

FIRST DIVISION

[G.R. No. 221848, August 30, 2016]

FIELD INVESTIGATION OFFICE OF THE OFFICE OF THE OMBUDSMAN, PETITIONER, VS. REY RUECA CASTILLO, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated July 24, 2015 and the Resolution^[3] dated November 10, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 137997, which modified the Decision^[4] dated September 17, 2014 in OMB-C-A-13-0255 and the Joint Order^[5] dated October 22, 2014 in OMB-C-C-13-0262 and OMB-C-A-13-0255 of the Office of the Ombudsman (OMB), and thereby found respondent Rey Rueca Castillo (respondent) administratively liable for Simple Misconduct.

The Facts

On November 14, 1999, a certain Fe Acacio-Tsuji (Tsuji) arrived at The Ninoy Aquino International Airport (NAIA) carrying a luggage with a small tin can containing various pieces of jewelry with a total appraised value of P1,184,010.00 (subject jewelry). For Tsuji's failure to declare the subject jewelry as required by customs laws, the same was confiscated and withheld in the In-Bond Room Section, Baggage Assistance Division (In-Bond Room Section) of the Bureau of Customs (BOC) at the NAIA, which issued a Held Baggage Receipt No. 18875 in Tsuji's favor.^[6]

The subject jewelry was then deposited to the Cashier's vault for appraisal and inventory. Thereafter, the In-Bond Room Section issued a Baggage Inventory Report (BIR) certifying that the subject jewelry was duly inventoried and appraised.^[7]

Almost five (5) years after the subject jewelry was confiscated, Tsuji was authorized to claim the subject jewelry.^[8] On October 4, 2005, however, Tsuji discovered that the same can no longer be found at the In-Bond Room Section.^[9] A logbook entry dated November 18, 1999 showed that the subject jewelry was taken out of the In-Bond Room Section at 8:00p.m. of the said date,^[10] and given to Customs Cashier Judith Vigilia (Vigilia). The entry was signed by respondent, then Customs Security Guard II at the In-Bond Room Section, and Josephine De Rama Tiñana (Tiñana), Special Agent I of the Customs Police Division, as witnesses.^[11]

Thus, on August 13, 2013,^[12] petitioner Field Investigation Office (FIO) filed before the OMB a complaint^[13] charging respondent and Tiñana for (a) violation of Section 3 (e)^[14] of Republic Act No. (RA) 3019,^[15] as amended, docketed as OMB-C-C-13-

0262,^[16] and (b) Grave Misconduct, docketed as OMB-C-A-13-0255,^[17] for the premature release of the subject jewelry without authority from any higher BOC official or any court, thereby causing undue injury to Tsuji.^[18]

In their defense, respondent claimed^[19] that he only delivered the subject jewelry to Vigilia for safekeeping; while Tiñana denied having any hand in taking the subject jewelry, asserting that she only accompanied respondent in bringing the jewelry to Vigilia.^[20]

The OMB Ruling

In a Decision^[21] dated September 17, 2014 in OMB-C-A-13-0255, the OMB found substantial evidence to hold both respondent and Tiñana administratively liable for Grave Misconduct^[22] and, accordingly, dismissed them from government service with the corresponding accessory penalties, *i.e.*, forfeiture of retirement benefits, perpetual disqualification from holding public office, cancellation of civil service eligibility, and bar from taking civil service examinations.^[23]

The OMB held that (a) their act of delivering the inbonded tin can of jewelry to Vigilia was not among their duties; (b) they had no authority to release the same; and (c) they failed to justify or offer an explanation for their actions, in disregard of established rules pertaining to the release and custody of items stored in the In-Bond Room Section.^[24] On the other hand, the OMB, in a Resolution^[25] dated September 17, 2014 in OMB-C-C-13-0262, found probable cause to hold respondent and Tiñana liable for violation of Section 3 (e) of RA 3019, as amended and, accordingly, ordered the filing of an Information with the Regional Trial Court of Manila against them.^[26]

Respondent and Tiñana jointly moved for reconsideration,^[27] claiming that the OMB failed to appreciate in their favor (a) the marginal note in the logbook entry which reads: *"Turnover to In-Bond Section (fully sealed) (HBR 18875) INBOND RENEE DANDAN (with signature above the printed name) 10/5/2000 3.5 KG"* (Dandan's marginal signature), and (b) a document stating that on October 5, 2000, or after they transferred the item to the Cashier Section on November 18, 1999, several sealed packages, including Tsuji's tin can of jewelry, were turned over to the In-Bond Room Section.^[28]

In a Joint Order^[29] dated October 22, 2014 in OMB-C-C-13-0262 and OMB-C-A-13-0255, the OMB denied the motion for reconsideration,^[30] doubting the authenticity of Dandan's marginal signature, which was not identified as one of the signatures appearing on the logbook entry dated November 18, 1999 presented to^[31] Customs Operations Officer III/Examiner Emilen Balatbat who inventoried the subject jewelry.^[32] The OMB further pointed out that respondent and Tiñana were penalized for having delivered the sealed tin can of jewelry stored in the In-Bond Room Section to Vigilia, despite their knowledge that it was not their duty to do so, and they have no authority to release inbonded articles. Moreover, no justification was given for their actions. Finally, it ruled that the fact that the BOC indemnified Tsuji for the loss of her jewelry does not exculpate them from liability.^[33]

Aggrieved, respondent appealed^[34] to the CA.

The CA Ruling

In a Decision^[35] dated July 24, 2015, the CA modified the OMB decision and found respondent administratively liable, instead, for Simple Misconduct, a less grave offense punishable with suspension of one (1) month and one (1) day to six (6) months for the first offense.^[36] While it sustained the OMB's findings that respondent committed an act of misconduct, it found that the elements of corruption, clear intent to violate the law, or flagrant disregard of established rules that characterize the offense as Grave Misconduct were not shown to be present.^[37] Considering that there were no attending mitigating or aggravating circumstances in this case, the CA imposed upon respondent the medium penalty of suspension of three (3) months without pay.^[38]

The FIO moved for reconsideration,^[39] which was, however, denied in a Resolution^[40] dated November 10, 2015; hence, this petition.

The Issue Before This Court

The primordial issue for the Court's resolution is whether or not respondent should be held administratively liable for Grave Misconduct, instead of Simple Misconduct as found by the CA.

The Court's Ruling

The petition is meritorious.

At the outset, the Court emphasizes that 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.^[41] In this case, except as to the legal conclusion on what administrative offense was committed by respondent, the OMB and the CA are one in finding that respondent committed a misconduct when he (a) delivered the inbonded tin can of jewelry to Vigilia, knowing fully well that it was not his duty nor was he authorized to do so; and (b) failed to justify or offer an explanation for his action.

Misconduct generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.^[42] It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and 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.^[43] It is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.^[44]

There are two (2) types of misconduct, namely: grave misconduct, with which respondent was charged, and simple misconduct. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.^[45]

Without any of these elements, the transgression of an established rule is properly characterized merely as simple misconduct.^[46]

In the present case, the CA ruled that respondent was guilty only of Simple Misconduct because the elements of corruption, clear intent to violate the law, or flagrant disregard of established rules that characterize the offense as Grave Misconduct were lacking.

The Court disagrees.

Contrary to the CA's finding, respondent acted in flagrant disregard of established rules when he transferred the subject jewelries from the In-Bond Room to the Cashier Section without any authority.

In *Imperial, Jr. v. Government Service Insurance System*,^[47] the Court elucidated the instances where flagrant disregard of rules obtains, thus:

Flagrant disregard of rules is a ground that jurisprudence has already touched upon. It has been demonstrated, among others, in the instances when there had been open defiance of a customary rule; in the repeated voluntary disregard of established rules in the procurement of supplies; in the practice of illegally collecting fees more than what is prescribed for delayed registration of marriages; when several violations or disregard of regulations governing the collection of government funds were committed; and **when the employee arrogated unto herself responsibilities that were clearly beyond her given duties. The common denominator in these cases was the employee's propensity to ignore the rules as clearly manifested by his or her actions.**^[48] (Emphasis supplied)

Thus, in *Re: Letter of Judge Lorenza Bordios Paculdo, Municipal Trial Court, Br. 1, San Pedro, Laguna on the Administrative Lapses Committed by Nelia P. Rosales*,^[49] the Court ruled that an employee's act of arrogating unto herself responsibilities that were clearly beyond her given duties as a utility worker constitutes grave misconduct.^[50] On the other hand, in *Ampil v. Office of the Ombudsman*,^[51] the Court found the respondent Register of Deeds guilty of grave misconduct and ordered his dismissal from service when he erroneously issued Condominium Certificates of Title without following the established rules on land registration.^[52]

In the same vein, it was not respondent's duty as Customs Security Guard II of the In-Bond Room Section, nor does he have the authority, to remove or release the sealed tin can of jewelry from the In-Bond Room Section to Customs Cashier Vigilia. Other than his self-serving and uncorroborated claim that he did so for "safekeeping" purposes, he was not able to establish sufficient justification for his actions. Even if he had reasonable ground to believe that the subject jewelry was in danger of being lost in the In-Bond Room Section, he still needed to secure (a) the necessary clearance/authorization from the official custodian thereof or a higher BOC official having supervision over such officer before he can transfer the subject jewelry to another location, and strictly in accordance with such officer's/official's instructions, and/or (b) comply with existing laws^[53] and rules^[54] for the removal of seized items before releasing the same to any person. Instead, he merely stated