

EN BANC

[G.R. No. 145973, January 23, 2002]

ANTONIO G. PRINCIPE, PETITIONER, VS. FACT-FINDING & INTELLIGENCE, BUREAU (FFIB), OFFICE OF THE OMBUDSMAN, RESPONDENTS.

DECISION

PARDO, J.:

The Case

The case is a petition for review on certiorari seeking to reverse the decision of the Court of Appeals^[1] affirming the Ombudsman's dismissal of petitioner from the government service for gross neglect of duty in connection with the collapse of the housing project at the Cherry Hills Subdivision, Antipolo City, on August 3, 1999.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"August 28, 1990- Philjas Corporation, whose primary purposes, among others are: to own, develop, subdivide, market and provide low-cost housing for the poor, was registered with the Securities and Exchange Commission (SEC).

"February 19, 1991 - then City Mayor Daniel S. Garcia, endorsed to the Housing and Land Use Regulatory Board (HLURB) the proposed CHS.

"Thereafter, or on 07 March 1991, based on the favorable recommendation of Mayor Garcia, respondent TAN, issued the Preliminary Approval and Locational Clearance (PALC) for the development of CHS.

"On July 5, 1991, then HLURB Commissioner respondent TUNGPALAN issued Development Permit No. 91-0216 for "land development only" for the entire land area of 12.1034 hectares covered by TCT No. 35083 (now TCT 208837) and with 1,003 saleable lots/units with project classification B. P. 220 Model A-Socialized Housing (p. 96, Records), with several conditions for its development.

"Three (3) days thereafter or on July 8, 1991, respondent JASARENO, allowed/granted the leveling/earth-moving operations of the development project of the area subject to certain conditions.

"On November 18, 1991, then HLURB Commissioner AMADO B. DELORIA

issued Certificate of Registration No. 91-11-0576 in favor of CHS, with License to Sell No. 91-11-0592 for the 1,007 lots/units in the subdivision.

"Eventually, on December 10, 1991, respondent POLLISCO issued Small Scale Mining Permit (SSMP) No. IV-316 to Philjas to extract and remove 10,000 cu. meters of filling materials from the area where the CHS is located.

"Thereafter, or on January 12, 1994, Philjas applied for a Small Scale Mining Permit (SSMP) under P. D. 1899 with the Rizal Provincial Government to extract and remove 50,000 metric tons of filling materials per annum on CHS' 2.8 hectares.

"Thus, on January 17, 1994, respondent MAGNO, informed ELIEZER I. RODRIGUEZ of Philjas that CHS is within the EIS System and as such must secure ECC from the DENR. Philjas was accordingly informed of the matter such that it applied for the issuance of ECC from the DENR-Region IV, on February 3, 1994.

"On March 12, 1994, an Inspection Report allegedly prepared by respondent BALICAS, attested by respondent RUTAQUIO and approved by respondent TOLENTINO re: field evaluation to the issuance of ECC, was submitted.

"Consequently, on April 28, 1994, upon recommendation of respondent TOLENTINO, Philjas application for ECC was approved by respondent PRINCIPE, then Regional Executive Director, DENR under ECC-137-RI-212-94.

"A Mining Field Report for SSMP dated May 10, 1994 was submitted pursuant to the inspection report prepared by respondents CAYETANO, FELICIANO, HILADO and BURGOS, based on their inspection conducted on April 25 to 29, 1994. The report recommended, among others, that the proposed extraction of materials would pose no adverse effect to the environment.

"Records further disclosed that on August 10, 1994, respondent BALICAS monitored the implementation of the CHS Project Development to check compliance with the terms and conditions in the ECC. Again, on August 23, 1995, she conducted another monitoring on the project for the same purpose. In both instances, she noted that the project was still in the construction stage hence, compliance with the stipulated conditions could not be fully assessed, and therefore, a follow-up monitoring inspection was the last one conducted by the DENR.

"On September 24, 1994, GOV. CASIMIRO I. YNARES, JR., approved the SSMP applied for by Philjas under SSMP No. RZL-012, allowing Philjas to extract and remove 50,000 metric tons of filling materials from the area for a period of two (2) years from date of its issue until September 6, 1996."^[2]

On November 15, 1999, the Ombudsman rendered a decision finding petitioner Principe administratively liable for gross neglect of duty and imposing upon him the penalty of dismissal from office. The dispositive portion of the decision reads:

"WHEREFORE, premises considered xxx

xxx

x x x the following respondents are hereby found GUILTY as charged and meted the respective penalties provided under Section 22, Rule XIV of the Omnibus Rules, Implementing Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987, viz,:

1. xxx

5. Antonio G. Principe - Penalty of Dismissal from the Service for Gross Neglect of Duty.

xxx

SO ORDERED."^[3]

On January 4, 2000, petitioner filed with the Court of Appeals a petition for review assailing the decision of the Ombudsman.^[4]

On August 25, 2000, the Court of Appeals promulgated a decision denying the petition and affirming the decision of the Ombudsman.^[5]

Hence, this appeal.^[6]

The Issue

The issue raised is whether the Ombudsman may dismiss petitioner from the service on an administrative charge for gross neglect of duty, initiated, investigated and decided by the Ombudsman himself without substantial evidence to support his finding of gross neglect of duty because the duty to monitor and inspect the project was not vested in petitioner.

The Court's Ruling

Republic Act No. 6770, Section 15, prescribed the powers of the Ombudsman, as follows:

"Section 15. *Powers, Functions and Duties.* - The Office of the Ombudsman shall have the following powers, functions and duties:

"(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction it may take over, at any stage, from any investigatory agency of Government,

the investigation of such cases;

"(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

"(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and **recommend** his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21^[7] of this Act: *Provided*, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

"(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

"(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

"(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: *Provided, further*, that any publicity issued by the Ombudsman shall be balance, fair and true;

"(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

"(8) Administer oaths, issue *subpoena and subpoena duces tecum*, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

"(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

"(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;