

EN BANC

[G.R. No. 133490, February 27, 2002]

**MA. GWENDOLYN R. BELLEZA, PETITIONER, VS. COMMISSION
ON AUDIT, REGION 7, CEBU CITY, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

The present petition for review on certiorari^[1] seeks the reversal of the Resolutions of the Office of the Ombudsman dated September 5, 1997 and January 21, 1998, in OMB-VIS-ADM-96-0541, dismissing Ma. Gwendolyn R. Belleza, petitioner, from the service on grounds of dishonesty and for being notoriously undesirable.

Records show that petitioner was appointed Cashier II of the Registry of Deeds of Cebu Province in 1994.

On June 28, 1996, the Commission on Audit ("COA") Regional Office, Cebu City, conducted a cash audit of petitioner's cash account and found a deficiency in the amount of P568,337.98.

Accordingly, on July 1, 1996, the COA sent petitioner a letter requiring her to produce immediately the missing funds and to submit, within 72 hours from receipt, a written explanation why the shortage occurred. Despite receipt of the letter on the same day, she did not comply.

For the second time, on September 3, 1996, the COA audited petitioner's cash account and found the same cash shortage of P568,337.98. Another letter dated September 5, 1996 was sent to petitioner directing her to immediately produce the missing funds and to explain the shortage. She received this letter on September 10, 1996, but again, she failed to take any action thereon.

So the COA filed an administrative complaint with the Office of the Ombudsman ("OMB"), Visayas, against petitioner for dishonesty, docketed as OMB-VIS-ADM-96-0541.

The OMB (Visayas) required petitioner to file her counter-affidavit, but instead, she filed a Motion for Re-assessment, Re-evaluation and/or Re-Audit of Accounts, alleging that the examining auditor, Nancy L. Aparri, failed to prepare the Reconciliation Statement of Accountability; that there are documents and pertinent papers in her (petitioner's) possession which have not been presented or included in the previous audit which could explain the shortage; and that she should be allowed to exhaust administrative remedies.

Petitioner's motion was denied. She then filed her counter-affidavit alleging therein that at the time the audit was conducted, there were pertinent papers in the

custody of the Office of the Register of Deeds which were not included in the audit and which, if considered, could alter its result, and that she acted in good faith and, in fact, made full restitution of the shortfall.

In a Resolution dated September 5, 1997, the OMB (Visayas), through its Graft Investigation Officer, recommended petitioner's dismissal from the service, thus:

"WHEREFORE, for all the foregoing, the undersigned most respectfully recommends that the penalty of DISMISSAL from office and its subsidiary penalties, pursuant to Memorandum Circular No. 30, s. 1989 of the Civil Service Commission, be imposed upon the respondent for being notorious and undesirable.

"SO RESOLVED."

The recommendation was approved by the Ombudsman on October 24, 1997.

Petitioner filed a motion for reconsideration but was denied by the OMB (Visayas) in a Resolution dated January 21, 1998. This Resolution was likewise approved by the Ombudsman on April 03, 1998.

Petitioner now comes to this Court claiming that her dismissal "was not in accord with law and jurisprudence."

Petitioner contends that she was able to produce the missing funds even before this case was decided by the Ombudsman on October 24, 1997 or 6 months earlier. As found by the OMB (Visayas) in its assailed Resolution dated September 5, 1997, she paid in four (4) installments her cash shortage of P568,337.98 as follows: on December 6, 1996 - P68,337.98; April 1, 1997 - P450,000.00; April 21, 1997 - P22,000.00; and April 29, 1997 - P28,000.00. According to her, these payments are classified as "undeposited collections."

This is farthest from the truth. Petitioner's posture clearly contradicts her earlier claim disputing the accuracy, correctness and regularity of the audit examination. It also belies her contention that "there were pertinent papers in the custody of the Office of the Register of Deeds which had not been presented or included in the audit which, if presented could have altered its result." In fact, she admitted that when the COA audited her cash account on June 28, 1996, it found a cash shortage of P568,337.98. Clearly, her payments can not be considered "undeposited collections."

Moreover, it is worthy to note that it took petitioner ten (10) months from the first audit on June 28, 1996 to "remit" payments in the guise of undeposited collections. Verily, her belated action only indicates her culpability in the handling of the missing funds in her possession.

We find petitioner administratively liable for dishonesty.

True, petitioner made several payments amounting to the shortage of P568,337.98, but such restitution cannot exculpate her from administrative liability. The fact remains that when the audit was conducted, the funds supposed to be in her possession were missing and she could not account for them.