

THIRD DIVISION

[G.R. No. 248819, January 13, 2021]

GRACE CRISILDA A. PANTALEON, PETITIONER, VS. OMBUDSMAN-MINDANAO, RESPONDENT.

INTING, J.:

Before the Court is a Petition for Review^[1] on *Certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated February 1, 2019 and the Resolution^[3] dated July 18, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 07780-MIN which affirmed the Decision^[4] dated September 29, 2016 of the Office of the Ombudsman-Mindanao (Ombudsman) in OMB-M-A-15-0569 finding Grace Crisilda A. Pantaleon (petitioner) administratively liable for Grave Misconduct and Serious Dishonesty.

The following facts are not disputed:

Petitioner previously served as Revenue Clerk II of the Municipal Government of Barobo, Surigao del Sur.

On October 8, 2015[,], a Joint Affidavit Complaint for the criminal and administrative charges was filed by State Auditors Cheryl Cantalejo-Dime and Pamela Grace A. Arayan of the Commission on Audit - Regional Office No. XIII (COA), against petitioner before the Deputy Ombudsman.

The Complaint alleged that on June 23, 2013, the COA conducted an examination of the petitioner's cash and accounts for the period of December 18, 2012 to June 26, 2013. The audit revealed a cash shortage in the aggregate amount of P436,748.45. A demand letter was not issued as petitioner was able to reconstitute the full amount on September 6, 2013. On October 8, 2015, the COA instituted the complaint against" petitioner before the Deputy Ombudsman.

In her Counter-Affidavit, petitioner admitted [the] cash shortage but denied to having converted the same for her personal use and benefit. She claimed she lent the money to her co-workers who had financial problems. She stressed that she had already reconstituted the full amount even before a demand was issued.^[5]

On September 29, 2016, the Ombudsman rendered a Decision,^[6] the dispositive portion of which reads:

WHEREFORE, the Office finds respondent Grace Crisilda A. Pantaleon GUILTY of Grave Misconduct and Serious Dishonesty. She is meted out the penalty of DISMISSAL from service, including the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re employment in the government service.

Considering that respondent is found guilty of two charges, the penalty to be imposed should be that corresponding to the most serious charge and the other shall be considered as an aggravating circumstance.

In the event that the penalty can no longer be enforced due to respondent's separation from service, it shall be converted into a Fine in the amount of her salary for one year, payable to the Office of the Ombudsman, and may be deducted from her retirement benefits, accrued leave credits or any receivable from the government.

Mayor Felixberto S. Urbiztondo of the Municipal Government of Barobo, Surigao del Sur, is directed to implement the penalty meted out against respondent, within ten days from receipt hereof, and to submit to the Office, within the same period, a Compliance Report indicating the docket number of this case.

Further, the COA- Regional Office No. XIII, Butnan City is directed to conduct a special audit investigation on the alleged practice in the Municipal Government of Barobo, Surigao del Sur, of allowing employees to borrow from its tax collections, and to file complaints against responsible officials before the Office, if the evidence so warrants. Let the COA - Regional Office No. XIII, Butnan City be furnished a copy of this Resolution.

SO ORDERED.^[7]

In the Decision^[8] dated February 1, 2019, the CA affirmed the Ombudsman. Petitioner moved for reconsideration, but it was denied on July 18, 2019.^[9]

Hence, this petition.

The principal issue is whether there exists substantial evidence to hold petitioner administratively liable for Grave Misconduct and Serious Dishonesty.

The Court's Ruling

The petition lacks merit.

As a general rule, factual findings of the Ombudsman are conclusive when supported by substantial evidence and are accorded due respect and weight, especially when affirmed by the CA.^[10]

In the present case, petitioner is charged with Grave Misconduct and Dishonesty before the Ombudsman. The Ombudsman found her guilty of Grave Misconduct and Serious Dishonesty, and imposed on her the penalty of dismissal from government service with all its accessory penalties. On appeal to the CA, it affirmed the ruling of the Ombudsman.

The Ombudsman and the CA correctly found petitioner guilty of Grave Misconduct and Serious Dishonesty.

The Court does not find merit in petitioner's contentions that she had made full restitution of the cash shortage before the formal demand by the Commission on Audit; that she did not personally use the municipal funds as she merely lent them

to her co-workers; and that her length of service, unblemished record, and good faith should be considered as mitigating circumstances.

Misconduct "means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose."^[11] It is "intentional wrongdoing or deliberate violation of a rule of law or standard of behavior."^[12] To constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.^[13] Misconduct is a "transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer."^[14]

In Grave Misconduct, the "elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest."^[15]

Dishonesty, on the other hand, is defined as the "disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity."^[16] Under Section 3 of the Civil Service Commission Resolution No. 06-0538 or the Rules on the Administrative Offense of Dishonesty, Dishonesty is considered serious when any of the following circumstances is present:

- (1) The dishonest act caused serious damage and grave prejudice to the government;
- (2) The respondent gravely abused his authority in order to commit the dishonest act;
- (3) Where the respondent is an accountable officer, the dishonest act directly involves property; accountable forms or money for which he is directly accountable; and respondent shows intent to commit material gain, graft and corruption;
- (4) The dishonest act exhibits moral depravity on the part of the respondent;
- (5) The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;
- (6) The dishonest act was committed several times or on various occasions;
- (7) The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets; and
- (8) Other analogous circumstances.^[17]

Both Grave Misconduct and Serious Dishonesty are classified as grave offenses with the penalty of dismissal even for first time offenders.^[18]

Here, petitioner herself admitted that she loaned the public funds entrusted to her to her co-workers without any legal authority to do so. Indeed, as Municipal Revenue Clerk, petitioner had the sworn duty to safely keep the public funds and to