

## THIRD DIVISION

[ G.R. No. 174297, June 20, 2012 ]

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. ROMEO A. LIGGAYU, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before us is a petition for review on *certiorari* filed by petitioner Office of the Ombudsman which assails the Decision<sup>[1]</sup> dated May 17, 2005 and the Resolution<sup>[2]</sup> dated August 3, 2006 issued by the Court of Appeals (CA) in CA-G.R. SP No. 65572.

The antecedent facts are as follows:

The former Chairman and General Manager of the Philippine Charity Sweepstakes Office (PCSO), retired Justice Cecilia Muñoz-Palma, authorized the release from her discretionary funds a cash advance in the amount of P45,000.00 to cover the expenses of the PCSO Legal Department in attending to cases pending before the Ombudsman and the various courts in Metro Manila.<sup>[3]</sup> Respondent Atty. Romeo A. Liggayu was a manager in the legal department to whom the cash advance was issued under Check No. 165755 dated July 8, 1999.<sup>[4]</sup> The actual expenses incurred by the legal department for the purchase of food and drinks while attending to the court cases amounted to P45,717.39. To liquidate the cash advance and reimbursement, Disbursement Voucher No. 0499110507 dated December 3, 1999 was thereafter submitted wherein respondent attached thereto the various official receipts (ORs) as reflected in the summary of expenses for the food and drinks purchased on different dates<sup>[5]</sup> which included among others: (1) receipt<sup>[6]</sup> dated July 8, 1999 issued by New Concepcion Cafe and Restaurant in the amount of P1,525.50; and (2) Sales Invoice No. 31203<sup>[7]</sup> dated October 2, 1999 issued by Nature's Cafe in the amount of P2,204.00.

On July 4, 2000, then PCSO Corporate Auditor, Atty. Milagros Romero (Romero), issued a Notice of Suspension<sup>[8]</sup> for the amount of P23,577.14 as she found some deficiencies with the documents submitted by respondent, to wit: (1) absence of accomplishment reports; and (2) excessive expenses for food and beverages. Later, Romero issued a Notice of Disallowance<sup>[9]</sup> in the total amount of P7,519.00 from the cash advance of respondent, which included among others the amounts of P2,204.00 under Nature's Cafe Sales Invoice no. 31203 and P1,525.50 under New Concepcion Cafe and Restaurant Cash Invoice No. 36166. The disallowance<sup>[6]</sup> was due to the findings of the audit team that the amount of P2,204.00 covered by Invoice No. 31203 was merely written or caused to be written by respondent as the duplicate copy of the invoice in possession of the establishment was found to be blank per certification by the latter's cost comptroller; and that the OR

corresponding to the said sales invoice which was for the same amount was actually issued to and paid by United Moonwalk Village Homeowners Association, Inc. (UMVHAI). On the other hand, the New Concepcion Cafe and Restaurant Cash Invoice No. 36166 in the amount of P1,525.00 was discovered to be falsified since the duplicate copy on file with the restaurant was only for the amount of P525.00; that the figure "1" which appeared before the numbers 525.50 was only added after the issuance of the said invoice to make it appear that the bill was for the amount of P1,525.50; and that the establishment's proprietor certified as to the correctness of the amount appearing in the duplicate copy of the sales invoice. Consequently, then PCSO General Manager Ricardo Golpeo (Golpeo) formally charged respondent of dishonesty, gross misconduct and conduct prejudicial to the best interest of the service.<sup>[10]</sup> On July 19, 2000, Golpeo placed respondent under preventive suspension for a period of 90 days pursuant to the July 18, 2000 meeting of the PCSO Board of Directors.<sup>[11]</sup> He also issued an Order<sup>[12]</sup> on even date for the creation of a Special Investigating Committee to conduct the formal investigation on the charge filed against respondent.

Respondent filed his Answer<sup>[13]</sup> denying the charges against him. He explained that as to the Nature Cafe's Sales Invoice No. 31203 in the amount of P2,204.00, he had no control in the preparation of the said sales invoice, particularly the duplicate copy thereof; that if the duplicate copy was left blank, then it should be the establishment which must be investigated before the BIR; that the sales invoice given to him bore the cashier's signature evidencing receipt of the amount indicated therein and presumed to be valid, since it was numbered and contained the tax identification number of the establishment; and that he is a member of UMVHAI but it was possible that his identity was not known to the cafe's staff, thus the official receipt was issued to UMVHAI.

As to the New Concepcion Cafe's Cash Invoice No. 36166 in the amount of P1,525.50, respondent argued that he merely received the cash invoice and had no participation in the preparation thereof; that business establishments usually reduced the amounts appearing in the duplicate of their receipts in order to enable them to pay lesser tax. Respondent also alleged in his answer the reasons why he could not get a fair and impartial trial from the special investigating committee, thus prayed for an independent committee to try his case.

On August 1, 2000, respondent filed with the Regional Trial Court (RTC) of Quezon City, a Petition for *Certiorari* with Damages and a Writ of Preliminary Mandatory Injunction<sup>[14]</sup> to enjoin then PCSO Chairman Rosario Lopez and the Board of Directors from implementing the preventive suspension. The case was docketed as Q-00-41464 raffled off to Branch 225.

On September 1, 2000, the RTC issued an Order<sup>[15]</sup> granting the prayer for the issuance of an injunctive writ and ordered the aforementioned PCSO officials to: (a) reinstate respondent to his position as Manager of its Legal Department; (b) lift the preventive suspension imposed on him; (c) suspend the investigation on the formal charge against him and/or from doing or procuring to be done acts which tend to render any judgment in the case ineffectual until after the case shall have been decided on the merit or until further order from the court. A writ<sup>[16]</sup> was subsequently issued.

Earlier however, in a meeting held on July 28, 2000, the PCSO Board of Directors had already resolved to endorse the formal charge for dishonesty, gross misconduct and conduct prejudicial to the best interest of the service against respondent to the Resident Ombudsman for investigation and resolution. The Resident Ombudsman in turn forwarded the charge to petitioner for administrative adjudication in order to allay respondent's fear of not getting a fair treatment at the PCSO. He also recommended respondent's preventive suspension.

Before petitioner could issue an order requiring respondent to file his counter-affidavit on the charge, the latter filed a Manifestation<sup>[17]</sup> informing the former of a writ of preliminary injunction issued by the RTC.

In an Order<sup>[18]</sup> dated October 18, 2000, petitioner resolved the manifestation regarding the RTC's issuance of an injunction. It found that the injunction had been directed not against petitioner but to the PCSO officials named therein; that it merely sought to enjoin the conduct of a formal investigation by the PCSO management, thus such injunction could not be interpreted as to bar petitioner from its administrative investigation. The same Order placed respondent under preventive suspension for six (6) months without pay and required him to file his counter-affidavit. The following day, petitioner issued an Order<sup>[19]</sup> directing PCSO to implement the preventive suspension order. Respondent filed a motion for reconsideration which petitioner denied in an Order<sup>[20]</sup> dated October 26, 2000. Respondent then filed with the CA a petition for review on *certiorari* under Rule 43 assailing these orders. The petition was docketed as CA-G.R. SP No. 62760. During its pendency, petitioner had rendered a Decision dated March 30,

2001 on the merits, thus the petition filed with the CA was subsequently dismissed on November 3, 2004.<sup>[21]</sup>

Petitioner's Decision<sup>[22]</sup> dated March 30, 2001 found respondent guilty of the charge of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service and imposed upon him the penalty of dismissal from the service.

In an Order<sup>[23]</sup> dated April 18, 2001, petitioner's Decision was modified so as to include the accessory penalty of forfeiture of leave credits and retirement benefits and disqualification for re-employment in the government service.

Respondent's motion for reconsideration was denied by petitioner in its Order<sup>[24]</sup> dated May 15, 2001 and the PCSO General Manager was instructed to immediately implement the Order.

Respondent then filed with the CA a petition for review under Rule 43 with application for the issuance of a temporary restraining order and/or preliminary injunction entitled, *Atty. Romeo A. Liggayu v. Ricardo G. Golpeo*.<sup>[25]</sup>

On May 17, 2005, the CA rendered its assailed Decision reversing and setting aside petitioner's Orders.

The CA stated that petitioner's conclusion on the guilt of respondent was based on its findings that: *first*, the respondent had falsified Official Receipt No. 36166 by

adding the digit "1" before the amount P525.50 to make it appear that the cost of the food and drinks he purchased was P1,525.50; *second*, respondent used the falsified official receipt to support his disbursement of public funds; *third*, Sales Invoice No. 31203 was actually issued to UMVHAI for food and drinks it purchased at the cost of P2,204.00; and *fourth*, the sales invoice of UMVHAI was used by respondent to support his disbursement of public funds.

The CA found, however, that the original copy of Official Receipt No. 36166 which was submitted for liquidation was never proven to be a falsified document; that mere discrepancies between the two copies of one document did not establish the falsity of one copy unless the veracity of the other copy was first established, since it was equally possible for the false entry to be found in the latter copy. As to petitioner's finding that Sales Invoice No. 31203 was actually issued to UMVHAI and not to respondent, the CA found the evidence presented to be at odds with each other. It found that Elenita So was not the one who issued the official receipt to UMVHAI, since her signature therein differed from her signature in her certification and in her affidavit; thus, she was not the proper person to testify on the transaction embodied in the official receipt; that there was no basis for petitioner to conclude that the actual transaction involved in Sales Invoice No. 31203 was that stated in the official receipt.

The Office of the Government Corporate Counsel (OGCC) filed in behalf of the PCSO General Manager a motion for reconsideration. Petitioner filed an Omnibus Motion for Intervention and Reconsideration. The CA denied the motions for reconsideration in a Resolution dated August 3, 2006.

In denying reconsideration, the CA reiterated its findings contained in its May 17, 2005 decision. In addition, the CA held that the testimony given by Elenita So in Criminal Case No. Q-01-100794, which involved the matter of Sales Invoice No. 31203 which was claimed to be actually issued to UMVHAI and not to respondent, established that So categorically admitted that the signature appearing in Sales Invoice No. 31203 was her signature and that the entries therein were entirely written by her and that she had no personal knowledge that OR No. 3132 issued to UMVHAI corresponded to Sales Invoice No. 31203 issued to respondent as she was not the one who issued the OR; and that she was merely made to sign the certification stating she was the one who issued OR No. 3132 which was used as evidence against respondent.

Hence, this petition wherein petitioner raises the following grounds:

## I

RESPONDENT LIGGAYU'S INTERCALATION OF THE DIGIT "1" BEFORE THE AMOUNT "[525.50]," TO MAKE IT APPEAR THAT HE PAID "P1,525.00" TO NEW CONCEPCION CAFE AND RESTAURANT UNDER ITS OFFICIAL RECEIPT NO. 36166 THEREBY ALLOWING HIM TO CLAIM THE LATTER AMOUNT CONSTITUTES DISHONESTY, GRAVE MISCONDUCT AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.

## II

RESPONDENT LIGGAYU'S USAGE OF SALES INVOICE NO. 31203 FOR P2,204.00 FOR THE LIQUIDATION OF HIS CASH ADVANCE, WHICH WAS ISSUED BY NATURE'S CAFE TO AND PAID FOR BY THE UNITED MOONWALK VILLAGE HOMEOWNER'S ASSOCIATION, INC. (UMVHAI) FOR FOOD AND DRINKS SERVED TO ITS MEMBERS DURING ITS MEETING ON A SUNDAY, LIKewise CONSTITUTES DISHONESTY, GRAVE MISCONDUCT AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.<sup>[26]</sup>

Petitioner assails the factual findings of the CA. It contends that as between the OR in the amount of P1,525.50 submitted by respondent to support his liquidation and the duplicate OR in the amount of P525.50 on file with the business establishment which issued the same, the duplicate OR is more credible, as the business establishment is a disinterested witness to respondent's purchase; and that it is pure speculation to conclude that the business establishment's duplicate ORs bore understated amounts to evade taxation, since respondent had not adduced evidence to show that New Concepcion Cafe is a tax evader.

Petitioner claims that as to Sales Invoice No. 31203 issued by Nature's Cafe, the CA erred in discarding the declarations of Elenita So that the amount of P2,204.00 under Sales Invoice No. 31203 was paid for by UMVHAI and not by respondent; and that respondent's utilization of the said invoice in liquidating his cash advance is a clear act of misrepresentation.

In his Comment/Opposition, respondent informed us that the PCSO, through its Board of Directors, adopted and approved Board Resolution No. 415 on August 30, 2006, which accepted the CA decision and decided not to appeal the same which reversed petitioner's order dismissing respondent from the service; that the OGCC, acting as PCSO's agent and counsel, did not anymore file any petition assailing the CA decision. Respondent also states that earlier in November 2002, PCSO had already cleared him of all his property and cash accountabilities with the office and that he had already received all the salaries and benefits due him; thus, rendering the instant petition moot and academic. He also contends that petitioner has no standing to file the case as it cannot be considered as an aggrieved party who can file the appeal, because it is neither respondent's employer nor has it any interest that was prejudiced by the CA decision. Finally, respondent argues that the PCSO failed to substantiate the charge against him.

In its Reply, petitioner contends that it has standing to file the petition, citing *Philippine National Bank v. Garcia, Jr.*;<sup>[27]</sup> that it is the party adversely affected by the ruling of the CA which seriously prejudiced the administration of disciplinary justice in the bureaucracy; thus, it has a duty to intervene and represent the interest of the State to preserve the principles of public accountability.

The threshold issue for resolution is whether or not petitioner has legal standing to file the instant petition for review on *certiorari* assailing the CA ruling which reversed petitioner's decision.

We find that petitioner has no legal standing to file this petition.