

TENTH DIVISION

[CA-G.R. SP No. 129891, November 17, 2014]

**GERARDO R. VILLASEÑOR, PETITIONER, VS. THE HONORABLE
OMBUDSMAN, RESPONDENT.**

D E C I S I O N

LANTION, J.A.C., J.:

THE CASE

This is a Petition for Review^[1] under Rule 43 of the Revised Rules of Court, assailing the Joint Decision^[2] dated 17 June 2003, and Order^[3] dated 25 February 2013, both issued by the Office of the Ombudsman in OMB-ADM-0-01-0376 (OMB-0-01-0659), the respective decretal portions of which read:

17 June 2003 Joint Decision

"WHEREFORE, premises considered, we rule and so hold as follows:

1) OMB-ADM-0-01-0376

a) The instant complaint against WENCESLAO R. ROMERO, PATRICIO L. DURLAO, and DONATO C. RIVERA, Quezon City Fire District II Station Commander, former Chief Business Permits and License Office and former Building Official, respectively, is **DISMISSED FOR BEING MOOT AND ACADEMIC**;

b) The instant complaint against respondents ROMUALDO C. SANTOS, SEVERINO T. MARIANO, REYNALDO R. SIMPAO, MANUEL S. BADURIA, SR., CARLITO S. ROMERO, RICARDO D. LEMENCE, and TEODORO S. GARCIA is **DISMISSED** for insufficiency of evidence;

c) Respondents ALFREDO MACAPUGAY, RAFAEL I. GALVEZ, ROMEO M. MONTALLANA, and **GERARDO M. VILLASEÑOR**, are hereby found **GUILTY of CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE and GROSS NEGLECT OF DUTY**, and for which they are hereby meted the penalty of **DISMISSAL FROM THE SERVICE WITH ALL ITS ACCESSORY PENALTIES**.

2) OMB-ADM-0-01-0390

a) The instant complaint against respondents JOSE CALUAG, JULIUS F. VILLANUEVA, WINSTON ANGELES, WILLY JEREZ, ERNESTO S.

MADRILEJO, ARNEL PINCA, RODOLFO ESPINA, VOLTAIRE PADILLA, GODFREY COLET, and LUIS MANUEL SOL, JR., is DISMISSED for insufficiency of evidence; and

b) Respondents MARIO E. SAN DIEGO and RODEL A. MESA are hereby found GUILTY of CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE for which they are hereby meted the penalty of ONE (1) YEAR SUSPENSION WITHOUT PAY, pursuant to Section 10, Rule III, Administrative Order No. 07, s. 1990, in relation to Section 25, Republic Act No. 6770.

The Honorable Mayor of Quezon City, and the Honorable Secretary of the Department of Interior and Local Government are hereby directed to implement this Decision upon finality thereof and in accordance with law.

SO ORDERED."

25 February 2013 Order:

"WHEREFORE, the Motion for Reconsideration of respondent Gerardo R. Villaseñor is DENIED.

SO ORDERED."

THE FACTS

On 18 August 2001 at around 4:12 a.m., a fire engulfed the Manor Hotel located at 122 Kamias Road, Barangay Malaya, Quezon City. Seventy-four (74) persons died and countless others were injured.

On 20 August 2001, The Fact-Finding and Intelligence Bureau (FFIB) Office of the Ombudsman, conducted an investigation relative to the said tragedy and made the following discovery:

"(a) When fire struck Manor on August 18, 2001, it was operating without a business permit. Its existing business permit (was) valid (only) up to June 30, 2011;

(b) From 1995 up to year 2000, the Electrical Division of Quezon City Government did not conduct an annual inspection of the electrical systems of Manor. It (did) not even have a wiring plan;

(c) The Bureau of Fire Protection did not conduct an annual inspection of Manor from 1992 up to 1999;

(d) Manor was issued business permits for (the) years 1992, 1993, 1994,

1995, 1999, 2000, and 2001 even without completing the requirements, viz: Fire Safety Certificate from the Bureau of Fire Protection, Certificate of Electrical Inspection from the Bureau of Fire Protection, Certificate of Electrical Inspection from the Electrical Division, Quezon City Government, and Certificate of Occupancy from the Building Official, Quezon City Government;

(e) There is no record which will show that business permits were issued to Manor in 1996 and 1998;

(f) The Quezon City Fire Station, Bureau of Fire Protection conducted an inspection in August 2000, and deficiencies were noted but (no action was taken) to enforce compliance;

(g) Building permits and Certificate of Occupancy were issued to Manor even without satisfying xxx the requirements of the National Building Code on Safety."

The FFIB, thereafter, filed administrative cases for Grave Misconduct, Conduct Grossly Prejudicial to the Best Interest of the Service, Gross Negligence, and Violation of Section 4, Republic Act No. 6713 (OMB-ADM-0-01-0376) against herein petitioner **Gerardo R. Villaseñor (Electrical Inspector II, Electrical Division)**, Alfredo Macapugay (City Engineer and Local Building Official), Donato C. Rivera, Jr. (former Building Official), Romualdo Santos (Senior Building Inspection Officer, Department of Engineering), Severino T. Mariano (Chief, Sanitary and Plumbing Division), Rafael I. Galvez (former OIC, Chief, Business Permits and License Office), Romeo M. Montallana (former Acting Chief, Electrical Division), Patricio L. Dumlaog (former Chief, Business Permits and License Office), F/LTC. Wenceslao R. Romero (Station Commander, Quezon City Bureau of Fire Protection [BFP], District II), Reynaldo R. Simpao (Chief, Fire Prevention and Inspection Division, QC II); Sr. Supt. Manuel S. Baduria, Sr., Supt. Carlito S. Romero, C/Insp. Ricardo D. Lemence, and SFO3 Teodoro S. Gaela.

SPO1 Demonsthenes Rebancos, and PO2 Pedrito Miranda (representing the People of the Philippines) likewise filed charges for Violation of Section 4, Republic Act No. 6713 (OMB-ADM-0-01-0390) against petitioner **Gerardo R. Villaseñor**, Rafael I. Galvez (Chief, Business License and Permit Office), Godfrey Colet, Jose Caluag, and Voltaire Padilla (License Inspector II of the Business Permit and License Office, Quezon City), Willy Jerez (Utility Worker, BPLO-QC), Alfredo Macapugay (City Engineer and Building Official), Julius Villanueva (Chief, Industrial Safety Division, City Engineering Office), Romualdo Santos (Annual Building Inspector, City Engineering Office), Romeo Montallana (Former Acting Chief, Electrical Division), Rodel A. Mesa (Inspector, Electrical Engineering Office), Ernesto S. Madrilejo (Chief, Annual Building Inspection Office), Winston Angeles (Annual Building Inspector, City Engineering Office), Luis Manuel Sol, Jr. (Annual Building Inspector, Quezon City), C/Insp. Mario E. San Diego (OIC, District Fire Marshall, Fire District II), C/Insp. Ricardo Lemence (Fire Marshall), SPO4 Rodolfo Espina (Fire Inspector), and SPO1 Arnel Pinca (Fire Inspector, Fire Marshall District II, BFP-QC).

The two cases, OMB-ADM-0-01-0376 and OMB-ADM-0-01-0390 were later

consolidated and joint proceedings were held.

On 17 June 2003, after due proceedings, Rolando B. Zoleta (Graft Investigating Officer II), Ulysis S. Calumpad (Investigating Officer II), and Vivian H. Magsino (Investigating Officer I) of the Preliminary Investigation and Administrative Adjudication Bureau (PIAAB), Office of the Ombudsman, rendered the herein assailed Joint Decision, which, among others, found petitioner Gerardo M. Villaseñor guilty of the charges of Conduct Prejudicial to the Best Interest of the Service, and Gross Neglect of Duty. Consequently, petitioner was meted with a penalty of dismissal from the service.

Petitioner seasonably moved for a reconsideration of the aforesaid adverse Joint Decision but the same was denied by Sylvia A. Severo, Graft Investigation and Prosecution Officer II of the Office of the Ombudsman in the herein assailed 25 February 2013 Order.

Hence, this Petition.

ASSIGNMENT OF ERRORS

Petitioner assigns the following errors on the part of the Office of the Ombudsman:

"1. PETITIONER HAD BEEN DEPRIVED OF DUE PROCESS OF LAW IN THE ADMINISTRATIVE PROCEEDINGS TAKEN AGAINST HIM;

2. RESPONDENT, WITH ALL DUE RESPECT, COMMITTED GRAVE ABUSE OF DISCRETION IN RESOLVING PETITIONER'S MOTION FOR RECONSIDERATION ONLY AFTER ALMOST NINE (9) LONG YEARS, RESULTING TO HIS UNDESERVED PREJUDICE, BECAUSE HIS BASIC RIGHT TO SPEEDY TRIAL HAS BEEN VIOLATED;

3. RESPONDENT HAS UNDULY SHUNTED ASIDE CERTAIN VERIFIABLE CIRCUMSTANCES THAT, IN EFFECT, NEGATED HIS ALLEGED GROSS NEGLIGENCE RELATIVE TO THE OCCURRENCE OF THE FIRE AT MANOR HOTEL IN QUEZON CITY; and

4. RESPONDENT GRAVELY ERRED IN IMPOSING THE SEVERE PENALTY OF DISMISSAL FROM THE SERVICE, WITH ALL ITS ACCESSORIES, BASED ON PETITIONER'S ALLEGED GROSS NEGLIGENCE, DESPITE THE FACT THAT HE WAS NOT THE ONE WHO CERTIFIED THE SAFE CONDITION OF THE ELECTRICAL INSTALLATION IN THE MANOR HOTEL AND WAS MERELY TASKED TO SERVE THE NOTICE TO PAY THE ANNUAL ELECTRICAL FEE FOR THE YEAR 2001."

THIS COURT'S RULING

We resolve *in seriatim*.