

NINTH DIVISION

[CA-G.R. SP NO. 128863, November 14, 2014]

ATTY. CORAZON CHAVEZ, PETITIONER, VS. OFFICE OF THE OMBUDSMAN, FACT FINDING & INTELLIGENCE BUREAU, REP. BY ATTY. MARIA OLIVIA A. ROXAS, RESPONDENTS.

D E C I S I O N

PERALTA, JR., E. B., J.:

At the core of the Petition for Review under Rule 43 ^[1] were public respondent's dispositions concerning the Review^[2] dated January 24, 2006 and the Order^[3] dated December 28, 2009 insofar as the dismissal of petitioner from government service.

What spawned petitioner's redress before Us was a Complaint^[4] for Dishonesty, Gross Misconduct, Conduct Unbecoming of a Public Official and Conduct Prejudicial to the Best interest of the Service filed by the Fact Finding and Intelligence Bureau of the Office of the Ombudsman (FFIB-OMB) against several employees of the Registry of Deeds of Las Piñas City, including petitioner as the Registrar.

In particular, the incident referred to the registration of a Deed of Sale dated June 28, 2001, through petitioner and Land Registration Examiner Delia Dela Pena, and the subsequent release/issuance of the new TCT No. T-79109 dated June 28, 2001 in the name of the spouses Digman *sans* the requisite Certificate Authorizing Registration.^[5] The subject Deed of Sale entered into between Adelaida Dolores A. Villa, as seller, and spouses Digman, as buyers, over a parcel of land for a consideration of P8.5 million pesos was entered in the Primary Entry Book of the Registry of Deeds of Las Piñas City on the same date.^[6] The cancellation and transfer of title in the name of the spouses Digman was effected without the required payment of the requisite capital gains tax and documentary stamp tax.^[7] It appeared that the CAR was issued by the BIR only on November 12, 2001, or five months after the new TCT was released.^[8]

It was also disclosed that Adelaida Dolores Villa, the seller, paid the Capital Gains Tax in the amount of 570,000.00, while Digman, the buyer, paid the Documentary Stamp Tax in the amount of P142,500.00 on June 28, 2001 based on a 250 square meter area of the realty and in lieu of the 50,000 square meters as the true and correct area.^[9]

After submission of the required Counter-Affidavit,^[10] the Office of the Ombudsman issued a Review Resolution^[11] on January 24, 2006, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, it is respectfully recommended that the Resolution dated July 5, 2005, be Modified.

Accordingly, respondents CORAZON C. CHAVEZ, NIMFA N. MINA, BEATRIZ M. MENESES and NIMFA P. DE VILLA are hereby found guilty of Dishonesty, Grave Misconduct and Conduct prejudicial to the best interest of the service. Consequently, they are hereby recommended to be DISMISSED from service, with forfeiture of all benefits and with prejudice to re-employment in any branch of the government or any of its agencies, including government owned or controlled corporations."

Undaunted, petitioner filed a Motion for Reconsideration^[12] but it was dismissed in an Order^[13] dated December 28, 2009.

Thus, petitioner filed the instant Petition^[14] based on these submissions:^[15]

1. Newly discovered evidence presented by petitioner was not considered by Public Respondent in resolving the instant case;
2. Relaxation of the rules in the transfer of Title can hardly be considered dishonesty or grave misconduct;
3. Petitioner permitted the transfer of the Title only upon presentation of receipts of payments of taxes to the BIR;
4. Absence of damage to the government;
5. Investigation by public respondent cannot prosper beyond one year after the occurrence of the incident; and
6. the penalty of dismissal from the service, inclusive of forfeiture of all benefits with prejudice from re-employment in any branch of the government, was a harsh penalty.

This Court's Ruling

Petitioner insisted that the transfer of title in favor of the Spouses Neil and Erma Digma was done in good faith and that the government incurred no damage since the capital gains tax was already paid when the title was transferred.

Petitioner's major submission failed to persuade.

Good faith is ordinarily used to describe that state of mind denoting honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render a transaction

unconscientious. In short, good faith is actually a question of intention.^[16] Although this is something internal, We can ascertain a person's intention not from his own protestation of good faith, which is self-serving, but from evidence of his conduct and outward acts.^[17]

In retrospect, petitioner permitted registration of the Deed of Sale^[18] dated June 28, 2001 and allowed the release of the new title despite the acknowledged absence of the Certificate Authorizing Registration (CAR). As underscored by the Office of the Ombudsman in the assailed Review Resolution:^[19]

"xxx Accordingly, no registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported, and the final capital gains tax and documentary stamp tax has been paid.

The record clearly shows that respondents, Corazon Chavez, as Register of Deeds, and Nimfa De Villa, as Land Registration Examiner, allowed the registration of the Deed of Sale dated June 28, 2001 and released and issued a new TCT No. T-79109 dated June 28, 2001 in the name of the spouses Digman without the requisite CAR attached to the Deed of Sale. The sale was likewise entered in the Primary Entry Book on the same date. Apparently, the CAR was issued by the BIR only on November 12, 2001, or five (5) months after the new TCT was released in the name of spouses Digman.

There is no question that respondents Corazon Chavez and Nimfa De Villa committed dishonesty and grave misconduct. In grave misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule must be manifest. Thus, respondents cannot escape criminal liability by simply claiming that they fully complied with their duties since there was no compliance at all.

By virtue of her functions as Register of Deeds of Muntinlupa, respondent Chavez has the primordial duty to see to it that the documents presented for registration are regular and valid. She cannot hide under the cloak of her purported ministerial duty to register the subject deed of sale. Thus, respondent's lame denial cannot hold water in the light of the overwhelming evidence presented by complainant."

We agree with the Office of the Ombudsman that the note allegedly attached to the Certificate of Title stating "Release only after submission of the CAR,"^[20] was a mere afterthought. Petitioner failed to present it below and raised it only in her Motion for Reconsideration after her dismissal from the service. As aired by the public respondent on the Memorandum:^[21]

"Prior to the submission of the said Affidavit, petitioner Chavez never mentioned in all her previous pleadings that she made a handwritten note that she gave instruction that the title shall be released only upon submission of the CAR. Indeed, this is in fact contrary to her other allegations and established facts: that the registered owner Villa executed an undertaking to submit the CAR as a condition for the release of the new title which was urgently needed for the release of a bank loan; and that petitioner Chavez affixed her signature in the cancelled title which resulted to the issuance and release of the TCT. Affixing her signature as the Register of Deeds in the cancelled TCT and the new TCT implies that the documents are in order and petitioner cannot now belatedly claim that she made a loose handwritten note to the contrary."

It was of no moment that tax receipts were shown because these receipts did not warrant the issuance of a new title. What the law demanded was the presentation of the CAR before any registration of a document transferring real property and before title can be issued.^[22] This act alone negates the defense of good faith and ministerial duty. In fact, per her Petition, petitioner acknowledged^[23] that there was an irregularity to the application for new title and yet she allowed the issuance of a new certificate of title. Certainly, her action demonstrated wanton and deliberate disregard of the law. No matter how noble her intentions were,^[24] petitioner still opted to ignore the established rule.

Misconduct has been defined as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer." A misconduct is grave where the elements of corruption, clear intent to violate the law or flagrant disregard of established rule are present.^[25] Otherwise, a misconduct is only simple.^[26]

Dishonesty on the other hand, is the "disposition to lie, cheat, deceive, defraud or betray; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness."^[27]

If a nexus between the public official's acts and functions is established, such act is properly referred to as misconduct.^[28] In Atty. Chavez' case, this link was clear since the issuance and release of the subject TCT was well within her functions as Register of Deeds.

As a public servant, petitioner is expected to exhibit the highest degree of dedication in deference to his foremost duty of accountability to the people.^[29] No less than the Constitution sanctifies the principle that public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.^[30]

With respect to petitioner's attempt to cling to the one-year time bar reckoned from the occurrence of the event as basis to preclude any inquiry by the Ombudsman,^[31] it must be underscored that such matter now aired by petitioner was not included in her Counter- Affidavit before the Ombudsman.^[32] Even as it appeared that

petitioner later invoked the time-frame on the Memorandum before the Office of the Ombudsman,^[33] such postulation drew public respondent's retort:^[34]

"... Said exception is merely permissive because of the use of the word "may" and should not delimit the mandate of the Ombudsman to investigate cases against erring public officials and employees.

Moreover, this allegation is outrightly misleading. The complaint against petitioner was docketed by the Office of the Ombudsman as OMB-C-A-02-045I-I on September 2002 based on a complaint filed by the Fact-Finding and Intelligence Bureau [FFIB]. The petitioner committed several acts to constitute the administrative offenses of Dishonesty, Conduct Prejudicial to the Best Interest of the Service and Grave Misconduct. Notably while the release of TCT without the requisite CAR attached to the Deed of Sale happened on 28 June 2001, the issuance of the CAR by the BIR was only on 12 November 2001 or five (5) months after the issuance of the TCT; and within one (1) year from the filing of the administrative case before the Office of the Ombudsman."

Verily, *Office of the Ombudsman vs. Andutan, Jr.*^[35] was consistent with previous indoctrination that Section 20 (5) of R.A. 6770 was merely directory:

"The provisions of Section 20(5) are merely directory; the Ombudsman is not prohibited from conducting an investigation a year after the supposed act was committed.

The issue of whether Section 20(5) of R.A. 6770 is mandatory or discretionary has been settled by jurisprudence. In Office of the Ombudsman v. De Sahagun, the Court, speaking through Justice Austria-Martinez, held:

[W]ell-entrenched is the rule that administrative offenses do not prescribe [Concerned Taxpayer v. Doblada, Jr., A.M. No. P-99-1342, September 20, 2005, 470 SCRA 218; Melchor v. Gironella, G.R. No. 151138, February 16, 2005, 451 SCRA 476; Heck v. Judge Santos, 467 Phil. 798, 824 (2004); Floria v. Sunga, 420 Phil. 637, 648-649 (2001)]. Administrative offenses by their very nature pertain to the character of public officers and employees. In disciplining public officers and employees, the object sought is not the punishment of the officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in our government [Melchor v. Gironella, G.R. No. 151138, February 16, 2005, 451 SCRA 476, 481; Remolona v. Civil Service Commission, 414 Phil. 590, 601 (2001)].

Respondents insist that Section 20 (5) of R.A. No. 6770, to wit: