



Mis-DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

DEC 07 2020

Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

DEC 10 2020
R. SANTIAGO

THIRD DIVISION

2:00

DENNIS M. VILLA-IGNACIO,
Petitioner,

G.R. No. 220535

- versus -

Present:
LEONEN, J.,
Chairperson,
CARANDANG,
INTING,*
ZALAMEDA, and
GAERLAN, JJ.

ELVIRA C. CHUA,
Respondent.

Promulgated:
July 8, 2020
Mis-DCBatt

X-----X

DECISION

CARANDANG, J.:

Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Amended Decision² dated November 28, 2014 and the Resolution³ dated September 15, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 114702 filed by petitioner Former Special Prosecutor Dennis M. Villa-Ignacio (Villa-Ignacio).

* Designated as additional Member per Raffle dated July 8, 2020.

¹ *Rollo*, pp. 11-79.

² Penned by Associate Justice Noel G. Tijam, (Former Member of this Court) with the concurrence of Associate Justices Romeo F. Barza and Ramon A. Cruz; *id.* at 85-91.

³ *Id.* at 94-98.

The Antecedents

On March 27, 2008, respondent Assistant Special Prosecutor Elvira Chua (Chua) filed a Complaint⁴ before the Internal Affairs Board of the Office of the Ombudsman (IAB) against Villa-Ignacio and Erlina C. Bernabe (Bernabe) for Dishonesty, Abuse of Authority, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service docketed as IAB-08-0004.

In January 2005, during a flag ceremony, Villa-Ignacio asked the employees of the Office of the Special Prosecutor (OSP) what to do with the monetary contributions solicited in their Christmas party charity drive in December 2004. The employees agreed that the monetary proceeds of their charity drive will be used for the construction of manual deep wells for the typhoon victims in Quezon province.⁵ Chua donated ₱26,660.00 to the charity drive. Bernabe, who was assigned to gather the donations, issued a receipt⁶ in the name of Chua, stating that the donation was for the purchase of water pumps.⁷

On September 1, 2006, Villa-Ignacio instructed Bernabe to apply for a manager's check⁸ in the amount of ₱52,000.00 payable to Gawad Kalinga Community Development Foundation, Inc. (Gawad Kalinga).⁹ The beneficiary issued an Official Receipt¹⁰ which was posted on the bulletin board of the OSP for the information of all its employees.¹¹

Villa-Ignacio vehemently denied personally receiving nor ever having physical or juridical possession of Chua's donation. He also denied misappropriating or converting the same for any purpose.¹² He averred that he told the OSP employees in the succeeding flag assemblies that the contractor of the deep wells had declined the project as the cost of the project is not sufficient to compensate the distance to be traveled. After soliciting suggestions on the use of the funds they had raised, he allegedly proposed that these be donated to the Gawad Kalinga. He claimed that the employees participated in the discussion and eventually agreed to donate the funds to Gawad Kalinga. Villa-Ignacio distinctly recalls that Chua was present during the discussions.¹³

Bernabe admitted issuing the receipt and applying for the Manager's Check for the donation collected in compliance with the lawful order of her

⁴ Id. at 177-187.

⁵ Id. at 231-232.

⁶ Id. at 189.

⁷ Id. at 178.

⁸ Id. at 194.

⁹ Id. at 192, 234.

¹⁰ Id. at 195.

¹¹ Id. at 235.

¹² Id. at 237.

¹³ Id. at 233-234.



superior.¹⁴ She argued that she never exercised any kind of authority, discretion in disposing Chua's donation as her acts were merely ministerial.¹⁵ She insisted that it was Villa-Ignacio who facilitated the transmittal of the Manager's Check to Gawad Kalinga.¹⁶ Thus, she maintained that she cannot be held liable for both criminal and administrative charges against her.¹⁷

On March 18, 2008, or approximately three years after the charity drive, Chua contested the donation made in favor of Gawad Kalinga through a letter addressed to Bernabe.¹⁸ Bernabe replied that, as instructed by Villa-Ignacio, the funds Chua donated had already been included in the OSP employees' donation to Gawad Kalinga.¹⁹

Ruling of the Internal Affairs Board

On September 3, 2009, the IAB rendered its Decision,²⁰ the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding respondent Special Prosecutor DENNIS M. VILLA-IGNACIO guilty of **Simple Misconduct** and is hereby meted the penalty of *three (3) months suspension from Office without pay* pursuant to Section 10, Rule III of Administrative Order No. 17 in relation to Section 25 of Republic Act 6770.

The administrative complaint against respondent ERLINA C. BERNABE be [*sic*] *dismissed* for lack of merit.

SO DECIDED.²¹ (Emphasis and italics in the original)

In finding Villa-Ignacio administratively liable, the IAB emphasized that the donation was received and held in trust by Villa-Ignacio and Bernabe with an obligation to apply the same for the construction of deep wells.²² The IAB found that Villa-Ignacio failed to satisfactorily refute the claim of Chua and other officers of OSP who denied being informed of the change in the beneficiary of their donation. The IAB added that mere juridical possession is enough for Villa-Ignacio to acquire control in the disposition of the money or personal property received.²³

¹⁴ Id. at 367-368.

¹⁵ Id.

¹⁶ Id. at 342.

¹⁷ Id. at 368.

¹⁸ Id. at 179.

¹⁹ Id. at 190.

²⁰ Signed by Chairman Orlando C. Casimiro, Vice-Chairman Emilio A. Gonzalez III, and IAB members Robert E. Kallos, Evelyn A. Baliton, Rodolfo M. Elman, and Virginia P. Santiago; approved by Ombudsman Ma. Mercedes Navarro-Gutierrez; id. at 421-444.

²¹ Id. at 442-443.

²² Id. at 438.

²³ Id. at 439.

With regard to Bernabe's culpability, the IAB ruled that even if she was the custodian of the donations, she could not have disposed them without an order or instruction from her superior. As such, the IAB concluded that there was no conspiracy between her and Villa-Igancio and that her conduct enjoys the presumption of regularity in the performance of official functions.²⁴

Villa-Ignacio filed a Consolidated Motion for Reconsideration *Ex Abundanti Ad Cautelam* before the IAB.²⁵ In its Joint Order²⁶ dated June 4, 2010, the IAB denied Villa-Ignacio's Motion for Reconsideration for lack of merit.

Ruling of the Court of Appeals

On October 8, 2012, the CA rendered its Decision,²⁷ the dispositive portion of which states:

WHEREFORE, the petition is **GRANTED**. The Decision dated September 3, 2009, and the Joint Order, dated June 4, 2010, of the Internal Affairs Board of the Office of the Ombudsman are hereby annulled and set aside. In their stead, a new judgment is hereby entered dismissing the charges for Misconduct, Dishonesty, Abuse of Authority & Conduct Prejudicial to the Best Interest of Service against Petitioner for utter lack of merit.

SO ORDERED.²⁸ (Emphasis in the original)

After a perusal of the records, the CA found that Villa-Ignacio presented substantial evidence to show that he acted with regularity and transparency in making the donation to the Gawad Kalinga.²⁹ The affidavits of the OSP employees corroborated Villa-Ignacio's claim that he made all his announcements during the flag ceremony and that he sought the consensus of the employees as to what to do with the proceeds of the charity drive. The CA held that Chua was never deprived of any information regarding her donation since the information was made public and available to all the employees. The CA noted that it took Chua more than three years to inquire about her donation. Her silence for more than three years was deemed an implied consent for which she cannot now deny knowing what happened to the donation.³⁰

²⁴ Id. at 440.

²⁵ Id. at 447-478.

²⁶ Signed by Chairman Orlando C. Casimiro, Vice-Chairman Emilio A. Gonzalez III, and IAB members Robert E. Kallos, Evelyn A. Baliton, Rodolfo M. Elman, and Virginia P. Santiago; approved by Ombudsman Ma. Mercedes Navarro-Gutierrez; id. at 489-497.

²⁷ Penned by Associate Justice Noel G. Tijam (Former Members of this Court), with the concurrence of Associate Justices Romeo F. Barza and Ramon A. Cruz; id. at 100-120.

²⁸ Id. at 119-120.

²⁹ Id. at 119.

³⁰ Id. at 117.

Aggrieved, Chua filed a Motion for Reconsideration.³¹

On November 28, 2014, the CA rendered its Amended Decision,³² the dispositive portion of which reads:

WHEREFORE, the *Motion for Reconsideration* is **GRANTED**. The Petition for Certiorari is hereby **DISMISSED**.

SO ORDERED.³³ (Emphasis in the original)

The CA held that Chua did not only give the donation specifically for the purpose of purchasing water pumps, she neither consented to, nor was she informed of the diversion of the donation to Gawad Kalinga Foundation.³⁴ The *Manifestation*³⁵ dated September 4, 2008 executed by 28 officials and employees of OSP stated that “it was only recently or about the time when Special Prosecutor Dennis M. Villa-Ignacio revealed to the press that Director Elvira Chua filed a complaint of [*sic*] estafa against him that we came to know that part of the amount we (Prosecutors) gave to the 2004 Christmas Party for the purchase of water pumps was diverted to Gawad Kalinga project of building shelter (houses).”³⁶ Contrary to Villa-Ignacio’s assertion that Prosecutors John I.C. Turalba and Rabendrath Y. Uy volunteered to help in looking for contractors to build the deep wells, the CA noted that both Turalba and Uy categorically denied under oath having been asked by Villa-Ignacio to look for a contractor or having volunteered to look for one.³⁷

In a Resolution³⁸ dated September 15, 2015, the CA denied Villa-Ignacio’s Motion for Reconsideration. In denying outright Villa-Ignacio’s Motion for Reconsideration, the CA noted that:

x x x [P]etitioner’s counsel’s receipt of the Amended Decision was on December 5, 2014. He filed the instant motion only on January 5, 2015 or beyond the reglementary period set forth under the Rules of Court.

x x x x

In this case, the 15-day period of Petitioner run upon his counsel’s receipt of the Amended Decision on December 5, 2014, as evidenced by the Registry Return Card, and not from December 15, 2014 as barely claimed by counsel to be the date of receipt of the said Amended Decision. From December 5, 2014, Petitioner’s counsel supposedly had until December 22, 2014 within which to

³¹ Id. at 843-859.
³² Supra note 2.
³³ *Rollo*, p. 91.
³⁴ Id. at 89.
³⁵ Id. at 323-325.
³⁶ Id. at 89, 323.
³⁷ Id. at 89.
³⁸ Supra note 3.

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file a motion for reconsideration but they delayed the filing until it was already January 5, 2015 or beyond permissible time frame.³⁹ (Emphasis and citations omitted)

As the Amended Decision became final and executory, the CA directed the Division Clerk of Court to issue an Entry of Judgment.⁴⁰

In the present petition, Villa-Ignacio raised the following procedural arguments: (1) the evidence on record clearly shows that he timely filed his Motion for Reconsideration on January 5, 2015, contrary to the ruling of the CA in its Resolution dated September 15, 2015;⁴¹ and (2) the Decision dated October 8, 2012 of the CA absolving him of all the charges was already final, executory, and not appealable.⁴²

Villa-Ignacio also maintained that: (1) the amount of ₱26,660.00 was not solely intended for the purchase of water pumps;⁴³ (2) the change in the purpose of the use of the monetary donations was made with the knowledge and consent of the employees, including Chua, and that the latter was never deprived of any information regarding her donation since the information was made public and available to all employees;⁴⁴ (3) Chua's silence for more than three years which amounted to implied consent to the use of the funds, is indicative of the contrived and fabricated nature of the complaint;⁴⁵ and (4) his actions cannot be considered as grounds for any disciplinary administrative action as these have been characterized with good faith, regularity and transparency.⁴⁶ Villa-Ignacio also questioned the IAB's alleged irregular and anomalous handling of the case which he claims violates his right to due process.⁴⁷ He argued that Orlando C. Casimiro should be disqualified from the proceedings in the IAB because he and Chua belong to the same unit – Office of the Ombudsman's Central Office. He insisted that the complaint of Chua was motivated by a vendetta against him.⁴⁸

In Chua's Comment,⁴⁹ she alleged that: (1) the composition of the internal affairs board is legal;⁵⁰ (2) Villa-Ignacio was afforded his right to due process during the proceedings before the IAB;⁵¹ (3) Villa-Ignacio personally received the amount of ₱26,660.00 from her;⁵² (4) Villa-Ignacio is guilty of misconduct; and (5) there was injury caused to Chua when Villa-Ignacio, without the knowledge and consent of Chua, unilaterally gave the

³⁹ *Rollo*, p. 96.
⁴⁰ *Id.* at 98.
⁴¹ *Id.* at 29-36.
⁴² *Id.* at 36-38.
⁴³ *Id.* at 38-41.
⁴⁴ *Id.* at 41-50.
⁴⁵ *Id.* at 50-53.
⁴⁶ *Id.* at 53-60.
⁴⁷ *Id.* at 60-78.
⁴⁸ *Id.* at 70-75.
⁴⁹ *Id.* at 929-951.
⁵⁰ *Id.* at 937-938.
⁵¹ *Id.* at 939-943.
⁵² *Id.* at 943-946.

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money intended for the purchase of water pumps for the typhoon victims to Gawad Kalinga Foundation.⁵³

Issues

The issues to be resolved in this case are:

1. Whether the Amended Decision of the CA attained finality due to the alleged failure of Villa-Ignacio to timely file his Motion for Reconsideration;
2. Whether the 2012 Decision absolving Villa-Ignacio of the administrative charges against him was already final, executory and not appealable;
3. Whether Orlando Casimiro should have been disqualified from acting on the complaint of Chua pursuant to Section III(N) of Administrative Order No. 16 (A.O. 16); and
4. Whether Villa-Ignacio is guilty of simple misconduct.

Ruling of the Court

The Court grants the petition.

Villa-Ignacio timely filed his Motion for Reconsideration.

A careful scrutiny of the documents submitted by Villa-Ignacio and the averments in his petition reveal that he timely filed his Motion for Reconsideration. As correctly pointed out by Villa-Ignacio, he received the copy of the Amended Decision on December 15, 2014. This fact is substantiated by the Affidavit⁵⁴ of Avigale T. Aragon (Aragon), the receptionist of Villa Ignacio's counsel, Atty. Arno Sanidad (Atty. Sanidad). This is also supported by the envelope⁵⁵ Villa-Ignacio received showing that the Manila Central Post Office received the mail containing the copy of the Amended Decision on December 2, 2014 and the Quezon City Central Post Office received the same only on December 10, 2014 for delivery to Atty. Sanidad. Thus, on December 18, 2014, he filed his Compliance⁵⁶ manifesting his receipt of the Amended Decision on December 15, 2014.⁵⁷ Villa-Ignacio exerted effort in obtaining a Certification from the Quezon City Central Post Office as to the date when the Amended Decision was actually delivered to Atty. Sanidad.⁵⁸ However, the records of mail matters delivered from January 31, 2015 and earlier were reportedly consumed by fire.⁵⁹

⁵³ Id. at 948-949.

⁵⁴ Id. at 121.

⁵⁵ Id. at 125.

⁵⁶ Id. at 126-127.

⁵⁷ Id. at 25.

⁵⁸ Id. at 128.

⁵⁹ Id. at 29.

Contrary to the erroneous conclusion of the CA, it was physically impossible for the office of Atty. Sanidad to receive the Amended Decision on December 5, 2014. The envelope accompanying the Amended Decision contains the stamp marks of the Manila and Quezon City Post Offices showing that the Manila Central Post Office received the mail on December 2, 2014, transmitted it to, and received by the Quezon City Central Post Office only on December 10, 2014 for delivery to Atty. Sanidad's office.⁶⁰ Villa-Ignacio could not have received the Amended Decision and the postman could not have delivered the same earlier than the date when the Quezon City Central Post Office received it from the Manila Central Post Office.

It is highly probable that the date appearing on the Registry Return Card showing Villa-Ignacio's receipt of the Amended Decision on December 5, 2014 is merely a clerical error. Aragon explained in her Affidavit⁶¹ that:

x x x x

5. By inadvertence and to my best recollection, the date I stamped to all Registry Return Receipts on that particular day was "DEC 05 2014" instead of "DEC 15, 2014". It was merely because the number 1 of the dater was unnoticeably changed with 0 and without double checking I was able to give it back to the mailman on the following day when he delivered our mails.

6. Consequently, the Registry Return Receipt attached to the said Notice of Amended Decision from the Court of Appeals was also stamped with "DEC 05 2014" instead of "DEC 15, 2014."⁶²

The explanation above sufficiently clarified the inadvertence committed by the office secretary. We find her explanation to be more consistent with the other stamps appearing on the envelope⁶³ of the Amended Decision that the office of Atty. Sanidad received and submitted for Our evaluation.

Now that it has been settled that Villa-Ignacio received the Amended Decision on December 15, 2014, a simple mathematical computation would show that the deadline for Villa-Ignacio to file his Motion for Reconsideration fell on December 30, 2014. However, there were various work interruptions from period of December 2014 to January 2015, which include:

December 30, 2014	Regular Holiday (pursuant to Proclamation No. 655, series of 2013)
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⁶⁰ Id. at 30, 125.

⁶¹ Id. at 121.

⁶² Id.

⁶³ Id. at 125.

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December 31, 2014	Special Non-Working Day (pursuant to Proclamation No. 655, series of 2013)
January 1, 2015	Regular Holiday (pursuant to Proclamation No. 831 series of 2014)
January 2, 2015	Special Non-Working Holiday (pursuant to Proclamation No. 831, series of 2014)
January 3, 2015	Saturday
January 4, 2015	Sunday

Considering that December 30, 2014 is a holiday, the same was timely filed on the next working day, on January 5, 2015.

The Decision dated October 8, 2012 of the CA had not yet attained finality when Chua filed a Motion for Reconsideration.

Under Section 7, Rule III of Administrative Order No. 07, series of 1990 (A.O. 7), as amended, otherwise known as the Rules of Procedure of the Office of the Ombudsman, a decision of the Ombudsman absolving the respondent from an administrative charge, is final and not appealable.⁶⁴ The provision cited by Villa-Ignacio clearly pertains to a decision of the Ombudsman absolving a respondent and not a decision of the CA. Thus, Villa-Ignacio's insistence that the 2012 Decision of the CA is final is erroneous.

Casimiro should have been disqualified from acting on the complaint of Chua pursuant to Section III(N) of A.O. 16, series of 2003.

The pertinent portion of Section III(N) of A.O. 16 states:

⁶⁴ Section 7, Rule III of Administrative Order No. 7, series of 1990 states:

Section 7. Finality and execution of decision. - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer.

N. Disqualifications

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB Investigating Staff, shall be automatically disqualified from acting on a complaint or participating in a proceeding under the following circumstances:

1. He is a party to the complaint, either as a respondent or complainant;
2. **He belongs to the same component unit as any of the parties to the case;**
3. **He belongs or belonged to the same component unit as any of the parties to the case during the period when the act complained of transpired;**
4. He is pecuniarily interested in the case or is related to any of the parties within the sixth degree of affinity or consanguinity, or to counsel within the fourth degree, computed according to the provisions of civil law; or
5. He has, at one time or another, acted upon the matter subject of the complaint or proceeding. x x x⁶⁵ (Emphasis supplied)

The Court has already settled this issue in the related case of *Villa-Ignacio v. Ombudsman Gutierrez*,⁶⁶ where it was held that the above-cited provision “patently disqualifies a person who belongs to the same component unit as any of the parties to the case, regardless of the timeframe that the acts complained of transpired.”⁶⁷ Even if item numbers 2 and 3 of Section III(N) of A.O. 16, series of 2003 had been deleted in Administrative Order No. 21 (A.O. 21), series of 2009, Casimiro should have been disqualified to act on the complaint Chua filed on March 27, 2008. The Court explained in *Villa-Ignacio v. Ombudsman Gutierrez*,⁶⁸ that:

This amendment acquired a questionable character, as it was sought to be implemented subsequent to the breach by the IAB of its own rules. In our view, the supervening revision of A.O. 16 contravenes the avowed policy of the Office of the Ombudsman “to adopt and promulgate stringent rules that shall ensure fairness, impartiality, propriety and integrity in all its actions.” x x x **Changing regulations in the middle of the proceedings without reason, after the violation has accrued, does not comply with fundamental fairness, or in other words, due process of law.**⁶⁹ (Emphasis supplied; italics in the original; citations omitted)

⁶⁵ *Villa-Ignacio v. Ombudsman Gutierrez*, 806 Phil. 175, 182 (2017).

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Id.

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Villa-Ignacio is not guilty of any misconduct.

Misconduct refers to:

x x x [A] transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the *additional* elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by substantial evidence. Otherwise, the misconduct is only simple.⁷⁰
(Citations omitted; italics in the original)

Applying the foregoing definition of misconduct, We find sufficient justification to reverse the ruling of the CA in its Amended Decision. Contrary to the ruling of the CA, Villa-Ignacio did not have ill motive or corrupt desire for personal gain in appropriating the donation for a different beneficiary. It is not sensible and reasonable to expect that Villa-Ignacio will ask each and every employee of the OSP whether they consent to the proposed turnover of the proceeds of the charity drive to Gawad Kalinga instead of devoting his time to fulfill his responsibilities as head of the OSP. As Special Prosecutor, it is recognized that he has to attend to various pressing matters that require his immediate attention.

Although there appears to be an acknowledgment receipt⁷¹ specifying the intended recipient of Chua's donation, there is also a collective understanding during the flag ceremony that the entire proceeds of the donation drive will instead be donated to the Gawad Kalinga.⁷² It must be pointed out that this consensus was obtained in the same manner which Villa-Ignacio initiated the collective discussion regarding the charity drive with the OSP employees. All discussions were made during the weekly flag ceremonies of the OSP.

We find the timing of the filing of the administrative case suspicious. If Chua really did not consent to the proposal to replace the beneficiary of her donation, she could have easily expressed her dissent and requested for the return of her share in the donation instead of filing an administrative case. It took her approximately three years to inquire about her donation.⁷³ Villa-Ignacio had been transparent about the handling of the proceeds of the donation drive. Thus, there is no hint of corruption nor willful intent to violate the law or to disregard established rules in the conduct of Villa-Ignacio to hold him accountable for Misconduct, Dishonesty, Abuse of Authority, and Conduct Prejudicial to the Best Interest of Service.

⁷⁰ *Civil Service Commission v. Ledesma*, 508 Phil. 569, 579 (2005).

⁷¹ *Rollo*, p. 189.

⁷² *Id.* at 231-232.

⁷³ *Id.* at 90.

Moreover, We recognize the Court's earlier ruling in the related case of *Villa-Ignacio v. Ombudsman Gutierrez*⁷⁴ founded on the same set of facts where the Information for *estafa* under Article 315(1)(b) of the Revised Penal Code filed against Villa-Ignacio before the Sandiganbayan was dismissed.⁷⁵ In dismissing the Information for *estafa* filed in the Sandiganbayan over the same act subject of this administrative case, We explained:

According to Section 4, Rule II of A.O. 7 entitled "Rules of Procedure of the Office of the Ombudsman," supporting witnesses must execute affidavits to substantiate a complaint against a person under preliminary investigation. Affidavits are voluntary declarations of fact written down and sworn to by the declarant before an officer authorized to administer oaths.

Here, the IAB concluded that a "majority of the OSP officers and employees disclaimed that they had knowledge of and consented to the turning-over of their donations to Gawad Kalinga Foundation." As its basis, public respondent relied upon the Manifestation dated 4 September 2008 signed by 28 officials and employees of the OSP.

That Manifestation, which purports to be the voice of the majority belying the donation to Gawad Kalinga, does not qualify as an affidavit as it was not sworn to by the declarants before an officer authorized to administer oaths. Therefore, based on A.O. 7, public respondents should not have considered an unverified and unidentified private document as evidence in its proceeding against petitioner. (Citations omitted; emphasis supplied)

Due to this supervening ruling, We cannot give credence to the Manifestation⁷⁶ dated September 4, 2008 that the CA relied upon in revisiting its original Decision⁷⁷ and in finding Villa-Ignacio guilty of simple misconduct.⁷⁸

In addition, the procedure in administrative cases stated in Section 3 of Rule III of A.O. 7⁷⁹ similarly requires that:

Section 3. How initiated. – An administrative case may be initiated by a written complaint under oath accompanied by affidavits of witnesses and other evidence in support of the charge. **Such complaint shall be accompanied by a Certificate of Non Forum Shopping duly subscribed and sworn to by the complainant or his counsel.** An administrative proceeding may also be ordered by the

⁷⁴ Supra note 65 at 182.

⁷⁵ Id. at 187.

⁷⁶ *Rollo*, pp. 323-325.

⁷⁷ Supra note 27.

⁷⁸ Supra note 32.

⁷⁹ Otherwise known as the Rules of Procedure of the Office of the Ombudsman.

Ombudsman or the respective Deputy Ombudsman on his initiative or on the basis of a complaint originally filed as a criminal action or a grievance complaint or request for assistance. (Emphasis in the original)

Without a an affidavit duly sworn to by the declarants before an officer authorized to administer oaths to support the complaint in the administrative case, the Manifestation⁸⁰ cannot be considered to have met the parameters set in A.O. 7 to initiate an administrative case before the IAB. Thus, there is sufficient justification in not giving credence to the same document in the present administrative complaint against Villa-Ignacio.

WHEREFORE, premises considered, the petition is **GRANTED**. The Amended Decision dated November 28, 2014 and the Resolution dated September 15, 2015 of the Court of Appeals in CA-G.R. SP No. 114702 are hereby **REVERSED** and **SET ASIDE**. The administrative complaint against petitioner Dennis M. Villa-Ignacio is **DISMISSED**.

SO ORDERED.


ROSMARID. CARANDANG
Associate Justice

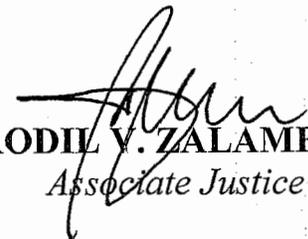
⁸⁰

Rollo, pp. 323-325.

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

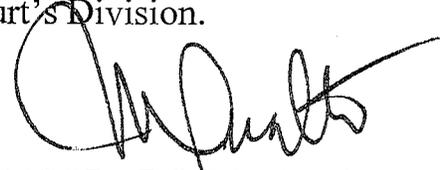
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

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MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

DEC 07 2020