

THIRD DIVISION

[G.R. No. 161425, November 23, 2016]

**ANIANO DESIERTO (SUBSTITUTED BY SIMEON V. MARCELO)
AND MAUCENCIA ORDONEZ, PETITIONERS, VS. RUTH EPISTOLA
AND RODOLFO GAMIDO, RESPONDENTS.**

RESOLUTION

PEREZ, J.:

This is a petition for review on certiorari assailing the Decision^[1] dated 16 December 2003 of the Court of Appeals in CA-G.R. SP No. 68508 which reversed the Office of the Deputy Ombudsman for Luzon's (Ombudsman) finding that respondents are administratively liable for simple neglect of duty and grave misconduct.

Respondent Ruth Epistola (Epistola), now deceased, was a public school teacher and class adviser, while Rodolfo Gamido (Gamido) was a Barangay Captain. Respondents are related.

This case arose from the death of Rustom Ordoñez (Rustom) due to drowning when he went to the river to gather water lilies for a class project. Rustom was a Grade V student at Bone North Elementary School in Aritao, Nueva Vizcaya. According to Rustom's classmate, Jhomel Patinio (Jhomel), Rustom, Harold Rafanan, Jayson Acosta and Rolly Fei Acosta were ordered by their class adviser Epistola to gather water lilies for the beautification of the school lagoon on 12 March 1999.^[2] On the following day, Rustom sought permission from his grandmother Maucencia Ordoñez (Maucencia) to collect water lilies. Maucencia forbade Rustom from going but the latter sneaked out of the house and went to the river to gather lilies. Rustom drowned and instantaneously died.

Armed with Jhomel's 22 July 1999 Sworn Statement, Maucencia filed a criminal complaint on 8 December 1999 against Epistola before the Office of the Deputy Ombudsman for Luzon for reckless imprudence.

On 22 February 2000, Jhomel retracted his previous statement and attested that he heard Epistola assign Harold, and not Rustom, to gather water lilies. His Affidavit was sworn before Gamido.

Yet, on 16 June 2000, Jhomel executed another affidavit repudiating his earlier retraction. He explained that he was coerced into signing by respondents, along with five (5) other teachers, namely: Lorna Caser, Delia Cacal, Manuel Esperanza, Marilyn Serapon and Ernesto Gamido, inside the principal's office.

On 12 July 2000, Maucencia filed an administrative complaint against respondents and five other teachers of Bone North before the Office of the Deputy Ombudsman

for Luzon for coercing Jhomel to retracting his statement on Epistola's complicity in Rustom's death.

Epistola strongly denied that she instructed Rustom to collect water lilies because the latter was then wearing a thick pair of eyeglasses. She claimed to have instructed only Harold and Jayson to gather water lilies.

Jayson executed an affidavit on 22 March 1999 before Barangay Captain Gamido narrating that he was one of those assigned by Epistola to gather water lilies; that he went to the house of Maucencia to fetch Rustom who earlier asked to accompany them to the field. Rustom was not allowed to go but the latter caught up with the group of Jayson when they reached the first irrigation canal. When the group was able to get some water lilies, Rustom insisted on going to the river to get more lilies. Upon reaching the river, Rustom immediately undressed and dived into the water. Rustom was able to reach the deep portion of the river before he started screaming for help because he was drowning. The group tried to rescue him but to no avail.

To counter Jhomel's accusation that he was coerced into signing the retraction, his classmate Harold executed an Affidavit on 3 October 2000 stating that he and Jayson were assigned by Epistola to gather water lilies. On the following day, Harold went to the fields where he was able to collect a sack full of lilies. He learned later in the day that his classmate Rustom drowned while bathing in the big river. Sometime in February 2000, Harold recalled that he and some of his classmates were summoned to the principal's office to meet the barangay captain of Bone North. He denied seeing the other teachers who could have intimidated Jhomel into retracting his prior statement.^[3]

Two days earlier or on 1 October 2000, a purported affidavit from Jhomel made the following clarifications: that he was made to sign a prepared affidavit on 16 June 2000 in the house of Maucencia; that the same was not explained to him nor did he appear before the Notary Public; that his statement on 22 February 2000 given at the principal's office in the presence of Gamido was not obtained by force, intimidation or threat for it was voluntarily given and even read and explained to him by his father; and that his 22 July 1999 retraction was also signed in the house of Maucencia.^[4]

However, Jhomel executed an Affidavit dated 22 January 2001 denying that he executed or signed the 1 October 2000 affidavit. He alleged that his signature appearing thereon was forged.^[5]

In lieu of a formal hearing, the parties submitted their respective memorandum.

On 7 June 2001, the Office of the Deputy Ombudsman for Luzon found Epistola guilty of simple neglect of duty for ordering Rustom to gather water lilies. Epistola, along with Gamido, was also found guilty of grave misconduct for tampering with evidence. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, this office finds and so hold respondent Ruth Epistola guilty of simple neglect of duty for her act of ordering her pupil Rustom Ordoñez to gather water lilies. Thus, her negligence to observe the demands of a substitute parent for her pupil,

she is hereby meted the penalty of Suspension for One Month.

FURTHERMORE, respondent Barangay Captain Rodolfo Gamido and Ruth Epistola, acting in conspiracy for forging the signature of Jhomel Patinio, are also found guilty of Grave Misconduct. But since they are first offenders, they are hereby meted the penalty of one (1) year suspension without pay, there being no aggravating circumstances.

The charge against the other respondents is hereby recommended to be dismissed for lack of substantial evidence.^[6]

The Ombudsman gave credence to Jhomel 's declaration that Epistola did instruct Rustom to gather water lilies, which ultimately caused his death. In doing so, Epistola was instrumental in exposing her students to such danger that resulted in the death of Rustom; hence, she was found guilty of simple neglect of duty. Moreover, respondents were also found to have attempted to perverse the truth by executing retraction affidavits and falsifying Jhomel's signature; thus, they were 'found to have committed grave misconduct.

Respondents filed a Motion for Reconsideration but it was denied by the Ombudsman on 17 October 2001.

Respondents elevated the case to the Court of Appeals.

On 16 December 2003, the Court of Appeals reversed and set aside the Decision and Resolution of the Ombudsman. The appellate court gave more credence to Harold's sworn declaration that he and Jayson were the only ones assigned to gather the water lilies. The appellate court also considered the affidavit of Rustom's other companions that the latter had intended to swim and not to gather water lilies when he went into the river, resulting in his early demise. The appellate court chose to disregard Jhomel's conflicting statements. With respect to Gamido, the appellate court held that his relationship with Epistola does not by itself taint the proceeding in the principal's office in light of Jhomel's classmates' sworn declaration that no undue pressure was exerted upon Jhomel. Finally, the appellate court ruled that under the Ombudsman Law, the Ombudsman had no authority to conduct an investigation over the case because the complaint was filed one year after the occurrence of the act complained of. The appellate court added that it should have been the committee referred to in Section 9 of the Magna Carta for Public School Teachers that conducted the investigation of the administrative complaint.

The Ombudsman filed a petition for review on 18 February 2004 defending its factual findings as to the administrative liability of respondents. In particular, the Ombudsman insists that Gamido interfered and used his authority as Barangay Chairman to compel the witness to retract his statement. The Ombudsman also stresses that Gamido participated in the falsification of the second affidavit of retraction by signing in the joint answer knowing that the affidavit attached thereto was falsified. The Ombudsman maintains that it exercises discretion in the conduct of administrative investigation.

Epistola died on 19 December 2006 while Gamido was no longer the Barangay Captain of Bone North as of 14 March 2003.

With respect to Epistola, the Court issued a Resolution dated 24 August 2009 dismissing the instant petition against her.^[7]

In his Memorandum, Gamido denies coercing, intimidating or influencing Jhomel to execute the questioned affidavits. Gamido asserts that the Ombudsman merely focused on Jhomel's flip-flopping statements and failed to consider the accounts of the other witnesses to the case. Significantly, Gamido alleges that assuming he is guilty, his suspension is already moot and academic because he is no longer the barangay chairman of Bone North.

We deny the Petition for being moot and academic.

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.^[8]

In the instant case, Gamido is no longer the incumbent barangay chairman of Bone North as far back as 2003. The expiration of his term as barangay chairman operates as a supervening event that mooted the present petition. The validity or invalidity of his suspension could no longer affect his tenure.

Notwithstanding the mootness of the petition, we shall make a categorical resolution on whether Gamido committed grave misconduct during his tenure as barangay chairman.

Findings of fact by the Office of the Ombudsman are conclusive when supported by substantial evidence. Its factual findings are generally accorded with great weight and respect, if not finality by the courts, by reason of its special knowledge and expertise over matters falling under its jurisdiction.^[9]

Substantial evidence, which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, would suffice to hold one administratively liable. The standard of substantial evidence is satisfied when there is reasonable ground to believe that respondent is responsible for the misconduct complained of, even if such evidence might not be overwhelming or even preponderant. While substantial evidence does not necessarily import preponderance of evidence as is required in an ordinary civil case, or evidence beyond reasonable doubt as is required in criminal cases, it should be enough for a reasonable mind to support a conclusion.^[10]

In finding that Gamido's actuations are tantamount to grave misconduct, the Ombudsman ratiocinated, thus:

Relative to the Charge of Grave Misconduct arising from the alleged act of pressuring or unduly influencing Jhomel Patinio to execute retraction affidavits and to the extent of allegedly falsifying his signature, we find