

FIRST DIVISION

[G.R. No. 149549, February 26, 2004]

BUREAU OF INTERNAL REVENUE AND THE FACT FINDING AND INTELLIGENCE BUREAU, REPRESENTED BY DIR. AGAPITO B. ROSALES, PETITIONERS, VS. LILIA B. ORGANO, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

Violations or disregard of regulations governing the custody, safekeeping and deposit of government funds are administratively sanctionable. Intended to safeguard public funds, these regulations must be followed strictly.

The Case

Invoking Rule 45 of the Rules of Court, petitioners seek to set aside the Decision^[1] of the Court of Appeals^[2] (CA) in CA-GR SP No. 60613, promulgated on June 22, 2001. The dispositive part of the Decision reads:

“**WHEREFORE**, the instant petition for review is **GRANTED**. The Decision dated March 13, 2000 and Order dated August 9, 2000 issued by the Office of the Ombudsman insofar as they declared petitioner Lilia B. Organo guilty of Grave Misconduct, is **REVERSED and SET ASIDE**, and petitioner Organo is hereby found **NOT GUILTY** of the charge of Grave Misconduct.”^[3]

On the other hand, the Office of the Ombudsman’s March 13, 2000 Decision,^[4] which was reversed by the CA, had disposed as follows:

“**WHEREFORE, PREMISES CONSIDERED**, this office finds respondents **DOMINGA S. MANALILI, LILIA ORGANO** and **JOEL MARCELO**, Guilty of **GRAVE MISCONDUCT**, for which the penalty of **DISMISSAL FROM THE SERVICE WITH FORFEITURE OF BENEFITS, CANCELLATION OF ELIGIBILITY and PERPETUAL DISQUALIFICATION [FROM] RE-EMPLOYMENT IN THE GOVERNMENT SERVICE** is hereby imposed pursuant to Section 25 of Republic Act No. 6770 and Section 10, Rule III of Administrative Order No. 07.

“The Honorable x x x Commissioner, Bureau of Internal Revenue is hereby furnished a copy of this Decision for implementation, in accordance with law.

“The complaint against respondents **TEOPISTO SAPITULA** and **NORMA SOLOMON** is hereby **DISMISSED**, for insufficiency of evidence.”^[5]

The Facts

Respondent Lilia B. Organo is a revenue collection officer of the Bureau of Internal Revenue (BIR), Revenue Region 7, Quezon City. On May 13, 1997, then BIR Commissioner Liwayway Vinsons Chato filed with the BIR a formal administrative charge against petitioner for grave misconduct and dishonesty as follows:

“That you, a Revenue Collection Officer assigned in Revenue District Office No. 40, Cubao, Quezon City, on several occasions, received without proper authority, withholding tax returns together with its corresponding check payments from several taxpayers, among them, the House of Representatives, Quezon City Government, MAJECCA (a janitorial services [sic]), Josol D×™cor Improvement Center, Incorporated, and Ateneo de Manila University; that on February 20, 1997, you, without authority, received from Mr. Abraham G. Calica, Disbursing Officer of the House of Representatives, withholding tax returns with its corresponding check payments of the House of Representatives amounting to P22,841,517.84, which you subsequently gave to Mr. Joel DP. Marcelo, a Revenue Clerk in the Administrative Division, Revenue Region No. 7, Quezon City, who was not authorized to receive the same; that Mr. Joel DP. Marcelo deposited the aforesaid check payments with the Land Bank of the Philippines, West Triangle Branch, Diliman, Quezon City, under the unauthorized BIR Account No. 0232-1099-71; and that thereafter, checks were issued to different payees in various amounts drawn against the funds of the said unauthorized BIR account and were subsequently encashed, to the damage and prejudice to the government.”^[6]

Attached, among others, as an annex to the formal administrative Complaint was a copy of respondent’s own Affidavit dated April 7, 1997.^[7]

On June 10, 1997, respondent filed^[8] her verified Answer, in which she admitted^[9] that she had no specific authority allowing her to receive withholding tax returns and check payments. She alleged in her Counter-affidavit that her duties as collection officer consisted merely of collecting delinquent accounts and performing other tasks that her supervisor would assign to her from time to time; and that her acceptance of the withholding tax returns and check payments for transmittal to BIR-authorized banks was a mere assistance extended to taxpayers, without any consideration.^[10]

The BIR’s Personnel Inquiry Division conducted an administrative investigation. Atty. Antonio J. Mangubat of the Anti-Fraud Division was the lone witness. Marked as exhibits during the hearing were transmittal letters from Abraham Calica of the House of Representatives, all addressed to respondent. These did not bear her signature acknowledging receipt, but the signatures of some other persons like Bong Latonero.^[11]

On December 12, 1997, Ombudsman Aniano Desierto issued an Order, the dispositive portion of which reads:

“ACCORDINGLY, pursuant to Section 21 of Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, this Office shall henceforth conduct the investigation and adjudication of the

administrative cases against respondents TEOPISTO A. SAPITULA, DOMINGA S. MANALILI, JOEL D.P. MARCELO, LILIA B. ORGANO and NORMA D. SOLOMON.

“Commissioner LIWAYWAY VINZONS-CHATO of the Bureau of Internal Revenue, and Mr. JESLI A. LAPUS, President of the Land Bank of the Philippines, are hereby requested to transfer and elevate to this Office the complete records of the respective administrative cases against respondents.”^[12]

Thus, the administrative case against respondent was transferred to the Office of the Ombudsman, which adopted the “proceedings, evidence/exhibits presented at the administrative proceedings before the Bureau of Internal Revenue.”^[13] In due course, it rendered its Decision finding respondent guilty of grave misconduct.

Ruling of the Court of Appeals

On appeal, the CA ruled that it had jurisdiction over the Petition, in accordance with *Fabian v. Desierto*.^[14] On the issue of respondent’s culpability for grave misconduct, the CA held that the evidence presented to prove it was insufficient. It reasoned thus:

“While the evidence, including an affidavit allegedly executed by petitioner dated April 7, 1997, purports to show that it was petitioner who received the withholding tax returns and check payments from Abraham Calica of the House of Representatives; that petitioner gave said returns and check payments to Joel DP. Marcelo; and that Marcelo in turn deposited the check payments under the unauthorized BIR Account No. 0232-10990-71, there is no showing that petitioner was aware that the check payments were going to be deposited in an unauthorized account. There is likewise no showing that petitioner knew that said unauthorized account was opened by Manalili, and that checks drawn against said account were issued in favor of third persons. The participation of petitioner was limited to receiving the check payments and passing it on to Marcelo, and then giving the returns and validated payments to Calica.”^[15]

Hence, this appeal.^[16]

Issues

Petitioners submit the following issues for the resolution of this Court:

“A.

Whether there is substantial evidence to find respondent administratively guilty of grave misconduct.

“B.

Whether conspiracy between respondent and her co-accused in the