

THIRD DIVISION

[G.R. No. 191712, September 17, 2014]

**EDITA S. BUENO AND MILAGROS E. QUINAJON, PETITIONERS,
VS. OFFICE OF THE OMBUDSMAN, NAPOLEON S. RONQUILLO,
JR., EDNA G. RAÑA AND ROMEO G. REFRUTO RESPONDENTS.**

D E C I S I O N

VILLARAMA, JR., J.:

Before the Court is a petition for review under Rule 45 seeking to reverse and set aside the Decision^[1] dated November 4, 2009 and Resolution^[2] dated March 18, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 105925. The CA affirmed the Decision^[3] dated January 22, 2007 of the Office of the Ombudsman (OMB) in OMB-C-A-05-0065-B finding the petitioners Edita S. Bueno (National Electrification Administration [NEA] Administrator) and Milagros E. Quinajon (Director of NEA's Institutional Development Department) guilty of violation of Section 5 (a) of Republic Act No. (RA) 6713 otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees."

Factual Antecedents

On February 13, 1998, former Administrator Teodorico P. Sanchez of the NEA issued a memorandum "Re: Consolidated Guidelines on the Candidacy of Coop Officials and Employees in Local, National and Barangay Elections and Related Matters." Said memorandum provided, among others, that: (1) all board members, general managers and employees of electric cooperatives shall be considered automatically resigned from their respective positions effective upon filing of their Certificates of Candidacy; (2) directors who ran and lost in the national and local elections shall not be eligible for re-appointment; and (3) in the event that the spouse of an incumbent director runs and wins in these elections, the director shall be considered automatically resigned when the spouse takes his/her oath of office.^[4]

On the basis of the aforementioned memorandum of Administrator Teodorico P. Sanchez, petitioner Edita S. Bueno who was then NEA Deputy Administrator for Cooperatives Development, issued on February 9, 2001 a memorandum addressed to all regional electrification directors on the subject "Candidacy of Electric Coop Officials and Employees in the May 14, 2001 National and Local Elections" stating, among others, that "[A]ll board members, general managers and employees of ECs shall be considered automatically resigned from their respective positions effective upon filing of their Certificates of Candidacy."^[5]

On June 25, 2001, in reply to NEA Administrator Manuel Luis Sanchez's letters, the Office of the Government Corporate Counsel (OGCC) issued Opinion No. 115^[6] stating that the subject memoranda are not valid rules and regulations, and hence

have no force and effect on electric cooperatives for the following reasons: (1) they have not been formulated, adopted and approved by the NEA Board of Administrators which is the body vested by law with the power to promulgate rules and regulations; and (2) they have not been filed with the University of the Philippines (UP) Law Center as required by Chapter 2, Book VII of the Administrative Code of 1987. In the same opinion, NEA was advised to have the subject memoranda approved by the NEA Board of Administrators and filed with the UP Law Center.

Under Resolution No. 56 issued on May 27, 2004, the NEA Board of Administrators approved the subject memorandum issued by former NEA Administrator Teodorico P. Sanchez. The said memorandum was likewise published in the Official Gazette on March 21, 2005.^[7]

On December 7, 2004, private respondents Napoleon S. Ronquillo, Jr., Edna G. Raña and Romeo G. Refruto filed criminal and administrative complaints before the OMB charging petitioner Bueno (now the NEA Administrator) with "Gross Neglect of Duty and violations of the pertinent provisions of RA 6713. Private respondents alleged:

3. That notwithstanding said advise from NEA's statutory counsel respondent BUENO who was fully aware of its existence being then the Deputy Administrator for Cooperatives Development and thereafter as Chief Operating Officer of NEA and eventually as its Administrator continued its implementation to the damage and prejudice of the 119 electric cooperatives nationwide;

4. That its unlawful implementation specifically by respondents BUENO and QUINAJON had caused and is still causing irreparable damage and injury to officers and employees of electric cooperatives who happens to be victims of this null and void NEA Rules and Regulations, the latest of which was the case of ALEJANDRO RANCHEZ, JR. of the Ilocos Norte Electric Cooperative, Inc. (INEC) who was unceremoniously and unlawfully removed as director of said electric cooperative by respondents BUENO and QUINAJON using aforesaid memoranda as basis, copies of the letter directives issued by them are hereto attached and marked as ANNEX "D" and ANNEX "D-1" for ready reference and made integral parts hereof;

5. Respondent members of the NEA Board of Administrators chaired by DOE Secretary VINCENT PEREZ are being joined and included in this complaint by virtue of their tolerance and inaction in relation to the implementation of said null and void Rules and Regulations notwithstanding their acquiescence of its infirmities.

WHEREFORE, in the light of the foregoing considerations, complainants pray that:

a) Pending hearing/investigation on the merits of this case respondents EDITA S. BUENO and MILAGROS E. QUINAJON be placed under PREVENTIVE SUSPENSION there being sufficient

grounds to warrant its issuance pursuant to the Ombudsman Act and pertinent laws herein applicable;

b) That in aid of investigation that a subpoena duces tecum be issued to:

1. EDITA S. BUENO and MILAGROS E. QUINAJON for them to produce the original copy of the advertive [sic] OGCC Opinion and the entire records of ALEJANDRO RANCHEZ, JR. of INEC including the latest recommendation of the NEA Legal Services Office issued a few days before the NEA Board meeting on November 24, 2004 making a pronouncement as to the impropriety/illegality of aforesaid memorandum;
2. NOLLIE B. ALAMILLO for him to produce copy of the Petition for Review filed by ALEJANDRO RANCHEZ, JR. with the NEA Board of Administrators together with the action/s taken by him and the NEA Board of Administrators specifically its board meeting dated November 24, 2004.

c) That after the determination of the existence of a PRIMA FACIE CASE against all the respondents, that the corresponding INFORMATIONS be filed with the SANDIGANBAYAN considering that they are holding positions from SALARY GRADE 26 and above;

d) That respondents be dealt with administratively by DISMISSING them from the service.^[8]

The administrative aspect of the above complaint was subsequently docketed as OMB-C-A-05-0065-B for "Gross Neglect of Duty, RA 6713", while the criminal aspect was docketed as OMB-C-A-05-0062-B.

Alejandro Ranchez, Jr. (Ranchez), who was mentioned in the complaint, was a duly elected Director of the Ilocos Norte Electric Cooperative, Inc. (INEC) whose wife, Ms. Genaline Judith R. Ranchez, was elected and sworn into office as a *Sangguniang Bayan* Member of Bacarra, Ilocos Norte. As per the letter dated July 20, 2004 of Quinajon, Ranchez was considered automatically resigned as Director of INEC. Ranchez sought reconsideration but NEA Administrator Bueno, in her letter dated September 27, 2004, denied his request and asserted that the subject memoranda shall be fully implemented unless and until declared illegal or unconstitutional by a competent court.^[9]

In his letter dated November 18, 2004 Ranchez had requested from Quinajon for a copy of the memorandum of the NEA Legal Office dated November 18, 2004 addressed to Quinajon. In another letter dated November 3, 2004 addressed to Bueno, Ranchez sought deferment of implementation by the Board of Directors of INEC of NEA's decision on his disqualification as Director pending resolution of his petition for review filed before the NEA Board of Administrators.

On May 19, 2005, the OMB denied private respondents' prayer for the preventive suspension of petitioners.^[10]

In their position paper, petitioners denied having committed any neglect of duty in connection with the implementation of the subject memoranda. They explained that the February 13, 1998 memorandum of Administrator Teodorico P. Sanchez, the basis of Bueno's February 9, 2001 memorandum have been duly ratified by the NEA Board of Administrators on May 27, 2004 under Resolution No. 56. They also argued that the private respondents have no sufficient interest in the controversy and filed the complaint in bad faith since private respondent Ronquillo who is the Division Manager of NEA's Legal Department should have advised the private respondents on the proper remedies.^[11]

Private respondents in their position paper again discussed the case of Mr. Sanchez which they said belied petitioners' averments in their counter-affidavit that they were not negligent in the implementation of the subject memoranda declared as null and void by the OGCC. Attached to the position paper is the affidavit executed by Sanchez, which reads:

x x x x

4. That sometime on the first week of October, 2004, I was accompanied by then INEC Director Parado to the National Electrification Administration (NEA) and inquired from the NEA Corporate Secretary if the Memorandum dated February 9, 2001 and the ELECTION GUIDELINES which was made by NEA Administrator Bueno in removing me as a duly elected Director of INEC had already been approved by the NEA Board of Administrators and eventually submitted to the UP Law Center as required by the Administrative Code. The NEA Corporate Secretary informed me that there was no approval yet as of that date and hence it had not yet been submitted to the UP Law Center;

5. That relying on the pronouncement made by the NEA Corporate Secretary, I filed a Motion [f]or Reconsideration with NEA on October 22, 2004 addressed to the NEA Board [o]f Administrators inviting their attention on the legal infirmities caused by said Memorandum of NEA Administrator Bueno, copy furnished the NEA Legal Department;

6. That on October 29, 2004, the NEA Corporate Secretary Mr. Nollie Alamillo sent to me a letter with the information that my request will be taken up in the next regular meeting of the NEA Board of Administrators;

7. That thereafter and when I made follow ups with the Office of the Corporate Secretary, Mr. Alamillo informed me that upon instructions made by NEA Administrator Bueno, said request for reconsideration was not included in the agenda for the Board Meeting and other meetings of the Board that transpired;

8. That on November 2004 I again prepared another letter communication addressed to Administrator Bueno with the request that I

be allowed to sit as Director pending resolution and determination by the NEA Board of Administrators of my Motion [f]or Reconsideration;

9. That I made several follow ups with NEA but I was only referred to its different Offices one of which was the NEA Legal Office whom per information relayed by the Office of Administrator Bueno was tasked to attend to my case;

10. That the Legal Department made a favorable recommendation on my case and I was instructed to follow up their recommendation with the Office of Director Milagros Quinajon;

11. That at the Office of Director whereby I was made to wait until 7:30 in the evening, I again reiterated the issue on the legal infirmities of the aforesaid Memorandum and they had even a telephone conversation with our local officials but Director Quinajon just told me to come back the following day;

12. That when I came back the following day, I was informed by her staff that she (Quinajon) was on travel in the Province;

13. That despite follow ups made, all efforts I had exerted resulted in futility because of the uncalled for acts unbecoming of public servants demonstrated by Administrator Bueno and her staff MILAGROS QUINAJON;

14. That I ventilated this matter with the Office of the President thru the Malacañang Legal Staff whereby my case had [already been] submitted for decision;

x x x x^[12]

Ruling of the Ombudsman

The Ombudsman dismissed the administrative case against respondent officials except petitioners, thus:

WHEREFORE, in light of the foregoing ratiocination, this Office finds, as follows:

1. The complaint filed against former Secretary of the Department of Energy, VINCENT S. PEREZ; and PABLO M. PAN III, WILFRED L. BILLENA and JOSEPH D. KHONG HUN, all members of the Board of Administrators, NEA, is hereby DISMISSED for lack of substantial evidence; and
2. EDITA S. BUENO and MILAGROS E. QUINAJON, Administrator and Director, respectively, National Electrification Administration (NEA) are hereby found guilty of Violation of Section 5(a) of Republic Act