

SECOND DIVISION

[G.R. No. 244828, October 12, 2020]

ERNESTO L. CHING, PETITIONER, VS. CARMELITA S. BONACHITA-RICABLANCA, RESPONDENT.

DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by Ernesto L. Ching (Ching) assailing both the Amended Decision^[1] of the Court of Appeals, Cagayan de Oro City (CA) dated June 29, 2018 and the Resolution^[2] dated January 28, 2019 in CA-G.R. SP No. 07261-MIN which reversed the Decision of the Office of the Deputy Ombudsman-Mindanao in OMB-M-A-15-0120^[3] dated October 13, 2015 finding Carmelita S. Bonachita-Ricablanca (Ricablanca) guilty of grave misconduct and conduct prejudicial to the best interest of the service and imposes upon her the penalty of dismissal from service pursuant to Section 10 of Administrative Order (A.O.) No. 17, amending Rule III of A.O. No. 7 providing for the Rules of Procedure of the Office of the Ombudsman.

The Facts

The case arose after a fire broke out in the Residential Building in *Barangay Poblacion, Sagay, Camiguin* owned by Virgilio Bonachita (Virgilio), father of Ricablanca, on January 29, 2015. Although the fire was extinguished, Ching claimed that he was traumatized by the incident because the building is connected to a "Petron *Bulilit* Station," a fuel station, near his residence.

The fire incident led to the discovery that Ricablanca, while she was still a *Barangay Kagawad* of Poblacion, Sagay, Camiguin, not only authored *Barangay* Resolution No. 16, Series of 2012 (*Barangay* Resolution No. 16) for the construction of the Petron *Bulilit* Station operated by her father Virgilio, who was then a Member of the *Sangguniang Bayan*, but likewise participated in the approval of the same resolution.

During the 2013 Elections, Ricablanca ran for office and won a seat as a Member of the *Sangguniang Bayan* of the Municipality of Sagay.

On March 26, 2015, Ching filed a Complaint against Ricablanca and seven (7) other public officials (Ricablanca, *et al.*) of Sagay, Camiguin before the Office of the Ombudsman (Ombudsman) for Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and for Violation of Republic Act No. (RA) 6713 (The Code of Conduct and Ethical Standards for Public Officials and Employees).

Ricablanca, *et al.* contended in their individual Counter-Affidavits that they did not violate any law when they authored and/or approved *Sangguniang Bayan* Resolution

No. 25 and/or *Barangay* Resolution No. 16.

At the time the complaint was filed before the Ombudsman, Ricablanca was already serving as Member of the *Sangguniang Bayan* of Sagay, Camiguin.

The Ombudsman Ruling

In a Decision^[4] dated October 13, 2015, the Ombudsman found no substantial evidence to hold the seven (7) other public officials of Sagay, Camiguin guilty except for Ricablanca who was found guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service for authoring *Barangay* Resolution No. 16, a resolution approving and endorsing the construction and operation of the Petron *Bulilit* Station owned by her father, and for not inhibiting herself from participating in its deliberation and approval. By not immediately inhibiting herself from the deliberation of *Barangay* Resolution No. 16, and worse, eventually approving the same, Ricablanca created the impression that she intended to advance her own interest and ensure that the outcome of the deliberation would be favorable to her.

The Ombudsman imposed upon her the penalty of dismissal from service pursuant to Section 10 of A.O. No. 17, amending Rule III of A.O. No. 7 providing for the Rules of Procedure of the Office of the Ombudsman. In the event that the penalty of dismissal can no longer be enforced due to her separation from service, her penalty shall be converted into a fine in an amount equivalent to her salary for one (1) year, payable to the Ombudsman, and may be deductible from her retirement benefits, accrued leave credits, or any receivable from her office.

The administrative charges filed against the seven (7) other public officials of Sagay, Camiguin were dismissed.

Ricablanca filed a Motion for Reconsideration dated November 20, 2015. In its Order^[5] dated December 23, 2015, the Ombudsman denied Ricablanca's Motion for Reconsideration.

The Ombudsman did not agree with Ricablanca's contention that the case against her should be dismissed for being moot and academic by virtue of Aguinaldo Doctrine (Doctrine of Condonation), because after she authored *Barangay* Resolution No. 16 on April 13, 2012, she subsequently ran for public office in the 2013 Elections and won.

The Ombudsman ruled that the Doctrine of Condonation finds no place in this case because Ricablanca was not re-elected as *Barangay Kagawad* of Poblacion, Sagay, Camiguin in the 2013 Elections, but was elected as *Sangguniang Bayan* Member in the said elections.

Aggrieved, Ricablanca filed an Appeal before the CA.

The CA Ruling

In a Decision^[6] dated June 30, 2017, the CA denied the petition and affirmed the Decision^[7] dated October 13, 2015 of the Ombudsman.

Preliminarily, as to the procedural issue, the CA did not find any legal or factual basis to justify Ricablanca's failure to serve a copy of the petition to Ching and to provide proof of such service. Considering that the service and proof thereof is a

mandatory requirement under the Rules of Court and absent any compelling reason to do so, the CA found no cogent reason to relax the application of the Rules of Court in the instant petition. However, the CA also noted that even if the petition complied with the requirements under Rule 43 of the Rules of Court, the same must nevertheless be denied for lack of merit.

The CA found Ricablanca liable for Gross Misconduct and Conduct Prejudicial to the Best Interest of Service. Ricablanca's act of authoring and approving *Barangay* Resolution No. 16, which, she admitted, was aimed at helping her father's gasoline business, undoubtedly constituted Gross Misconduct. She need not have direct interest in the establishment and operation of her father's gasoline business in order to be found administratively liable. Under Section 7(a) of RA 6713, she is prohibited from directly or indirectly having financial or material interest in any transaction requiring the approval of their office. Her authorship and approval of *Barangay* Resolution No. 16, knowing that it is for the benefit of her father and/or brother, indicates her shortsightedness which is so gross that it cannot be considered as simple misconduct. Moreover, the CA rejected Ricablanca's claim that simultaneous finding of gross misconduct and conduct prejudicial to the best interest of the service is judicially proscribed. In *Office of the Ombudsman, Field Investigation Office v. Faller*,^[8] which upheld the ruling of the Ombudsman finding therein respondent, Faller, guilty of simple misconduct and conduct prejudicial to the best interest of the service, the Supreme Court reiterated that acts may constitute conduct prejudicial to the best interest of the service as long as they tarnish the image and integrity of his/her public office,^[9] as in this case.

Furthermore, it did not find merit to Ricablanca's claim that the doctrine of condonation, as held in the landmark case of *Pascual v. Hon. Provincial Board of Nueva Ecija*,^[10] is applicable to her case. It must be stressed that the application of the doctrine depends on the public officer being re-elected to the same office for a new term,^[11] which is not the case here. More importantly, the Supreme Court, in *Ombudsman Carpio Morales v. Court of Appeals*,^[12] after conducting a judicious examination of our current laws, abandoned the application of the doctrine of condonation to administrative cases filed against public officials.

As to the penalty imposed by the Ombudsman, the CA found that there was a sufficient basis in upholding the same.

For all the foregoing reasons, the CA sustained the findings of the Ombudsman, holding Ricablanca liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, and dismissing her from service as provided under Section 11 of RA 6713.

Feeling aggrieved, Ricablanca filed a Motion for Reconsideration^[13] dated July 27, 2017, assailing the above-cited Decision^[14] of the CA dated June 30, 2017. She maintained that apart from the general averments of Ching, there was no substantial evidence to hold her liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and that her act of authoring *Barangay* Resolution No. 16 was not so grave that would warrant the imposition of the penalty of dismissal.

In her Supplemental Motion for Reconsideration,^[15] Ricablanca also contended that her case is similar to that of *Almario-Templonuevo v. Office of the Ombudsman*,^[16]

where the Supreme Court ruled that despite the abandonment of the condonation doctrine in the case of *Carpio Morales*, the effect of abandonment was made prospective in application.

In an Amended Decision^[17] dated June 29, 2018, the CA resolved to grant the Motion for Reconsideration filed by Ricablanca, and the Decision dated June 30, 2017, as well as the Decision dated October 13, 2015 were reconsidered. Effectively, the Order^[18] dated December 23, 2015 of the Office of the Deputy Ombudsman-Mindanao was reversed.

The CA found sufficient grounds to reconsider the assailed Decision and applied the recently decided case of *Almario-Templonuevo*, wherein the Supreme Court ruled that the condonation doctrine will apply despite its abandonment in the case of Carpio Morales. Even if it involved a public officer who was elected to a different position, provided that, it is shown that the body politic electing the person to another office is the same as held in the case of *Giron v. Hon. Executive Secretary Ochoa*.^[19] Moreover, the penalty of dismissal from service, which was converted into a fine in an amount equivalent to her salary for one (1) year was rendered moot and academic on the basis of the condonation doctrine. Finally, the CA found it more in accord with substantial justice to overlook Ricablanca's procedural lapse in the interest of resolving the case on the merits, considering that there exists a compelling reason to reconsider its judgment.

Ching filed a Motion for Reconsideration assailing the Amended Decision. In a Resolution^[20] dated January 28, 2019, the CA denied Ching's Motion for Reconsideration for lack of merit.

Ching filed a Petition for Review on *Certiorari*^[21] under Rule 45 with the Court.

Our Ruling

Preliminarily, before we move to resolve the substantive issues raised by Ching in his petition, we first settle the issue on *locus standi* raised by Ricablanca. In her Comment,^[22] Ricablanca argues that Ching has no legal standing or legal personality to file the instant petition to assail the Amended Decision of the CA, he being a mere witness of the government. The real party aggrieved of the Amended Decision is the Ombudsman, who has not filed any motion or appeal to the Supreme Court when the Amended Decision came out.

We do not agree.

The Court rules that Ching has legal standing to file the instant petition before the Court.

In *Association of Flood Victims v. Commission on Elections*,^[23] the Court defined legal standing as follows:

[*Locus standi* or legal standing is defined as] a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The gist of the question

of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.

Further, in *Ifurung v. Carpio Morales*,^[24] the Court cited *Funa v. Chairman Villar*^[25] in showing the liberal stance of the Court in interpreting *locus standi*:

To have legal standing, therefore, a suitor must show that he has sustained or will sustain a "direct injury" as a result of a government action, or have a "material interest" in the issue affected by the challenged official act. However, the Court has time and again acted liberally on the *locus standi* requirements and has accorded certain individuals, not otherwise directly injured, or with material interest affected, by a Government act, standing to sue provided a constitutional issue of critical significance is at stake. The rule on *locus standi* is after all a mere procedural technicality in relation to which the Court, in a *catena* of cases involving a subject of transcendental import, has waived, or relaxed, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been personally injured by the operation of a law or any other government act. In *David*, the Court laid out the bare minimum norm before the so-called "non-traditional suitors" may be extended standing to sue, thusly:

- 1.) *For taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
- 2.) *For voters*, there must be a showing of obvious interest in the validity of the election law in question;
- 3.) *For concerned citizens*, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
- 4.) *For legislators*, there must be a claim that the official action complained of infringes their prerogatives as legislators.^[26]

It is important to note that this case arose because of a fire incident that traumatized Ching as his residence is right beside the building that caught fire, which is also connected to the fuel station. Both the building and the fuel station are owned by Ricablanca's father, Virgilio. It is through the effort of Ching that pieces of evidence were gathered which led to the discovery of the participation of Ricablanca in the authorship, approval, and passing of *Barangay* Resolution No. 16 which allowed the construction and operation of the subject fuel station. It was also Ching who filed the complaint against Ricablanca before the Ombudsman for Grave Misconduct, Gross Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service, and for violation of RA 6713. As such, he was one of the respondents when the case was still pending in the CA. These factual antecedents show that Ching has a material interest in the issue at hand and, therefore, has a legal standing to file the Petition for Review before the Court.

Ricablanca's reliance to the case of *Office of the Ombudsman v. Gutierrez*^[27] is flawed. A careful perusal of the said case would reveal that such case involved a