

## **SIXTEENTH DIVISION**

**[ CA-G.R. SP NO. 130015, November 19, 2014 ]**

**MA. ALELIE B. MAGBITANG, PETITIONER, VS. CIVIL SERVICE COMMISSION AND JOSE KAKA BALAGTAS, RESPONDENTS.**

### ***D E C I S I O N***

**BATO, JR., J.:**

Assailed in this Petition for Review<sup>[1]</sup> under Rule 43 of the Rules of Court are the 21 December 2012 Decision<sup>[2]</sup> and 08 April 2013 Resolution<sup>[3]</sup> of the Civil Service Commission (CSC).

Petitioner Ma. Alelie B. Magbitang is the Human Resource Management Officer III (HRMO) and Acting Municipal Budget Officer of the Municipal Government of San Antonio, Nueva Ecija. On the other hand, private respondent Jose Kaka Balagtas is the Vice Mayor of said Municipality.

On 29 September 2010, respondent Vice Mayor Balagtas filed a Complaint<sup>[4]</sup> against the petitioner before the Civil Service Commission, Regional Office III (CSCRO No. III), San Fernando City, Pampanga for Gross Insubordination, Gross Neglect of Duty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service and Violation of RA No. 6713. Respondent alleged that on 07 July 2010, he wrote a letter to the herein petitioner requesting for a copy of the 2010 Annual Budget of the Office of the Vice Mayor and Sangguniang Bayan of San Antonio, Nueva Ecija. On 13 July 2010, he wrote another letter, this time addressed to Mayor Arvin C. Salonga, coursed through the petitioner, requesting for a copy of the Plantilla of Personnel complement of his office and the employees assigned to it. Despite receipt of the two letters and several follow-ups, petitioner continuously refused to furnish him copies of the requested documents. Such willful failure on the petitioner's part have caused inconvenience and delay in the delivery of services of the Offices of the Vice Mayor and Sangguniang Bayan of San Antonio, Nueva Ecija.

In her Comment<sup>[5]</sup> dated 14 January 2011, petitioner pointed out that as per Memorandum No. 1 dated 01 July 2010, Mayor Salonga has prohibited all department heads from releasing official documents without his approval. On 09 August 2010, upon the approval of Office of the Mayor, she immediately furnished the respondent, thru Sangguniang Bayan Secretary Armando Cruz, the requested documents.

In its Decision<sup>[6]</sup> dated 12 September 2011, the CSCRO No. III dismissed the Complaint against the petitioner for lack of basis.

Aggrieved, respondent Vice Mayor filed a petition for review with the CSC, National Office.<sup>[7]</sup>

Finding a *prima facie* case against the petitioner, the CSC Main Office granted petitioner's petition for review *via* its 17 January 2012 Resolution.<sup>[8]</sup> The dispositive portion of said Resolution reads:

"WHEREFORE, the Petition for Review filed by Vice Mayor Jose R. Balagtas, Municipal Government of San Antonio, Nueva Ecija is hereby GRANTED. Accordingly, Decision No. 11-9-07 dated September 12, 2011 of the Civil Service Commission Regional Office (CSCRO) No. III, San Fernando City, Pampanga, dismissing the complaint dated September 29, 2010 against Alelie B. Magbitang, for lack of *prima facie* case is hereby REVERSED and SET ASIDE.

Alelie B. Magbitang is hereby FORMALLY CHARGED with the administrative offenses of Neglect of Duty, Conduct Prejudicial to the Best Interest of the Service and Failure to Act promptly on letters and request within fifteen (15) days from receipt. Accordingly, Magbitang is directed to file her Answer in writing under oath in not less than seventy two (72) hours from receipt thereof. Magbitang is also advised to indicate in her answer whether or not she will elect a formal investigation of the charge and may opt to be assisted by a counsel of her choice.

Further, the CSCRO No. III is hereby directed to conduct a formal investigation pursuant to Section 30, Rule 8 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) when the respondent elects to have one, in which case, the investigation shall be held not earlier than five (5) days nor later than (10) days from receipt of the respondent's answer.

Quezon City."<sup>[9]</sup>

In her Answer<sup>[10]</sup> dated 09 February 2012, the petitioner reiterated that she merely complied with Mayor Salonga's Memorandum No. 1 and that she immediately furnished the Office of the respondent Vice Mayor, thru SB Secretary Armando Cruz, the requested documents upon the Mayor's approval. Furthermore, the CSC has no more jurisdiction to entertain the respondent's complaint since the respondent had filed a similar complaint against her and her co-worker before the Office of the Ombudsman docketed as OMB-L-A-11-0356-F.

The CSC then forwarded the petitioner's case to the CSCRO III for the conduct of a formal investigation. On 15 March 2012, the parties had a preliminary conference before the CSCRO III. After which, respondent Vice Mayor filed his Position Paper<sup>[11]</sup> and the petitioner filed her Comment<sup>[12]</sup> to the respondent's Position Paper. Thereafter, the CSCRO No. III forwarded to the CSC its investigation report.

On 21 December 2012, the CSC rendered the assailed Decision<sup>[13]</sup> finding the petitioner guilty of Simple Neglect of Duty. It ruled that the complaint filed by the respondent before the CSCRO was filed ahead of the complaint that he filed before the Ombudsman. It is thus the administrative body which has primary jurisdiction

over the case. Anent the administrative liability of the petitioner, the CSC ruled as follows:

"Respondent claims that she could not release the requested documents without the approval of the Mayor and that as soon as the latter gave the approval, (sic) she could not be held liable for the charges filed against her. To bolster her claim respondent attached to her Answer an Affidavit dated October 21, 2011 executed by Cruz, attesting that the documents complainant requested, particularly, the Plantilla of Personnel and copy of the Budget of the year 2010, were released to him on August 9, 2010 and handed the same to complainant on the same day.

A reading of Cruz's Affidavit, however, shows that the same is unsubscribed. Moreover, the copy of 'Program of Appropriation and Obligation of Object' which was attached to Cruz's Affidavit he allegedly received also shows that there is no stamped date of receipt showing that said document was released and received by him on August 9, 2010. Thus, these are mere bare allegations and cannot be given probative value.

Notably, respondent submitted for the second time said Affidavit in her 'Comment to the Complainant's Position Paper', this time already notarized. In addition, it is only in respondent's Answer that she submitted said unsubscribed Affidavit dated October 21, 2011 allegedly executed by Cruz when she had the opportunity to submit the same in her comment to the complaint. To the Commission, the execution of the Affidavit of Cruz dated October 21, 2011 is a mere afterthought considering that the same was executed after more than a year as the complaint was filed on October 1, 2010.

Thus, respondent failed to sufficiently establish that the requested documents were released to complainant. Nonetheless, while complainant said that respondent's failure to release the requested documents caused so much inconvenience and delay in the delivery of services rendered to his Office, he failed to prove the same. At most, respondent could be held liable for Simple Neglect of Duty for her failure to furnish complainant the requested documents without justifiable reasons, after the same was approved by the Mayor.

x x x            x x x            x x x

WHEREFORE, Ma Aleli[e] B. Magbitang, Human Resource Management Officer III (HRMO) and Acting Municipal Budget Officer, Municipal Government of San Antonio, Nueva Ecija, is found GUILTY of the offense of Simple Neglect of Duty. Accordingly, Magbitang is hereby meted the penalty of three (3) months suspension from the service.

Quezon City."<sup>[14]</sup>

Petitioner then filed a Motion for Reconsideration with Motion to Re-open the Case,