

## SEVENTH DIVISION

**[ CA-G.R. SP NO. 64120, September 11, 2006 ]**

**RODOLFO S. DE JESUS, PETITIONER, VS. OFFICE OF THE  
OMBUDSMAN AND REYNALDO M. TADIAR, RESPONDENTS.**

### DECISION

**BERSAMIN, L.P., J.:**

This appeal by petition for review seeks the review and reversal of the decision dated January 23, 2001 rendered in OMB-0-00-0433,<sup>1</sup> disposing as follows:

WHEREFORE, PREMISES CONSIDERED, respondent RODOLFO DE JESUS, Deputy Administrator for Administrative Services, Local Water Utilities Administration (LWUA) Katipunan Avenue, Balara, Quezon City, is hereby found GUILTY of SIMPLE MISCONDUCT, for which the penalty of SUSPENSION FOR ONE MONTH is hereby imposed, pursuant to Section 27, Republic Act No. 6770, otherwise known as "The Ombudsman Act of 1989.

SO ORDERED.

The petitioner was the Deputy Administrator for Administrative Services of the Local Water Utilities Administration (LWUA), a specialized government lending corporation chartered under P. D. 198, as amended. He was concurrently the resident Ombudsman of LWUA.

On March 16, 2000, LWUA Administrator Prudencio Reyes issued Office Order No. 069.00 re-assigning the petitioner and 2 others to the office of the Administrator to act as a core group of a LWUA Task Force. Respondent Reynaldo Tadiar was designated to take over the petitioner's place as officer-in-charge (OIC) pursuant to Office Order No. 0070.00 issued on the same day.

It appears that prior to said date, or on March 13, 2000, Office Order No. 076.00 was issued naming certain LWUA officers as check signatories. The petitioner was not included in the list.

On May 3, 2000, respondent Tadiar filed a complaint-affidavit in the Office of the Ombudsman,<sup>2</sup> charging the petitioner with grave misconduct, dishonesty and conduct prejudicial to the best interest of the service, specifying that:

- a. On March 22, 2000, the petitioner, without any authority and with evident bad faith and premeditation, accomplished and approved his own request for payment (RFP) to request the reimbursement of extraordinary and miscellaneous expenses (EME) for the month of

March 2000, resulting in undue injury to the Government;

- b. To consummate his willful and felonious act, the petitioner likewise signed a disbursement voucher (DV) dated March 29, 2000 attesting to his receipt of LWUA Check No. 129224 in the amount of P15,000.00; and
- c. In furtherance of his felonious acts, the petitioner also signed a certification to the effect that as "Deputy Administrator, I have spent for the month of March 2000 the amount of PESOS: FIFTEEN THOUSAND ONLY (P15,000.00) for the meetings, seminars and conferences, official entertainment, public relations, and the like as authorized under COA Cir. No. 89-300 dated March 21, 1989."

Required to answer, the petitioner countered, by an affidavit,<sup>3</sup> that he had the delegated authority to sign and approve his RFP for his March 2000 EME reimbursement under LWUA Office Order No. 38.87 entitled: "Designation of Signatories for Various Documents," which specifically provided in its Clause C-2 that the approval of RFP and DV "shall remain to be vested to the counter-signatory of the respective checks;" that he was one of the counter-signing officers, as shown in the "Check Signatories" attached to LWUA Office Order No. 042.95 and Office Order No. 114.99; that under Office Order No. 186.91, he was delegated the authority to sign or authenticate payrolls, vouchers, requisition/purchase orders and "other documents relative to or in connection with overall or general administrative activities and/or functions;" that under Office Order No. 042.95, entitled "LWUA's New Disbursement Voucher (CV) Form: Designated Signatories and Related Guidelines", he, as Deputy Administrator, was delegated the authority to certify and approve DVs in regard to EMEs; that he was signing documents like those under question for several years already, without anyone, including Tadiar, ever assailing him formally or otherwise until he did so herein; that his exercise of said delegated approving authority was legal; and that his reassignment as ordered by the LWUA Administrator Reyes, who acted in bad faith, was not in order.

Despite the petitioner's motion requesting a formal investigation filed on August 1, 2000,<sup>4</sup> the Office of the Ombudsman directed the parties on September 8, 2000 to submit their respective memoranda, following which the case would be deemed submitted for resolution.

The parties complied and submitted their memoranda.

In his memorandum, the petitioner averred that there was no evident bad faith or premeditation in his act of signing or approving the assailed documents; that he had the authority to sign, contrary to the claim of Tadiar; that the Civil Service Commission had ruled on the invalidity of his re-assignment, submitting a copy of CSC *en banc* Resolution No. 001729 dated July 26, 2000 as Annex 1, whereby LWUA Administrator Reyes was held to be not the appointing authority of the LWUA deputies; that the Administrator's power to supervise did not include the power to reassign his deputies; that the reassignment was tainted with bad faith; that a motive, other than the best interest of the service and good faith, had impelled Administrator Reyes to reassign his deputies; and that the reassignment of his deputies (petitioner included) was not in order.

On the other hand, respondent Tadiar, as the complainant, stated in his own memorandum that on March 22, 2000, the date when the petitioner had signed and approved his RFP, he had no authority to do so since on said date he (Tadiar) was then the officer-in-charge; that although the petitioner had filed a civil case against his re-assignment, he had not been able to restrain the office order on his re-assignment; and that Office Order No. 076.00 dated March 13, 2000 had revoked the authority of the petitioner to sign LUWA checks.

On January 23, 2001, the Ombudsman rendered his decision, finding the petitioner guilty of simple misconduct and meting him a penalty of 1-month suspension, *supra*. The Ombudsman adopted the following ratiocination of the graft investigator that was approved by the Director of the Administrative Adjudication Bureau and recommended for approval of the Ombudsman by Assistant Ombudsman Abelardo L. Aportadera, Jr., to wit:

The central issue in the present case is whether the claim for EME of respondent RODOLFO S. DE JESUS is tainted with any irregularity amounting to an administrative offense.

Perhaps, the most important concept in achieving internal control is an appropriate subdivision or separation of duties. Responsibilities should be assigned so that no one person or department handles a transaction completely from beginning to end. When duties are divided in this manner, the work of one employee serves to verify that of another and any errors which occur tend to be detected promptly. In this context, every organization should indicate clearly the persons or departments responsible for such functions as sales, purchasing, receiving incoming shipments, paying bills and maintaining accounting records. The lines of authority and responsibility can be shown and defined in an organizational chart (pp. 282-284, Financial Accounting by Robert F. Meigs and Walter B. Meigs, 7<sup>th</sup> Edition). Key duties and functions such as authorization, custody and accounting shall be assigned to separate offices and individuals to eliminate opportunities to conceal errors and irregularities.

In the case at bar, we find no dishonesty on the part of herein respondent, as it appears that he may claim EME as an officer of the agency. However, sense of refinement or "delicadeza" dictates that certifying one's own claim for expenses as necessary and lawful, notwithstanding its propriety or impropriety, is surely offensive to morality and the principle of abuse of rights. For every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith (Art. 19, New Civil Code). And a right though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality as in this case. Thus, when a right is exercised in a manner which does not conform with the norms enshrined in Article 19 as aforecited and resulted in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible (Globe Mackay Cable and Radio Corp. vs. CA, G.R. No. 81262, August 25, 1989; 176 SCRA 778).