

## **FIFTH DIVISION**

**[ CA-G.R. SP No. 127718, March 11, 2015 ]**

**CLAUDIO DELOS SANTOS GASPAR, JR., PETITIONER, VS. FIELD INVESTIGATION OFFICE OF THE OMBUDSMAN, RESPONDENT.**

### **DECISION**

**TIJAM, J.:**

Before Us is a Petition for Review<sup>[1]</sup> under Rule 43 of the Rules of Civil Procedure seeking to annul the Joint Resolution dated May 30, 2012<sup>[2]</sup> and Order dated November 5, 2012<sup>[3]</sup> issued by the Office of the Ombudsman in the administrative complaint docketed as OMB-C-A-11-0758-L for Violation of Section 52 (A), Paragraphs 1 (Dishonesty), 2 (Gross Neglect of Duty), and Paragraph 20 (Conduct Prejudicial to the Best Interest of the Service) of the Uniform Rules on Administrative Cases in the Civil Service (CSC Resolution No. 991936, as amended).

The pertinent facts are as follows:

On November 28, 2011, Public Respondent Field Investigation Office of the Office of the Ombudsman ("FIO-Ombudsman") filed a Complaint<sup>[4]</sup> against a number of public individuals, including Petitioner Claudio delos Santos Gaspar, Jr. ("Petitioner"), for Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service, among other charges, in relation to the procurement of Light Police Operational Helicopters ("LPOH") by the Philippine National Police ("PNP") and Falsification by Public Officers, in accordance with Article 171, paragraphs 2 and 4, of the Revised Penal Code.

It alleged that in 2009, the PNP purchased three LPOHs with an approved budget for the contract of P105,000,000.00. However, despite the requirements prescribed by the National Police Commission (NAPOLCOM) and the Supply Contract that all three LPOHs be brand new and fully equipped, Manila Aerospace Products Trading Corporation ("MAPTRA"), the chosen supplier, fraudulently delivered only one brand new fully-equipped Robinson Raven II LPOH. The other two standard Robinson Raven I LPOH were pre-owned by the former First Gentleman Jose Miguel Arroyo.

It further alleged that the inspection committee, which included Petitioner, ignored the glaring tell-tale signs<sup>[5]</sup> that the LPOH delivered were no longer brand new, yet they did not note this fact in their inspection report, the Weapons Tactics and Communications Division ("WTCD") Report No. T2009-04A, dated October 14, 2009<sup>[6]</sup>. It stated that by signing the said report without objection, despite the fact that the helicopters delivered were not brand new, the signatories, including the Petitioner, also committed falsification by making untruthful statements in a narration of facts.

The FIO-Ombudsman alleged that the circumstances caused undue injury to the government and gave unwarranted benefits to certain individuals in the amount of more or less P34,000,000.00<sup>[7]</sup>.

Petitioner claims in his Counter-Affidavit dated January 2, 2012<sup>[8]</sup> that he is a duly-licensed pilot; he served as the Deputy Chief, PNP Special Action Forces ("SAF") from December 13, 2006 to January 3, 2011; on June 13, 2011, he was placed on special detail with the Office of the President where he was tasked to transport the family members of then President Gloria Macapagal-Arroyo to various destinations; to his knowledge, the helicopters he used on transporting the Arroyos were owned by Lion Air, Inc. ("Lion Air"); sometime in August 2009, he saw two (2) of the Raven helicopters he had previously used in transporting the Arroyos being refurbished in the hangar of Lion Air; in the middle part of September 2009, Col. Lurimer B. Detran, a co-respondent, went to the hangar of Lion Air and while thereat, he gave instructions to the mechanics to cause retouch on the painting and replacement of some accessories of the helicopters; on September 24, 2009, he and P/Supt. Larry D. Balmaceda, another co-respondent, proceeded to the Lion Air hangar to assist in the inspection and test flight of the two (2) helicopters; he was not aware at that time that the helicopters which the PNP intended to purchase were supposed to be brand-new as he never saw the technical specification, Supply Contract, Purchase Order, or Resolution regarding the said acquisition; he signed the WTCD Report Number T2009-04A because he was told that it was merely in support of the attendance sheet previously signed during the inspection; he read the document and found the details of the helicopters to be consistent with the ones inspected by the Directorate for Research Development ("DRD") technical team and due to the fact that the same was already signed by the other officers, including the Chief of WTCD, the Executive Officer and the Director for Research and Development; his participation was limited to his supposed assistance to see if the helicopters are operational both visually and functionally and that he was not a member of the technical group and that there was no briefing on what their roles are in the inspection; he was not aware that the helicopters intended to be purchased should be brand new and that he thought all along that the PNP intended to purchase second-hand choppers; he also claimed that the Senate Blue Ribbon Committee Report on this transaction cleared him from any wrongdoing and recommended the dropping of charges against him.<sup>[9]</sup>

On May 30, 2012, the Ombudsman issued the assailed Joint Resolution finding, among others, Petitioner guilty of the aforementioned administrative charges of Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service, to wit:

**"WHEREFORE,** it is hereby resolved as follows:

x x x

**OMB-C-A-11-0758-L (ADMINISTRATIVE CASE)**

1) Respondents P/Dir. Leocadio Salva Cruz Santiago, Jr., P/Supt. Ermilando Villafuerte, P/Supt. Roman E. Loreto, P/CSupt. Herold G. Ubalde, P/CSupt. Luis Luarca Saligumba, P/SSupt. Job Nolan D. Antonio, P/Dir. George Quinto Piano, P/SSupt. Edgar B. Paatan, P/SSupt. Mansue

Nery Lukban, P/CInsp. Maria Josefina Vidal Recometa, P/SSupt. Claudio DS Gaspar Jr., SPO3 Ma. Linda A. Padojinog, PO3 Avensuel G. Dy and NUP Ruben S. Gongona are hereby found **GUILTY of Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service**, and are thus meted the penalty of **DISMISSAL FROM THE SERVICE**, including the accessory penalties of forfeiture of retirement benefits and perpetual disqualification to hold public office, pursuant to the *Uniform Rules on Administrative Cases in the Civil Service* (CSC Resolution No. 991936, as amended).

If the penalty of dismissal from the service can no longer be served by reason of resignation or retirement, the alternative penalty of **FINE** equivalent to **ONE YEAR** salary is imposed, in addition to the same accessory penalties of forfeiture of retirement benefits and perpetual disqualification to hold public office.”<sup>[10]</sup> (Underscoring supplied.)

Petitioner filed a Motion for Reconsideration dated June 22, 2012<sup>[11]</sup>. On November 5, 2012, the Ombudsman issued the assailed Order<sup>[12]</sup>, likewise denying Petitioner’s Motion for Reconsideration of the disputed Joint Resolution, disposing in this wise:

“In sum, all the arguments raised by the movants gave no compelling reason to warrant a reconsideration of the Resolution in the administrative case.

**WHEREFORE**, the Motions for Reconsideration filed by respondents P/Dir. Leocadio Salva Cruz Santiago, Jr., P/Supt. Ermilando Villafuerte, P/Supt. Roman E. Loreto, P/CSupt. Herold G. Ubalde, P/CSupt. Luis Luarca Saligumba, P/Dir. George Quinto Piano, P/SSupt. Edgar B. Paatan, P/SSupt. Mansue Nery Lukban, P/CInsp. Maria Josefina Vidal Recometa, P/SSupt. Claudio DS Gaspar Jr., SPO3 Ma. Linda A. Padojinog, PO3 Avensuel G. Dy, P/SSupt. Joel Crisostomo DL Garcia and NUP Emilia A. Aliling are hereby DENIED for lack of merit.” (Underscoring supplied.)

Aggrieved, Petitioner interposed this present Petition for Review.

Petitioner raises a lone issue before Us:

“The main issue to be resolved in this instant petition is whether or not PETITIONER CLAUDIO D.S. GASPAR, JR. is GUILTY of SERIOUS DISHONESTY and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, which warranted the imposition of DISMISSAL FROM SERVICE and a FINE equivalent to ONE YEAR salary.”<sup>[13]</sup>

Petitioner insists that there was no evidence showing that he had prior knowledge that the LPOH to be purchased were brand new, nor was he a part of the negotiations for the procurement of the LPOH. He emphasizes that he was not aware of the specifications of the NAPOLCOM, the Supply Contract or the Purchase Order, thus, he cannot be expected to know whether the LPOH were compliant or not. He also insists that his expertise as a pilot was never sought during these stages, and that he did not participate in the drafting of the report and given that the report was already signed by his superiors, there was no opportunity for him to revise the same.

Respondent counters by saying that Petitioner being a member of the SAF – Air Unit, forming a part of the composite team of inspectors, committed serious dishonesty and conduct prejudicial to the best interest of the service for his failure, among others, to disclose the fact that two of the delivered LPOH were not brand new contrary to the Supply Contract requirement, thereby causing damage and prejudice to the government.

*The Petition for Review has no merit.*

Petitioner was correctly determined to be administratively liable for Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service by the Ombudsman.

Dishonesty is defined as a disposition to lie, cheat, deceive, or defraud. It implies untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle on the part of the individual who failed to exercise fairness and straightforwardness in his dealings.<sup>[14]</sup> Conduct prejudicial to the best interest of service, on the other hand, pertains to any conduct that is detrimental or derogatory or naturally or probably bringing about a wrong result;<sup>[15]</sup> it refers to acts or omissions that violate the norm of public accountability and diminish - or tend to diminish - the people's faith in the public service.<sup>[16]</sup>

The defenses of Petitioner can be summed up into two (2) items: (1) lack of knowledge with an indirect claim of good faith, and (2) lack of evidence to the contrary. These notwithstanding, We find Petitioner's defenses weak and unavailing.

Petitioner cannot be considered to have no knowledge of the disputed acts, nor can he be said to have acted in good faith.

Good faith, here understood, is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry.<sup>[17]</sup> In short, good faith is actually a question of intention. Although this is something internal, we can ascertain a person's intention by relying not on his own protestations of good faith, which is self-serving, but on evidence of his **conduct** and **outward acts**.<sup>[18]</sup>

Petitioner, despite his claims, was a part of the inspection committee on the subject LPOH and his technical expertise was specially required therein. His function necessarily involves familiarity with the actual characteristics of the subject LPOH using official data as the basis for comparison, all of which are embodied in the Supply Contract, NAPOLCOM Resolution and Purchase Order to serve as reference. He would not have been included in the inspection had he, or his technical know-how, not be of import to the task at hand. As correctly pointed out by Respondent in its Comment, the significance of the subject equipment and funds involved demanded the participation of various divisions and offices of the PNP – and it is precisely because of his technical knowledge and competence why he was asked to