

SPECIAL FOURTH DIVISION

[CA-G.R. SP. No. 132983, November 26, 2014]

**HENRY V. TABACULDE, PETITIONER, VS. SPO2 NOEL P. SENO,
PO3 JESUS MANULAT, PO2 JAIME N. AQUINO AND CI11
MICHAEL FEROLINO, RESPONDENTS.**

DECISION

GONZALES-SISON, M., J.:*

Assailed in this Petition for Review filed by Henry V. Tabaculde under Rule 43 of the Rules of Court are the February 28, 2008 Decision^[1] and the October 7, 2013 Order^[2] of the Office of the Ombudsman in OMB-P-A-07-0062-A.

The facts are as follows:

Petitioner, along with P/SSupt. Florencio B. Buentipo, Jr., P/Insp. Myrna P. Areola and PO2 Achilles Anthony T. Diola, Jose Ruperto Remollo III and Bernardo D. Borromeo, was charged by respondents SPO2 Noel P. Seno, PO3 Jesus Manulat, PO2 Jaime N. Aquino and CI11 Michael Ferolino for violation of Republic Act (R.A.) No. 6539^[3], R.A. 3019^[4], and Article 171^[5] of the Revised Penal Code (RPC). Respondents, all members of the the 7th Regional Criminal Investigation and Detection Unit (7RCIDU) and Regional Traffic Management Office 7 (RTMO7), charged petitioner based on their investigation finding petitioner to have participated in the unlawful transfer and registration of a carnapped Mitsubishi Pajero owned by Angelito Veluz in favor of Marcelo Cabahug to Marcelino Tagalog and eventually, to spouses Cedric and Carmencita Ebo, thus:

"At about 7:00 p.m., 13 October 2006, the joint operatives of RTMO7 and this unit seized, upon probable cause, a motor vehicle traveling along Escario Street, Cebu City, driven by Rouel Calderon. Said motor vehicle, possessed by Spouses Cedric and Carmencita Ebo, is in the list of 7RCIDU and RTMO7 Watchlist of carnapped vehicles. In its report dated October 13, 2006, the PNP Crime Laboratory Office concluded that its engine, chassis and secret serial number were tampered with.

"Records show that said motor vehicle originally registered and owned by Angelito Veluz of Dasmarinas City was stolen on 22 March 2004 while parked at #32 Hawaii Street, Camella Homes, Bacoar, Cavite. The incident was reported to the Bacoar Police Station and to the PNP Traffic Management Group on 01 April 2004. On 06 April 2004, the motor vehicle was fraudulently registered, as a newly acquired vehicle with tampered engine, chassis and secret serial numbers, under the name of Marcelo Cabahug by Bernardo Borromeo, Head of Office of the Land

Transportation, Talisay City Extension Office, who assigned a plate number and released the same to be attached on it. On 03 May 2004, it was further deceitfully registered under the name of Marcelino Tagalog by Jose Ruperto Remollo, the Head of Office of the Cebu City Land Transportation District Office. On the following day, 04 May 2004, it was purchased by spouses Cedric and Carmencita Ebo of Laura Street, Kabajar, Guadalupe, Cebu City, who treated with utmost reliance upon the Macro Etching Certificate issued by Police Chief Inspector Myrna Areola (retired) of the PNP Crime Laboratory Office 7, as examined by PO2 Achilles Diola, that the clearance certificate issued by Police Senior Superintendent Florencio Buentipo, Jr. or RTMO7, as processed by PO3 Henry Tabaculde, that it was not in the list of wanted/stolen vehicles. On the same date, it was henceforth registered by said Jose Ruperto Remollo under the name of Spouses Ebo.

"Obviously, aforementioned government officials and employees by their acts connived with or permitted the commission of said unlawful acts which Marcelo Cabahug, in conspiracy with Marcelino Tagalog, directly committed, in violation of Section 12, in relation to Section 13 and 14 of R.A. 6539.^[6]

"Moreover, aforementioned government officials and employees failed to uphold public interest and did not discharge their duties with utmost dedication to duty, in violation of the norms and conduct which every public official shall observe in the discharge and execution of their official duties, as defined and penalized under applicable provisions of R.A. 6713 [Code of Conduct and Ethical Standards for Public Officials and Employees].^[7]

"On 23 October 2006, the Prudential Guarantee and Assurance, Inc., an insurance firm based in Quezon City, undertook the custody and preservation, under claim of ownership, of the motor vehicle under equitable conditions."^[8]

Ruling of the Ombudsman

On February 28, 2008, the Ombudsman rendered judgment, the dispositive portion of which reads:

WHEREFORE, premises considered, finding substantial evidence to hold respondents **P/SSUPT. FLORENCIO B. BUENTIPO, JR., PO3 HENRY TABACULDE, P/INSP. MYRNA P. AREOLA, and PO2 ACHILLES ANTHONY T. DIOLA GUILTY** of **GRAVE MISCONDUCT**, it is respectfully recommended that they be meted the penalty of **DISMISSAL** from the government service, with forfeiture of retirement benefits, cancellation of eligibility, and perpetual disqualification to re-enter government service, pursuant to the "Uniform Rules of Administrative Cases in the Civil Service" (MC 19, Series of 1999.)

FURTHER, finding no substantial evidence to administratively discipline respondents **BERNARDO D. BORRAMEO**, Head of LTO Talisay City and **JOSE R. REMOLLO III**, Head of LTO Cebu City, it is respectfully recommended that the administrative case for GRAVE MISCONDUCT, DISHONESTY and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE against them be **DISMISSED**.

FINALLY, let a copy of this Decision be furnished the Chief, Philippine National Police (PNP) for proper **IMPLEMENTATION**.

SO ORDERED.^[9]

The Ombudsman found out that the vehicle's engine number was tampered with, originally from "MAA8816" to "MAA8818"; the chassis number, from "PARV45RX23B001639" to "PARV45RX23B001689"; and the serial number, from "001639" to "001689". The Ombudsman thus held petitioner liable for grave misconduct when he issued a PNP motor vehicle clearance certifying that the vehicle is not stolen.

Petitioner filed three successive motions for reconsideration dated November 22, 2010, July 24, 2012 and August 29, 2013, the last motion being accompanied by a motion to dismiss for violating his Constitutional right to a speedy disposition of his case.

By October 7, 2013, the Ombudsman promulgated its Order denying all separate motions for lack of merit. The *fallo* of the order states:

WHEREFORE, the *separate* Motions for Reconsideration filed by P/SSUPT. Florencio B. Buentipo, Jr., PO3 Henry J. Tabaculde, (Ret.) P/INSP. Myrna P. Areola and PO2 Achilles Anthony T. Diola of the Decision of 28 February 2008 are **DENIED** for lack of merit.

Accordingly, the Decision of 28 February 2008 finding respondents P/SSUPT. FLORENCIO B. BUENTIPO, JR., PO3 HENRY J. TABACULDE, (Ret.) P/INSP. MYRNA P. AREOLA and PO2 ACHILLES ANTHONY T. DIOLA **GUILTY** of GRAVE MISCONDUCT is **AFFIRMED**. No further pleadings shall be entertained.

The Philippine National Police, through the Directorate for Personnel and Records Management, is **directed** to implement the Decision dated 28 February 2008 and to **submit** its compliance thereof, within ten (10) days from receipt of this Order.

In the event that any of the respondents who are meted the penalty of dismissal is already separated from the service, the implementing agency shall impose on the concerned respondents a **FINE** in an amount equivalent to six (6) months of their last salary, directly payable to this Office, and shall also be made to suffer the inherent accessory penalties

of dismissal – FORFEITURE of whatever benefits still due him from the government, except accrued leave credits if he has earned any; and DISQUALIFICATION from employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.^[10]

According to the Ombudsman, there is substantial evidence that petitioner is guilty of grave misconduct for issuing a falsified official document. The Ombudsman ruled that it was through the concerted effort or conspiracy of petitioner, Buentipo, Areola and Diola, Remollo and Borromeo in issuing or using spurious and falsified documents that paved the way for the transfer of the stolen vehicle from Cabahug, to Tagalog and finally, to the spouses Ebo.

Hence, this petition. Petitioner raises the following issues:

- I. WHETHER THE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN FINDING THAT PETITIONER COMMITTED GRAVE MISCONDUCT FOR MERELY RELYING ON THE MACRO ETCHING CERTIFICATE AND FOR NOT REQUIRING THE PRESENTATION OF OTHER DOCUMENTS;
- II. WHETHER THE OFFICE OF THE OMBUDSMAN GRAVELY ERRED IN FINDING THAT PETITIONER IS A PARTICIPANT IN THE CONCERTED ACTION WHICH PAVED THE WAY FOR THE TRANSFERS OF the OWNERSHIP OF THE SUBJECT VEHICLE;
- III. WHETHER THERE IS SUBSTANTIAL EVIDENCE TO WARRANT THE IMPOSITION OF THE GRAVEST PENALTY OF DISMISSAL OF PETITIONER FROM THE GOVERNMENT SERVICE; AND
- IV. WHETHER THERE WAS INORDINATE DELAY IN THE DISPOSITION OF THE CASE AGAINST PETITIONER.^[11]

Our Ruling

Petitioner contends that when he issued the motor vehicle clearance certificate and declared therein that the Mitsubishi Pajero is not in the list of wanted/stolen vehicles, he merely relied in good faith in the macro-etching certificate and assumed it to have been issued in the regular performance of official duty by the concerned officers of the PNP Crime Laboratory. Petitioner also questions the finding of conspiracy between all the respondents in the complaint, including Borromeo and Remollo, who were cleared by Graft Investigation and Prosecution Officer Katherine M. Legarda-Pajaron in the February 28, 2008 Decision.

The petition lacks MERIT.