

THIRD DIVISION

[G.R. No. 206661, December 10, 2014]

HON. ORLANDO C. CASIMIRO, IN HIS CAPACITY AS ACTING OMBUDSMAN, OFFICE OF THE OMBUDSMAN; HON. ROGELIO L. SINGSON, IN HIS CAPACITY AS DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS SECRETARY, PETITIONER, VS. JOSEFINO N. RIGOR, RESPONDENT.

DECISION

PERALTA, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioners Orlando C. Casimiro, as Acting Ombudsman, and Rogelio L. Singson, in his capacity as Secretary of the Department of Public Works and Highways (*DPWH*), assailing the Decision^[1] of the Court of Appeals (*CA*) dated July 4, 2012 and its Resolution^[2] dated March 27, 2013 in CA-G.R. SP 120708. The *CA* nullified and set aside the Order^[3] of the Office of the Ombudsman (*OMB*), dated July 18, 2011, and reinstated its Order^[4] dated April 29, 2011, both in OMB-C-A-05-0123-C.

The factual and procedural antecedents are as follows:

Sometime in 2005, the General Investigation Bureau-A of the *OMB* (*GIB-A-OMB*) conducted a lifestyle check on respondent Josefino N. Rigor, then the Regional Director of the *DPWH*-National Capital Region (*DPWH-NCR*). Thereafter, the *GIB-A-OMB* filed a complaint against Rigor charging him criminally and administratively before the *OMB* for alleged unexplained wealth and violation of Republic Act (R.A.) No. 3019^[5] and R.A. 1379.^[6] Said complaint was mainly based on certain irregularities on Rigor's Statement of Assets, Liabilities and Net Worth (*SALNs*), allegedly failing to declare therein several properties, business interests, and financial connections. Its administrative aspect asserted that Rigor committed Dishonesty, Grave Misconduct, and Falsification of Official Documents.

The complaint alleged that Rigor failed to declare in his 1999 *SALN* the following:

- 1) Fourteen (14) parcels of land located in Barrio Maluid, Victoria, Tarlac, covered by Transfer Certificate of Title (*TCT*) Nos. 223271 to 223284, which were all issued by the Registry of Deeds for Tarlac province on August 21, 1989 in the name of Josefino Rigor, married to Abigail S. Rigor;
- 2) Seven (7) parcels of land located in San Roque and San Rafael, Tarlac City covered by a single title, *TCT* No. T-240955 issued by the Registry of Deeds for Tarlac Province on

- September 6, 1991 in the name of Josefino Rigor, married to Abigail S. Rigor;
- 3) A parcel of land located in San Roque and San Rafael, Tarlac City covered by TCT No. T-240956;
 - 4) A two-storey commercial/residential building at 1722 G. Tuazon St., Sampaloc, Manila covered by TCT No. 229634 issued by the Registry of Deeds for Manila and was purchased from Jose N. Reyes for Nine Hundred Fifty Thousand Pesos (P950,000.00) on July 18, 1996;
 - 5) A Toyota Rav 4 Sports Utility Vehicle (SUV) with License Plate No. XPT-816 registered under Land Transportation Office (LTO) MV File No. 1336-115201 and sold by Toyota Shaw, Inc. on December 18, 1999 to Anastacia Corpuz Rigor, Rigor's wife;
 - 6) A Dodge Ram Road Trek 1995 model with license number UBA-898 registered under the name of Rigor's wife, Anastacia C. Rigor. The same was sold by Anastacia only on May 16, 2003 to George Mamonluk for P1,050,000.00;
 - 7) Business interest in Jetri Construction Corporation which was incorporated in November 1989 under Securities and Exchange Commission (SEC) Reg. No. 171720 with an authorized capital stock of P8,000,000.00 which was primarily incorporated for construction business, in defiance of a possible conflict of interest with Rigor, being a ranking DPWH official. Rigor's wife, as one of the incorporators, has the biggest number of shares worth P600,000.00; she made payment of P150,000.00 worth of capital stocks and was the elected Treasurer of the Corporation; and
 - 8) Business interest in Disneyland Bus Line, Inc. which was registered on March 30, 1994, primarily intended to operate as a transportation business with an authorized capital stock of P10,000,000.00. Of the P2,500,000.00 subscribed capital stocks, Rigor subscribed to P1,125,000.00 while his wife subscribed to P750,000.00. Both amounts of subscribed shares were wholly paid up.

In 2000, Rigor allegedly failed to declare the following in his SALN:

- 1) Fourteen (14) parcels of land located in Barrio Maluid, Victoria, Tarlac, covered by Transfer Certificate of Title (TCT) Nos. 223271 to 223284;
- 2) Seven (7) parcels of land located in San Roque and San Rafael, Tarlac City covered by a single title, TCT No. T-240955;
- 3) A parcel of land located in San Roque and San Rafael, Tarlac City under TCT No. 132066 issued by the Registry of Deeds for Tarlac Province on September 7, 1976 in the name of Josefino Rigor; and
- 4) A parcel of land located in San Roque and San Rafael, Tarlac City covered by TCT No. T-240956.

Lastly, he failed to include in his 2001 and 2002 SALNs the following properties, business interests, and financial connections:

- 1) Four (4) parcels of land in San Sebastian Village, Tarlac City covered by TCT Nos. 356610, 356611, 356612, and 356613, all in Rigor's name and purchased from Allan M. Manalang;
- 2) The two-storey commercial/residential building at 1722 G. Tuazon St., Sampaloc, Manila covered by TCT No. 229634;
- 3) The Toyota Rav 4 Sports Utility Vehicle (SUV) with License Plate No. XPT-816;
- 4) The Dodge Ram Road Trek 1995 model with license number UBA-898;
- 5) Business interest in Jetri Construction Corporation;
- 6) Business interest in Disneyland Bus Line, Inc.;
- 7) Business interest in Kontrata Construction and Development Corporation;
- 8) A parcel of land situated in Barrio Tibag, Tarlac City covered by TCT No. 249517 in the name of Rigor's son; and
- 9) Six (6) lots situated in San Sebastian Village, Tarlac City covered by TCT Nos. 330183, 327448, 326965, 326966, 326964, and 325284.

On July 28, 2006, the OMB issued a Decision finding Rigor guilty of Dishonesty, the dispositive portion of which reads:

FOREGOING CONSIDERED, pursuant to Section 52 (A-1) Rule IV of the Uniform Rules on Administrative Cases (CSC Resolution No. 991936), dated August 31, 1999, respondent JOSEFINO NACPIL RIGOR, Regional Director, DPWH-NCR, 2nd St., Port Area, Manila, is hereby found guilty of DISHONESTY and is meted the corresponding penalty of DISMISSAL FROM THE SERVICE, including all its accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for reemployment in the government service and without prejudice to criminal prosecution.

Pursuant to the Memorandum Circular No. 01 dated April 11, 2006 issued by the Office of the Ombudsman, the Honorable HERMOGENES E. EBDANE, JR., Secretary, Department of Public Works and Highways, is hereby directed to immediately implement this Decision, with the request to inform this Office of the action taken thereon and promptly submit to this Office a Compliance Report thereof.

SO ORDERED.^[7]

Subsequently, Rigor moved for a reconsideration, which the OMB granted on April 29, 2011. It thus ruled:

WHEREFORE, in view of the foregoing, the Motion for Reconsideration of the respondent is hereby **GRANTED**. The Decision dated September 23, 2010, finding respondent JOSEFINO NACPIL RIGOR guilty of the administrative offense is hereby MODIFIED and SET ASIDE. Accordingly, respondent is adjudged GUILTY of Simple Negligence and is hereby fined the amount of One Thousand Pesos, with a warning that repetition of the same or similar act shall be dealt with more strictly.

The Secretary of the Department of Public Works and Highways is hereby directed to implement this Decision within Ten (10) days from receipt hereof.

SO ORDERED.^[8]

The DPWH Secretary then filed, through the Office of the Solicitor General (OSG), an Omnibus Motion (for Leave to Intervene and to Admit Motion for Reconsideration), praying for its intervention in the case to be allowed. The DPWH argued that there existed strong and compelling reasons for the reversal of the April 29, 2011 OMB Order. On June 7, 2011, the OMB directed Rigor to file his Comment on said Motion.

On July 18, 2011, the OMB issued an Order with a decretal portion that states:

PREMISES CONSIDERED, the Motion for Reconsideration dated 23 May 2011 is **GRANTED**. Accordingly, the Order dated 29 April 2011 finding JOSEFINO N. RIGOR guilty of Simple Negligence and imposing upon him the penalty of Fine in the amount of One Thousand Pesos (PhP1,000.00) is hereby **SET ASIDE**.

JOSEFINO N. RIGOR, Regional Director, DPWH-National Capital Region, is hereby found **GUILTY** of **Serious Dishonesty and Falsification of Official Documents**. The penalty of DISMISSAL FROM THE SERVICE is accordingly imposed against him pursuant to **Section 52-A, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, as amended**, with the accessory penalties of cancellation of eligibility, forfeiture of all benefits, except leave credits, and the perpetual disqualification for reemployment in the Government service.

This Order is **immediately executory** pursuant to Ombudsman Memorandum Circular No. 01, Series of 2006, in relation to paragraph 1, Section 27 of R.A. 6770, and Section 7, Rule III, Administrative Order No. 7, Rules of Procedure of the Office of the Ombudsman, as amended, and in accordance with the ruling of the Supreme Court in **Ombudsman vs. Joel Samaniego**.

Accordingly, let a copy of this Order be furnished to the **Honorable Secretary Rogelio L. Singson**, Department of Public Works and Highways (DPWH), for the implementation thereof against **JOSEFINO N. RIGOR**.

SO ORDERED.^[9]

Aggrieved, Rigor brought the case to the CA via a Petition for *Certiorari* under Rule 65 of the Rules of Court, attributing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the OMB. On July 4, 2012, the appellate court sustained Rigor and rendered the herein assailed decision. Thus:

WHEREFORE, in view of the foregoing, the challenged Order dated 18 July 2011 of the Office of the Ombudsman is hereby **NULLIFIED** and **SET ASIDE**. Accordingly, the Order dated 29 April 2011 is hereby **REINSTATED**.

SO ORDERED.^[10]

Thereafter, a Motion for Reconsideration was filed but the same was denied for lack of merit.

Hence, the OMB and the DPWH filed the instant Petition for Review. It asserts that the CA gravely erred in giving due course to Rigor's petition despite using the remedy of the special civil action of certiorari under Rule 65, instead of Rule 63, of the Rules of Court. They likewise maintain that the DPWH could still intervene before the OMB and question the April 29, 2011 OMB Order which found Rigor guilty of mere Simple Negligence and reduced the penalty to a fine of only P1,000.00. They aver that there is sufficient evidence to hold respondent administratively liable for Serious Dishonesty and Falsification of Official Documents.

Petitioners present the following arguments:

I.

THE COURT OF APPEALS GRAVELY ERRED IN NOT RULING THAT A PETITION FOR *CERTIORARI* AND PROHIBITION IS AN IMPROPER REMEDY TO ASSAIL RESPONDENT'S DISMISSAL FROM SERVICE.

II.

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE DPWH CAN NO LONGER INTERVENE BEFORE THE OFFICE OF THE OMBUDSMAN AND ASSAIL THE APRIL 29, 2011 ORDER FINDING RESPONDENT ADMINISTRATIVELY LIABLE ONLY FOR SIMPLE NEGLIGENCE.

III.

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE DPWH CAN NO LONGER INTERVENE BEFORE THE OFFICE OF THE OMBUDSMAN, DESPITE THE PRESENCE OF SUFFICIENT EVIDENCE TO HOLD RESPONDENT ADMINISTRATIVELY LIABLE FOR SERIOUS DISHONESTY AND FALSIFICATION OF OFFICIAL DOCUMENTS.^[11]

There is merit in the petition.

The Court shall first delve on the procedural issues of the case. The OMB contends that the CA should have dismissed Rigor's Petition for *Certiorari* for being an improper remedy. Appeals from decisions in administrative disciplinary cases of the OMB should be taken to the CA via a Petition for Review under Rule 43 of the Rules of Court. Rule 43 prescribes the manner of appeal from quasi-judicial agencies,