

FIRST DIVISION

[G.R. No. 169196, July 06, 2011]

**PETRA C. MARTINEZ, IN HER CAPACITY AS GENERAL MANAGER,
CLAVERIA AGRI-BASED MULTI-PURPOSE COOPERATIVE, INC.,
PETITIONER, VS. FILOMENA L. VILLANUEVA, RESPONDENT.**

[G.R. NO. 169198]

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS. FILOMENA L.
VILLANUEVA, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

The above-titled consolidated petitions^[1] filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assail the May 6, 2005 Decision^[2] and August 8, 2005 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 86896. The CA had reversed the September 15, 2004 Order^[4] of the Deputy Ombudsman for Luzon finding respondent Filomena L. Villanueva liable for grave misconduct for violating Republic Act (R.A.) No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees.

The undisputed facts of the case are as follows:

Petitioner Petra C. Martinez (Martinez) is the General Manager of Claveria Agri-Based Multi-Purpose Cooperative, Inc. (CABMPCI) while respondent is the Assistant Regional Director of the Cooperative Development Authority (CDA), Regional Office No. 02, Tuguegarao City, Cagayan.

On May 19, 1998, respondent obtained a loan of P50,000 from CABMPCI as evidenced by a loan note^[5] and a cash disbursement voucher^[6] both signed by respondent and approved by Martinez in the latter's capacity as General Manager.

On June 13, 1998, respondent again obtained a loan from CABMPCI, with the corresponding loan note^[7] and cash disbursement voucher^[8] also signed by respondent and approved by Martinez. The loan was for P1,000,000, but respondent returned P500,000 five days later.

On July 19, 1999, CABMPCI issued Official Receipt (O.R.) No. 141084^[9] to respondent stating that it received from the latter the sum of P764,865.25 in payment of the following sums:

Loans : 589730.15

Interest on Loans : 87567.55
Fines : 87567.55

On the same day, Martinez issued the following certification to respondent:

This is to certify that Mrs. Filomena Villanueva has fully paid her loan in the amount of Five Hundred eighty nine thousand seven hundred thirty and fifteen centavos (P589,730.15) at the Claveria Agri-based Mul[ti-] purpose Cooperative Incorporated.

This certification is issued upon the request of Mrs. Villanueva for general purposes.

Issued this 19th day of July 1999.

(Sgd.)
MRS. PETRA C.
MARTINEZ
General
Manager^[10]

Also on July 19, 1999, respondent's husband, Armando Villanueva (Armando), obtained a loan from CABMPCI in the amount of P780,000 as evidenced by a loan note^[11] and cash disbursement voucher^[12] signed by Armando and approved by Martinez. The parties, however, have different versions as to the circumstances surrounding the transactions that occurred on July 19, 1999.

Martinez claims that the Villanueva spouses came to her that day and requested her to transfer respondent's two loans (P15,134.75 and P764,865.25, inclusive of interests and charges) to Armando's name so that respondent's name will not be among the list of borrowers, she being an official of the CDA. Due to respondent's moral ascendancy, Martinez claims that she acceded to the request. Accordingly, Armando assumed the outstanding loan of his wife. As respondent's loan had been transferred to her husband, Martinez issued O.R. No. 141084 and a certification to the effect that respondent has already paid her loan although no money was actually received. Respondent, on the other hand, contends that her husband obtained the P780,000 loan in his personal capacity as member of CABMPCI.

Subsequently, following Armando's failure to pay his loan, CABMPCI, represented by Martinez, filed an action for collection of sum of money against Armando before the Regional Trial Court (RTC) of Sanchez Mira, Cagayan. Martinez likewise filed with the CDA an administrative complaint against respondent for Willful Failure to Pay Just Debt.

On October 16, 2001, the RTC declared Armando in default and rendered a decision^[13] ordering him to pay P1,107,210.90 plus the stipulated rate of 3% per month as combined fine and interest, and to pay the costs of collection. A writ of execution^[14] to this effect was issued.

Armando thereafter filed a petition for prohibition,^[15] docketed as CA-G.R. SP No. 71002 before the CA, seeking the nullification of the October 16, 2001 decision and writ of execution issued against him, claiming that said loan has already been paid as shown by O.R. No. 141084 issued by CABMPCI to respondent. CABMPCI was required to file a comment, but it failed to comply. Thus, the CA deemed such noncompliance as a waiver of its right to refute the allegations in Armando's petition. On October 30, 2002, the CA rendered a decision^[16] nullifying the RTC decision and writ of execution on the ground that the obligation has already been settled.

On December 9, 2002, petitioner filed an affidavit/complaint^[17] before the Office of the Deputy Ombudsman for Luzon charging respondent with violation of Article 215^[18] of the Revised Penal Code and Section 7(d)^[19] in relation to Section 11^[20] of R.A. No. 6713.

On July 22, 2003, Graft Investigation Officer II Ismael B. Boco rendered a Decision on the administrative aspect of petitioner's complaint finding respondent liable for grave misconduct and recommending the penalty of dismissal. Said decision was duly approved by Victor C. Fernandez, Deputy Ombudsman for Luzon, on August 18, 2003.

Deputy Ombudsman Fernandez found that respondent abused her position when she solicited a loan from CABMPCI despite the fact that she is disqualified by its by-laws and when she used her influence to transfer her loan obligation to her husband with no money being actually paid. The Deputy Ombudsman for Luzon noted that while an individual may incur an indebtedness unrestricted by the fact that she is a public officer or employee, caution should be taken to prevent the development of suspicious circumstances that might inevitably impair the image of the public office.

On September 9, 2003, respondent sought reconsideration of the decision. The Deputy Ombudsman for Luzon, in an Order^[21] dated September 15, 2004, denied the motion for reconsideration but reduced the penalty from dismissal to six months suspension without pay. Respondent's suspension from office was thereafter implemented effective at the close of office hours of October 8, 2004.

Aggrieved, respondent filed a petition for review before the CA assailing the September 15, 2004 Order of the Office of the Deputy Ombudsman for Luzon.

Respondent argued that the Office of the Deputy Ombudsman for Luzon erred in treating the loan she obtained from CABMPCI as a prohibited loan under Section 7(d) of R.A. No. 6713 because she was an official of the CDA. Respondent argued that although Section 7(d) of R.A. No. 6713 prohibits all public officials and employees from soliciting or accepting loans in connection with any operation being regulated by her office, the subsequent enactment of R.A. No. 6938 or the Cooperative Code of the Philippines^[22] allows qualified officials and employees to become members of cooperatives and naturally, to avail of the attendant privileges and benefits of membership. She contended that it would be absurd if CDA officials and employees who are eligible to apply for membership in a cooperative would be prohibited from availing loans. She respectfully submitted that the only limitation applicable to any CDA officer or employee is Article 28^[23] of R.A. No. 6938 which

disqualifies them from being elected or appointed to any position in a cooperative.

She likewise argued that the Office of the Deputy Ombudsman for Luzon has no jurisdiction to suspend her, much less decree immediate implementation of the suspension order, as the authority to impose sanctions properly belongs to the CDA.
[24]

In the assailed decision, the CA granted respondent's petition for review and set aside the September 15, 2004 Order of the Deputy Ombudsman for Luzon.

The CA held that the only limitation for CDA officers or employees in R.A. No. 6938 is Article 28 which disqualifies them from being elected or appointed to any position in a cooperative. The CA further pointed out that under Article 29^[25] of said law, an applicant for membership shall be deemed a member after approval of her membership by the board of directors and shall exercise the rights of a member after having made such payments to the cooperative in respect to membership or after acquiring interest in the cooperative as may be prescribed by the by-laws. The CA found questionable Martinez's claim that respondent is disqualified from being a member considering that Martinez approved respondent's loan. The CA added that it also would be unjust and inequitable for respondent to receive an official receipt signed by the general manager, indicating full payment of the loan if such receipt could not be taken as reliable evidence of actual payment. It held that where the debtor introduces some evidence of payment, the burden shifts to the creditor to show nonpayment. The CA likewise ruled that Martinez failed to prove that respondent had used undue influence in soliciting the loan and held that the Ombudsman erred in applying R.A. No. 6713 without recognizing the fact of membership and its privileges.

Hence the instant petitions.

The Office of the Ombudsman proffers the following arguments for this Court's consideration:

I.

THE HONORABLE COURT OF APPEALS ERRED IN THE APPLICATION OF RA 6938, BY ONLY APPLYING AND LIMITING ITSELF TO ARTICLES 28 AND 29 THEREOF AND DISREGARDING ARTICLE 26^[26] OF THE SAME [LAW]. ARTICLE 26 CLEARLY DISQUALIFIES PRIVATE RESPONDENT FROM BECOMING A MEMBER OF A COOPERATIVE ON WHICH SHE EXERCISED REGULATORY AUTHORITY AS THE ASSISTANT DIRECTOR OF THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA).

II.

THERE IS MORE THAN ENOUGH SUBSTANTIAL EVIDENCE TO PROVE THE ADMINISTRATIVE GUILT OF RESPONDENT FOR MISCONDUCT WHEN SHE, AS A RANKING OFFICIAL OF THE CDA AND TASKED TO APPLY AND IMPLEMENT THE COOPERATIVE CODE OF THE PHILIPPINES AND ITS RULES, REGULATIONS AND ISSUANCES RELATIVE THERETO AND REGULATE THE AFFAIRS OF COOPERATIVES, SOLICITED AND OBTAINED

A ONE (1) MILLION LOAN FROM CAGAYAN AGRI-BASED MULTI-PURPOSE COOPERATIVE, INCORPORATED (CABMPCI), NOTWITHSTANDING HER DISQUALIFICATION AS MEMBER OF SAID COOPERATIVE[.]^[27]

The Office of the Ombudsman argues that it is not enough that the membership of the respondent be approved by the board of directors as required by Article 29 of R.A. No. 6938, or that she was not elected to any position in a cooperative as provided in Article 28. Article 26 of said law, which requires that a member of the cooperative "resides or farms in the area of operation," should have been applied as well, according to the Ombudsman. And since respondent conceded that she is not a resident of Claveria, nor did she operate any farm in said place, respondent was disqualified from membership in CABMPCI.

The Ombudsman adds that it is incumbent upon respondent, as CDA Assistant Director, to be knowledgeable of the by-laws and articles of incorporation of CABMPCI, particularly regarding the qualifications of the members, since the affairs of CABMPCI are within the area of jurisdiction of respondent's office. Despite this, however, respondent still applied for membership, enabling her to obtain a loan, by clearly using her influence as an officer of the CDA in violation of R.A. No. 6938, the very law she is supposed to implement. The Ombudsman argues that respondent put herself in a conflict-of-interest situation proscribed by Section 7(d) of R.A. No. 6713 and clearly violated said law when she took the prohibited loans.

Petitioner Martinez, on the other hand, submits that the CA erred in:

I.

...APPRECIATING THE EVIDENCE ON RECORD; COROLLARILY, IT GRAVELY ERRED IN GIVING FULL CREDENCE TO A MERE PHOTOCOPY OF A CERTAIN UNVERIFIED AND UNIDENTIFIED PIECE OF DOCUMENT[;]

II.

...HOLDING THAT SUBSTANTIAL EVIDENCE DOES NOT EXIST TO SUPPORT [THE] OMB- LUZON'S CONCLUSION THAT RESPONDENT IS GUILTY OF GRAVE MISCONDUCT[; AND]

III.

. . . . NOT FINDING THAT MERE SOLICITATION OF A LOAN IS PROHIBITED UNDER SECTION 7(D) OF R.A. 6713.[28]

Martinez argues that other than respondent's bare allegations, respondent failed to prove that she actually applied, and was duly admitted, for membership at CABMPCI. Martinez claims that the CA erred in giving probative value to a mere photocopy of the cover page of Passbook No. 7716 allegedly issued to respondent as evidence of her membership. Martinez argues that respondent should have submitted a copy of her application form duly accepted by the Board of Directors, together with the official receipt evidencing the payment of membership fee and