the instant Petition is hereby GRANTED and the Decision dated October 18, 2002 as well as the Order dated July 28, 2003 of public respondent are hereby REVERSED AND SET ASIDE. Petitioner is ordered REINSTATED to his former position and is hereby awarded backwages from the time of his illegal dismissal until he

is reinstated and also all other monetary benefits that may have accrued to him during the period of his unjustified dismissal.^[18]

Principally, the CA held that jurisdiction over public school teachers belonged to the School Superintendent as mandated by R.A. No. 4670.^[19]

The CA, however, did not hinge its decision solely on the question of jurisdiction. It upheld the arguments of Galicia and, consequently, overturned the findings of fact during the investigation proceedings. Contrary to the ruling of the Ombudsman, the CA ruled that the school's lack of certification did not establish that the TOR was fabricated or spurious. It was possible that the records were only missing. The "verified correct from the original" notations in the photocopied TOR and COG prove that the documents were, indeed, authentic.

Issues

In this petition for review, the Ombudsman, via Rule 45, imputes to the CA twin errors, viz.:

I

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ERRED IN NULLIFYING THE DECISION OF THE OFFICE OF THE OMBUDSMAN ON ALLEGED JURISDICTIONAL INFIRMITY.

II

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE FINDINGS OF FACT OF THE OFFICE OF THE OMBUDSMAN WHICH ARE BASED ON SUBSTANTIAL EVIDENCE.^[20]
(Underscoring supplied)

Our Ruling

At the center of the present controversy is the authority granted to the Ombudsman over administrative cases against public school teachers. Before We proceed to discuss the merits of the petition, We shall first review the authority granted to the Ombudsman under existing laws.

The duty and privilege of the Ombudsman to act as protector of the people against the illegal and unjust acts of those who are in the public service, emanate from no less than the 1987 Constitution. Section 12 of Article XI states:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Under Section 13, Article XI, the Ombudsman is empowered to conduct investigations on its own or upon complaint by any person when such act appears to