

## EIGHTH DIVISION

[ CA - G.R. SP No. 125841, May 28, 2014 ]

**MAYOR JULIUS CESAR VERGARA, PETITIONER, VS. THE HONORABLE OFFICE OF THE OMBUDSMAN, REPRESENTED BY THE HON. OMBUDSMAN CONCHITA CARPIO-MORALES, THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, REPRESENTED BY DILG SEC. JESSE M. ROBREDO AND BONIFACIO GARCIA, RESPONDENTS.**

### DECISION

**LOPEZ, J.:**

Petitioner Mayor Julius Cesar Vergara was found guilty by Graft Investigation and Prosecution Officer II Ismaela B. Boco for violating Section 5(a)<sup>[1]</sup> of RA 6713<sup>[2]</sup> penalizing him as follows:

xxx Accordingly, he is meted the penalty of Suspension for six (6) months from the government service pursuant to Section 10, Rule III of the Administrative Order No. 07, this Office, in relation to Section 25 of Republic Act No. 6770.

It is further recommended that both respondents, **JULIUS CESAR VERGARA** and **RAUL P. MENDOZA** be administratively liable for **NEGLECT OF DUTY** for failing to implement RA 9003. Accordingly, each of them is meted the penalty of Suspension for six (6) months from the government service pursuant to Section 10, Rule III of the Administrative Order No. 07, this Office, in relation to Section 25 of Republic Act No. 6770.<sup>[3]</sup>

On respondent's motion for reconsideration,<sup>[4]</sup> the Office of the Ombudsman modified the penalty imposed as follows:

**PREMISES CONSIDERED**, the Decision dated 7 February 2006 is hereby **AFFIRMED with modification**. The penalty imposed on respondent-movant Julius Cesar V. Vergara for failure to act promptly on letters and requests is reduced from six-month suspension to reprimand in light of the foregoing disquisition.<sup>[5]</sup>

Dissatisfied, petitioner filed the instant petition for review<sup>[6]</sup> raising the following errors:

I. WHETHER THE RESPONDENT OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ERROR OF FACT AND LAW AND WITH GRAVE ABUSE OF AUTHORITY IN FINDING PETITIONER GUILTY OF (1) VIOLATION OF SECTION 5(a) of REPUBLIC ACT NO. 6713 AND (2) NEGLECT OF DUTY

FOR FAILING TO IMPLEMENT REPUBLIC ACT NO. 9003 DESPITE SUBSTANTIVE COUNTER EVIDENCE ADDUCED BY PETITIONER;

II. 1) ASSUMING WITHOUT ADMITTING THAT THE PETITIONER IS ADMINISTRATIVELY LIABLE, xxx WHETHER CASE AGAINST PETITIONER SHOULD BE DISMISSED FOR BEING MOOT AND ACADEMIC BASED ON THE DOCTRINE OF CONDONATION;

2) xxx WHETHER THE ASSAILED DECISION xxx MAY STILL BE IMPLEMENTED AGAINST THE PETITIONER WHO IS PRESENTLY SERVING A SEPARATE AND DISTINCT TERM (YEARS 2010-2013) FROM THE PETITIONER'S IMMEDIATELY PRECEDING TERM (YEARS 2004-2007) DURING WHICH THE ALLEGED WRONGFUL ACTS WERE COMMITTED;

3) WHETHER THE RESPONDENT OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ERROR OF FACT AND LAW AND WITH GRAVE ABUSE [OF] AUTHORITY IN FINDING THAT THE DOCTRINE OF CONDONATION DOES NOT APPLY IN THE INSTANT CASE xxx TAKING INTO CONSIDERATION THAT PETITIONER WAS LAWFULLY BARRED TO RUN FOR THE SAME POSITION AS MAYOR OF CABANATUAN CITY IN THE 2007 SENATORIAL AND LOCAL ELECTIONS IN VIEW OF THE THREE (3) TERM RULE AND AGAIN IN THE 2010 NATIONAL ELECTIONS FOR THE TERM 2010-2013 FROM HIS IMMEDIATELY PRECEDING TERM;

III. WHETHER THE RESPONDENT OFFICE OF THE OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AND AUTHORITY IN RESOLVING AND DISPOSING THE CASE AGAINST THE PETITIONER ONLY AFTER SIX (6) LONG YEARS FROM THE DATE OF THE LAST SUBMISSION OF PLEADINGS OF THE PARTIES, TAKING INTO CONSIDERATION SUSPICIOUS TIMING OF THE RELEASE OF THE ASSAILED REVIEW ORDER xxx WHEN THE 2013 SENATORIAL AND LOCAL ELECTIONS ARE ONLY SEVERAL MONTHS AWAY, THEREBY UNDULY PREJUDICING AND IRREPARABLY DAMAGING PETITIONER'S POLITICAL CAREER, AND FRUSTRATING EVEN MOMENTARILY THE WILL OF THE PEOPLE OF CABANATUAN CITY WHO BY OVERWHELMING PERCENT OF VOTES RE-ELECTED PETITIONER AS MAYOR OF CABANATUAN CITY DURING THE 2010 NATIONAL ELECTIONS.<sup>[7]</sup>

Petitioner contends that the subject letters, which he failed to answer, did not bear a stamp mark of receipt by the Office of the City Mayor and he was on official leave when the letters were sent; thus, it was the Acting Mayor who was obliged to reply. Also, petitioner is not guilty of simple neglect of duty because he took steps to implement the provisions of RA 9003. Lastly, the doctrine of condonation applies to him.

We grant the petition.

Section 27 of RA 6770<sup>[8]</sup> provides that any order, directive, or decision of the Office of the Ombudsman imposing the penalty of public censure or reprimand, and suspension of not more than one month's salary, shall be final and unappealable, thus:

xxx Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. **Any order, directive or decision**