

FIRST DIVISION

[G.R. NO. 144694, March 28, 2005]

RUDY P. ANTONIO, ROLANDO D. RAMIREZ, AND JIMMIE F. TEL-EQUEN, PETITIONERS, VS. HON. FRANCISCO A. VILLA, HON. GREGORIO VIGILAR, AND OMB TASK FORCE ON PUBLIC WORKS AND HIGHWAYS, RESPONDENTS.

DECISION

CARPIO, J.:

The Case

This is a petition for review^[1] to set aside the Decision^[2] dated 2 March 2000 of the Court of Appeals ("appellate court") in CA-G.R. SP No. 50324. Pursuant to a Resolution^[3] dated 29 October 1998, this Court consolidated and referred to the appellate court three petitions against the Ombudsman and Ombudsman Task Force on Public Works and Highways. The petitioners were Romulo H. Mabunga ("Mabunga") in G.R. No. 124913, Jimmie F. Tel-Equen ("Tel-Equen"), Rolando D. Ramirez ("Ramirez"), and Rudy P. Antonio ("Antonio") in G.R. No. 124932, and Rolando C. Namuhe ("Namuhe") in G.R. No. 124965. The appellate court affirmed and modified the Resolution^[4] dated 28 March 1994 and the Order^[5] dated 11 December 1995 of the Administrative Adjudication Bureau of the Office of the Ombudsman in OMB-ADM-0-91-0430. The appellate court decreed that Tel-Equen, Ramirez, and Antonio should be dismissed from service together with its accessory penalties.

The Facts

The facts as found by the appellate court are as follows:

On 26 February 1990, Alexander C. Aguana, Supply Officer II of the Mountain Province Engineering District (MPED, for short) prepared a requisition issue voucher (RIV) for:

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1. 28 pcs. Bailey panels
2. 4 pcs. Male and post
3. 4 pcs. Female and post
4. 15 pcs. Steel transom
5. 84 pcs. Transom Clamps
6. 14 pcs. Sway braces
7. 64 pcs. Panel Pins
8. 16 pcs. Raker Braces
9. 32 pcs. Raker Bolts

10. 14 pcs. Bracing Frames
11. 8 pcs. Base Plates
12. 56 pcs. Bracing Bolts"

for the construction of a bailey bridge in Barangay Mainit connecting Mountain Province and the Province of Abra. The requisition was favorably recommended by Rolando D. Ramirez, Assistant District Engineer, and approved by District Engr. [(DE)] Jimmie F. Tel-Equen. An Abstract of Bids was accomplished wherein it was made to appear that a public bidding was held at 10:00 a.m. on 10 May 1990 and Manzel General Merchandise, owned by Manuel Dangayo, was the winning bidder to supply bailey bridge components valued at P553,900.00. It was signed by members of the Public Bidding Awards Committee (PBAC, for short), namely: Rolando D. Ramirez, Francisco D. Miranda, Rudy P. Antonio, Rodolfo D. Camarillo, Alfredo C. Apolinar (now deceased) all of MPED. Felix A. Gasmena, Jr. (now deceased) also affixed his signature as COA representative.

Manzel General Merchandise was paid in two occasions, first in the amount of P214,000.00 under DB103-9-06 dated 21 June 1990, and second for P339,999.00 under DB103-7-512 dated 03 July 1990 or a total of P553,000.00.^[6] These vouchers were signed by Rodolfo D. Camarillo, Rudy P. Antonio, DE Tel-Equen and Supply Officer Alexander C. Aguana. The bailey bridge components delivered to the Mainit jobsite did not, however, come from Manzel General Merchandizing but were borrowed from the Ifugao Engineering District (IED).

The borrowing came about when in the last week of April or first week of May 199[0,] DE Romulo H. Mabunga, district engineer of IED and DE Tel-Equen met at the DPWH-CAR Regional Office in Baguio City. DE Tel-Equen expressed his desire to borrow bailey bridge panels from IED. DE Mabunga replied he would see if there were available stocks. In the third week of May 1990, Manuel Aguana, supply officer of IED, was summoned to the office of DE Mabunga. Romeo C. Namuhe, construction engineer of IED, was at the office with DE Mabunga. The latter showed Namuhe the letter-request of DE Tel-Equen for bailey bridge panels. Aguana commented that he saw nothing wrong about it as similar requests had been granted in the past. Namuhe was, however, against the request because this stock of bridge panels was already programmed for construction. In that meeting, the field offices of Potia and Hapid, Ifugao were identified as possible sources of the requested bailey bridge components. DE Mabunga inscribed a marginal note: "Engr. Namuhe and Mr. Aguana for action," on the letter.

With the use of the two gate passes prepared and signed by Aguana, the bailey bridge components were released from the DPWH Potia depot. Dangayo hauled the components using MPED trucks. The materials were received by Ramirez of MPED.

The Mainit Bailey Bridge was eventually constructed. Materials used were those borrowed from IED on the strength of the letter-request of DE

Tel-Equen to DE Mabunga. All the borrowed bailey bridge components were returned to IED in January 1991.

Administrative proceedings were commenced on account of a letter-complaint of "Concerned Citizens of Ifugao to the Ombudsman" dated 11 September 1990 which reads:

"We respectfully request your good office to please conduct an investigation on the delayed completion of a bridge under construction here in Hapid, Lamut, Ifugao Province. We came to know that the bailey bridge component intended for this particular project has been released under a Memorandum Receipt issued by the Supply Officer of the Ifugao DPWH Engineering District to the District Engineer of the Mountain Province. After further inquiry on the reasons for the great delay, the following information surfaced:

1. That without the approval of the District Engineer of this Province, the said component was released by the Supply Officer under the MR of the DPWH District Engineer of Mountain Province;
2. That a truck of the Mountain Province DPWH came and hauled the components from here to Mountain Province;
3. That this component was repainted by the DPWH of Mountain Province;
4. That after the repainting, the necessary voucher/papers were prepared and made it appear that the said bailey bridge component was purchased;
5. That the Mountain Province Engineering District used one named MANUEL DANGAYO of Lamut, Ifugao as the Dealer of the component and the amount transacted is half-a-million pesos (P500,000.00); and,
6. That if the said component was just borrowed by the Mountain Province Engineering District, the same should be returned so that the bridge we needed must at this time be completed.

The following private persons and/or government employee requested to be investigated and charged if it warrants the filing of cases against those responsible in the noncompletion of the project which should have been finished last July or August are:

1. The District Engineer of the Ifugao and the Mountain Province Engineering Districts;
2. The Supply Officer of the Ifugao Engineering District;

3. Mr. MANUEL DANGAYO of Lamut, Ifugao; and

4. All the signatories involved in the alleged business transaction or purchase of the said component.”

Investigation by the National Bureau of Investigation (NBI), DPWH Central Office, DPWH District Office, Deputized OMBM Investigators, and OMB Task Force and Public Works [and] Highways followed. Unfortunately, these agencies came up with conflicting findings. The NBI report concluded of [sic] the existence of conspiracy among the Mountain Province Engineering District (MPED) officials as well as Manuel Aguana of the Ifugao Engineering District (IED) and Manuel Dangayo to defraud the government of more than half a million pesos. The NBI report recommended the exoneration of Romulo H. Mabunga and Romeo C. Namuhe. The OMB Task Force on Public Works and Highways, on the other hand, recommended the filing of charges against all the MPED officials as well as Mabunga and Namuhe. It excluded Manuel Aguana who was given immunity by respondent Ombudsman. (Emphasis supplied)^[7]

The OMB Task Force on Public Works and Highways filed an administrative complaint for dishonesty, falsification of official documents, grave misconduct, gross neglect of duty, violation of office rules and regulations, and conduct prejudicial to the service against Tel-Equen, Ramirez, Antonio, Mabunga and Namuhe, along with Francisco D. Miranda (“Miranda”), Alfredo C. Apolinar (“Apolinar”), Rodolfo D. Camarillo (“Camarillo”), and Felix A. Gasmena, Jr. (“Gasmena”).

The Administrative Complaint

The administrative complaint docketed as OMB-ADM-0-91-0430 reads as follows:

That during the period from May, 1990 to the first week of July, 1990, the above-named respondents, taking advantage of their official and/or administrative functions, conspiring and confederating with each other and with MANUEL P. DANGAYO, alleged supplier, and mutually helping each other by common design and purpose of mutual gain and benefit, allowed Manuel P. Dangayo to collect the amount of P553,900.00 in payment of bailey bridge components that are actually owned by the government.

“1. By preparing, signing and submitting, on the part of JIMMIE F. TEL-EQUEN; ROLANDO D. RAMIREZ; FRANCISCO D. MIRANDA; RUDY P. ANTONIO; RODOLFO B. CAMARILLO; ALFREDO C. APOLINAR; and FELIX A. GASMENA, JR., an abstract of bids in regard to a bidding purportedly held on 10 May 1990 at the MPED office in Bontoc, Mt. Province, with full knowledge of the fact that no such bidding ever took place because on that date, as shown by their daily time records (DTRs), respondents Tel-Equen; Gasmena; Apolinario; Camarillo; and Miranda were either on vacation leave or on official business outside Bontoc, Mt. Province; while respondents Antonio and Ramirez performed miscellaneous office work and that ALEXANDER AGUANA whose name appears (but did not sign) on the abstract of bids as the designated representative of respondent Tel-

Equen in the opening of bids at said office was on official trip in Baguio and Manila;

2. By preparing and submitting on the part of respondents JIMMIE F. TEL-EQUEN; ROLANDO D. RAMIREZ; FRANCISCO D. MIRANDA; ALFREDO C. APOLINAR; RUDY P. ANTONIO; FELIX A. GASMENA, JR.; and MANUEL P. DANGAYO, various official documents which include, among others, a requisition and issue voucher, invitations to bid, abstract of bids/canvass, purchase order, sales invoices, delivery receipts and disbursement vouchers all of which falsely show: that a bidding had been conducted relative to the procurement of bailey bridge components for the Mainit Bridge, Mt. Province-Abra Road; that the MPED lawfully purchased said articles from Manzel General Merchandise which is owned by respondent Dangayo; and that, due delivery of said articles had been effected, when in truth and in fact, the said bailey bridge components had been taken and borrowed from the IED;

3. On the part of ROMULO H. MABUNGA and ROMEO C. NAMUHE, by their acts previous to the lending of said items and their acts subsequent to the payment thereof by the MPED all of which acts unmistakably show their close association and concerted action with the MPED officials in their common desire to defraud the government:

3.1 by their indispensable cooperation in approving the written request of respondent JIMMIE F. TEL-EQUEN dated 17 May 1990 for the aforementioned articles which request was handcarried by respondent DANGAYO, the supplier, despite the absence of any showing or indication in said letter that there was an immediate need or an emergency to be served by the lending of said articles and that without their approval, said items would never have left the IED;

3.2 by denying, during the investigations on the bailey bridge transaction that were conducted by Agents of the National Bureau of Investigation (NBI) and by Assistant District Engineer MANAO that they had approved or had knowledge of the lending of the article to the MPED despite the fact that they were in possession of the documents relative to the said lending which documents include a memorandum receipt covering all the articles lent duly signed by Respondent ROLANDO D. RAMIREZ, the Assistant District Engineer, MPED;

3.3 by failing to initiate any action toward the recovery of the articles from the MPED despite their receipt of oral and written reports that the articles lent may have been unlawfully taken by people who claimed to have the permission of Respondent MABUNGA one of which reports is a letter of State Auditor GUILLERMO S. CHANSUYCO of the Commission on Audit (COA) dated 27 September 1990 requesting investigation of the taking of the articles from the IED;