



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**FACT-FINDING INVESTIGATION
 BUREAU MILITARY AND
 OTHER LAW ENFORCEMENT
 OFFICES (FFIB-MOLEO),**

Petitioner,

- versus -

**MAJOR ADELO B. JANDAYAN
 (RET.),**

Respondent.

G.R. No. 218155

Present:

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 LAZARO-JAVIER,
 LOPEZ, and
 GAERLAN,* *JJ.*

Promulgated:

SEP 22 2020

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DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated October 31, 2014 and Resolution³ dated April 15, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 130017. The CA reversed and set aside the Decision⁴ dated February 27, 2009 and Joint Order⁵ dated January 21, 2013 of the Office of the Ombudsman (Ombudsman) in OMB P-A-06-0106-A insofar as respondent Major Adelo B. Jandayan (Ret.) (Jandayan) was found guilty of grave misconduct and dishonesty. The CA directed that Jandayan be paid his retirement benefits and the proscription to his re-employment in any branch or instrumentality of the government including government-owned and controlled corporations be removed.

* Designated as Additional Member per S.O. No. 2788 dated September 16, 2020.

¹ *Rollo*, pp. 12-37, excluding Annexes.

² Id. at 39-54. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Ricardo R. Rosario and Pedro B. Corales.

³ Id. at 56-57.

⁴ Id. at 58-65.

⁵ Id. at 103-110.

Facts

The CA summarized the facts as follows:

In April 2000, the Philippine Marine Corps (PMC) released funds amounting to P36,768,028.95 intended for the combat clothing allowance, equivalent to P8,381.75 per person, and individual equipment allowance, equivalent to P6,337.80 per person (hereafter collectively referred to as the "CCIE allowance"), for allowance to enlisted personnel in active duty from the first to the fourth quarter of 1999. Checks were issued by way of cash advances to cover these allowances. Various documents, such as disbursement vouchers, payrolls, special orders, roster of troops and various certifications, were subsequently submitted to support the liquidation of the cash advances. However, when investigations were conducted of PMC enlisted personnel, whose names were listed in the liquidation payrolls, chosen via random sampling, it was revealed that they never received their CCIE allowance. It was also revealed that the signatures appearing in the liquidation payrolls were not the signatures of the randomly chosen PMC personnel; and neither were these the signatures of their representatives for these PMC personnel had never authorized representative to receive the CCIE allowance on their behalf. Moreover, the normal procedure was not followed as recipients were sorted by rank, assigned to different fields at different locations, instead of by unit per battalion, for expediency of release to each unit's liaison officer for speedy payment. Finally, it was revealed that provisions of the Government Accounting and Auditing Manual, applicable to all classes of disbursements, were not complied with when the cash advances for the CCIE allowance was not approved by the head of office nor his authorized representative.

As a result of the investigation, an administrative and criminal affidavit-complaint dated January 13, 2006, was filed charging Colonel Renato P. Miranda, General Percival M. Subala, Major Jesus P. Cabatbat, Major Felicisimo C. Millado, Captain Edmundo D. Yurong, Carolyn L. Bontolo and petitioner [Jandayan], for Malversation through falsification of public documents, Dishonesty, Violation of Commission on Audit (COA) rules and regulations, and Violation of Section 3 (e) of Republic Act No. 3019, by respondent Fact Finding Investigation Bureau – Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices (FFIB[-]MOLEO) before the Ombudsman. The FFIB-MOLEO cited several overt acts committed by the respondents-accused to show conspiracy in the commission of irregularities in the release of the CCIE funds; petitioner was held liable in the conspiracy for issuing a roster of troops and disbursement vouchers certifying that the expenses were necessary, lawful and incurred under his direct supervision.

On December 11, 2006, petitioner submitted his counter-affidavit where he denied the charges against him and insisted that his signing of the aforementioned documents were done as official acts in his capacity as then Assistant Chief of Staff for Personnel, MC1, of the PMC.

Subsequently, Acting Ombudsman Orlando C. Casimiro issued the assailed Decision dated June 1, 2011, in OMB P-A-06-0106-A, finding petitioner herein and the other respondents-accused, except General Percival M. Subala and Carolyn Bontolo, guilty of grave misconduct and dishonesty, and disposed of the administrative case in this wise:



WHEREFORE, finding substantial evidence, this Office finds respondents **COL. RENATO P. MIRANDA, LT. COL. JESON P. CABATBAT, MAJOR ADELO B. JANDAYAN, CAPT. FELICISIMO C. MILLADO, and CAPT. EDMUNDO D. YURONG** GUILTY of Grave Misconduct and Dishonesty pursuant to Section 19 in relation to Section 25, RA 6770 otherwise known as The Ombudsman Act of 1989, and are hereby meted out the penalty of **DISMISSAL** from the service effective immediately with forfeiture of all the benefits, except accrued leave credits, if any, with prejudice to re-employment in any branch or service of the government including government owned and controlled corporations.

With respect to respondent **MAJ. ADELO B. JANDAYAN**, since he had already retired from service, the forfeiture of all his retirement benefits, except accrued leave credits, is hereby **ORDERED**, and his re[-]employment in any branch or instrumentality of the government, including government-owned and controlled corporations is **PROSCRIBED**.

With respect to respondents **BGEN. PERCIVAL M. SUBALA** and **CAROLYN L. BONTOLO**, this case is hereby **DISMISSED**. (Emphasis in the original)⁶

The Ombudsman found that the ₱36,768,028.95 was released by way of cash advances granted to Major Felicisimo C. Millado (Millado), as the checks were all payable to him.⁷ He encashed the check and entrusted the proceeds to Jandayan, with the approval of Colonel Renato P. Miranda (Miranda) and Gioksan Dammang⁸ as shown by the documents denominated as Funds Entrusted to Agent Officer/Teller.⁹

According to the Ombudsman, following the normal procedure, the money should have been distributed to the respective disbursing officers of the different units of assignment of the Philippine Marine Corps (PMC). These disbursing officers then are responsible for distributing the ₱14,715.05 to the marine soldiers assigned in their units.¹⁰ Given this, it was unlawful for Millado to entrust the proceeds of the check to Jandayan. The Ombudsman found that it was unlawful for Jandayan to receive and hold the proceeds of the checks because he was not a disbursing officer.¹¹

Jandayan moved for reconsideration but was denied in a Joint Order¹² dated January 21, 2013.

⁶ Id. at 40-42.

⁷ Id. at 62.

⁸ Also appears as Giokson Dammang in some parts of the *rollo*.

⁹ *Rollo*, pp. 62-63.

¹⁰ Id. at 63.

¹¹ Id.

¹² Id. at 103-110.



On appeal, the CA reversed and set aside the Ombudsman's Decision. The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated February 27, 2009 and the Joint Order dated January 21, 2013 of the Office of the Ombudsman, in OMB P-A-06-0106-A, insofar as it found herein petitioner Major Adelo B. Jandayan (Ret.) guilty of grave misconduct and dishonesty, are **REVERSED** and **SET ASIDE**; consequently, the complaint against him is **DISMISSED**. He is ordered to be **PAID** the [retirement] benefits denied him by reason of the assailed Decision and Joint Order; and the proscription to his re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations, is **REMOVED** and **DELETED**.

SO ORDERED.¹³

The CA found that Jandayan's act of signing the roster of troops and disbursement vouchers certifying that the expenses were necessary, lawful and incurred under his direct supervision did not constitute grave misconduct.¹⁴ For the CA, there was nothing irregular about the signing of the roster of troops as this has been verified before being released.¹⁵ Further, it was within his area of expertise to know who are the enlisted personnel as he was the Assistant Chief of Staff for Personnel.¹⁶ As to Jandayan's signing of the disbursement voucher saying that the expenses were lawful and necessary, the fact of necessity was known to him as he was the Assistant Chief of Staff for Personnel.¹⁷ As ruled by the CA:

x x x Since the subject of the case before the Ombudsman was whether or not the CCIE funds reached the intended enlisted personnel and **not** whether the CCIE allowances were indeed valid and necessary expenses, nothing in the acts of the petitioner [Jandayan] made him liable for grave misconduct.¹⁸

As to the charge of dishonesty, the CA ruled that since there was no question as to the necessity of the CCIE allowance, and there was no claim that the roster of troops or anything contained therein was not genuine, thus dishonesty cannot be imputed to Jandayan.¹⁹

The CA further ruled that the Ombudsman erred in relying on Millado's admission that he had entrusted the proceeds of the check to Jandayan. According to the CA, other than Millado's statement, there was no other proof to show that Jandayan received the money.²⁰

¹³ Id. at 53.

¹⁴ Id. at 45.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 46.

²⁰ Id. at 48.

Nonetheless, the CA ruled that the signature of Jandayan in the documents denominated as Funds Entrusted to Agent Officer/Teller did not show that he was liable for grave misconduct and dishonesty. For the CA, his act of signing the document, without any proof of a predisposition to cheat or deceive, did not violate the law.²¹ The CA further ruled that Jandayan was able to explain that the combat clothing was issued in kind.²²

On petitioner's finding of conspiracy, the CA ruled that no evidence other than bare assertions supports the allegation of conspiracy. There was no proof of a conscious design or Jandayan's participation in the conspiracy. For the CA, Jandayan's signatures in the roster of troops, certification that the expenses were necessary, and in the Funds Entrusted to Agent Officer/Teller, were all done in the course of his official function as Assistant Chief of Staff for Personnel.²³

Petitioner moved for reconsideration but the CA denied this in its Resolution dated April 15, 2015.

Hence, this Petition.

Issue

The only issue raised in this Petition is whether the CA erred in reversing and setting aside the Ombudsman's Decision and Joint Order finding Jandayan guilty of grave misconduct and dishonesty.²⁴

The Court's Ruling

The Petition is granted.

The CA ruled that there was no evidence other than the bare allegations of petitioner that Jandayan conspired with his co-respondents before the Ombudsman.²⁵ The CA further ruled that petitioner failed to establish that Jandayan committed the acts imputed to him.²⁶ These are erroneous.

In administrative cases, the quantum of proof required is substantial evidence. It is such relevant evidence which a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine differently.²⁷

²¹ Id.

²² Id. at 49.

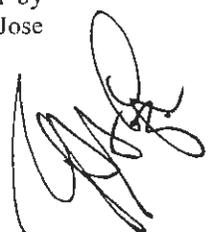
²³ Id. at 50.

²⁴ Id. at 19.

²⁵ Id. at 50.

²⁶ Id.

²⁷ *Fact-Finding Investigation Bureau (FFIB) - Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices v. Miranda*, G.R. No. 216574, July 10, 2019, p. 14. The Decision was rendered by the Second Division; penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Antonio T. Carpio, Estela M. Perlas-Bernabe, Alfredo Benjamin S. Caguioa, and Jose C. Reyes, Jr.



Here, it is undisputed that Jandayan signed the roster of troops and disbursement vouchers. Jandayan also signed the documents denominated as Funds Entrusted to Agent Officer/Teller²⁸ which clearly states that he received cash from Millado corresponding to the value of the 19 checks.

On its own, Jandayan's act of signing the roster of troops and disbursement voucher might seem innocuous. But taken together with the acts of his co-respondents, it shows a common criminal goal to defraud the government.

In fact, the existence of conspiracy between Jandayan and his co-respondents has been resolved in *Fact-Finding Investigation Bureau (FFIB) - Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices v. Miranda*²⁹ (*Miranda*). *Miranda* involves one of Jandayan's co-respondents and the Court's Second Division therein ruled that Miranda failed to prove the reason he authorized the transfer of money to Jandayan. He also failed to present any evidence of Jandayan's authority to disburse funds. The Court's Second Division thus concluded that their actions, taken together, demonstrate a common criminal goal, thus:

It is indubitable that Maj. Jandayan came into the picture only when respondent [Miranda] out of nowhere and without any valid designation or authority possessed by Maj. Jandayan suddenly brought the latter in as recipient and disbursing officer of the funds. It was truly the final operative act which caused first the release, then the misappropriation, and finally the total loss of the funds which to date, have remained unaccounted for.

In *Mangubat v. Sandiganbayan*, the Court recognized the importance of the individual acts performed by each conspirator which may at first seem to be an independent act but which, if taken together, would demonstrate the common criminal goal of the conspirators. The Court ordained:

"xxx no doubt the defraudation of the government would not have been possible were it not for the cooperation respectively extended by all the accused, including herein petitioner. The scheme involved both officials and employees from the Regional Office. Some made the falsifications, others worked to cover-up the same to consummate the crime charged. Petitioner's role was indubitably an essential ingredient especially so because it was he who issued the false LAAs, which as previously mentioned, initiated the commission of the crime. When the defendants by their acts aimed at the same object, one performing one part, and the other performing another part so as to complete it, with a view to the attainment of the same object, and their acts though apparently independent, were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments, the court will be justified in concluding that said defendants were engaged in a conspiracy xxx"

²⁸ *Rollo*, pp. 66-84.

²⁹ *Supra* note 27.

The Court keenly notes that from day one up until now, respondent has not produced the authority of Maj. Jandayan, if any, to receive and disburse the funds in question. Too, respondent up until now has not directly or indirectly responded to the core issue against him, albeit he alleged lot of things in his pleadings before the Office of the Ombudsman, the Court of Appeals and this Court. Nowhere in any of these pleadings did respondent ever give a direct response to, let alone, refutation of, the damaging evidence against him.³⁰

Considering the foregoing, a reasonable mind will accept that Jandayan and his co-respondents were acting with one aim, with each one performing one part, and all their parts completing their aim, which was to make it appear that funds were distributed to PMC personnel when, in reality, they were not so.

Further, Jandayan's receipt of the money, as shown by the documents denominated as Funds Entrusted to Agent Officer/Teller, was in clear violation of Section 75 of the *Government Auditing Code of the Philippines*, or Presidential Decree No. 1445,³¹ which states:

SECTION 75. *Transfer of Funds from One Officer to Another.* — Transfer of government funds from one officer to another shall, except as allowed by law or regulation, be made only upon prior direction or authorization of the Commission or its representative.

Jandayan failed to prove that he had any authority to receive the money. Further, it is unrebutted that the normal accounting procedure of the PMC was for the funds to be distributed to the individual disbursing or liaison officers of the different PMC units and that these individuals were tasked to distribute the proceeds to each of the qualified PMC personnel in their units.³² Jandayan failed to explain why he received the proceeds of the checks even though he was not a disbursing officer but the Assistant Chief of Staff for Personnel.

As defined, “[m]isconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. As an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. It is considered grave where the elements of corruption and clear intent to violate the law or flagrant disregard of established rule are present.”³³

On the other hand, dishonesty has been defined as:

“x x x disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity,” is classified in three (3) gradations,

³⁰ Id. at 10-11.

³¹ ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES, June 11, 1978.

³² *Rollo*, pp. 26, 63.

³³ *Fact-Finding Investigation Bureau (FFIB) - Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices v. Miranda*, supra note 27, at 12-13, citing *Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68, 79 (2015) and *Vertudes v. Buenaflor*, 514 Phil. 399, 424 (2005).

namely: serious, less serious, and simple. **Serious dishonesty** comprises dishonest acts: (a) causing serious damage and grave prejudice to the government; (b) directly involving property, accountable forms or money for which respondent is directly accountable and the respondent shows an intent to commit material gain, graft and corruption; (c) exhibiting moral depravity on the part of the respondent; (d) involving a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets; (e) committed several times or in various occasions; (f) committed with grave abuse of authority; (g) committed with fraud and/or falsification of official documents relating to respondent's employment; and (h) other analogous circumstances. x x x³⁴ (Emphasis in the original)

Based on the foregoing, a reasonable mind would arrive at the conclusion that Jandayan transgressed an established rule of action and that there was a flagrant disregard of such rule. He also caused serious damage and prejudice to the government involving money for which he was accountable.

As the Court held in *Field Investigation Office of the Office of the Ombudsman v. Castillo*:³⁵ “[T]his Court has repeatedly emphasized the time-honored rule that a ‘[p]ublic office is a public trust [and] [p]ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.’”³⁶ The Court continued that “[t]his high constitutional standard of conduct is not intended to be mere rhetoric, and should not be taken lightly considering that those in the public service are enjoined to fully comply with this standard or run the risk of facing administrative sanctions ranging from reprimand to the extreme penalty of dismissal from the service.”³⁷

Jandayan signed a roster of troops and disbursement voucher to support the liquidation of the cash advance. Further, he actually received the funds even though he had no authority to do so. Making matters worse, he failed to show where the money went. His acts, taken together with that of his correspondents before the Ombudsman, show an utter disregard of the trust reposed in him as a public officer and for which he should be held liable.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated October 31, 2014 and Resolution dated April 15, 2015 of the Court of Appeals in CA-G.R. SP No. 130017 are **REVERSED and SET ASIDE**. The Decision dated February 27, 2009 and Joint Order dated January 21, 2013 of the Office of the Ombudsman in OMB P-A-06-0106-A as regards respondent Major Adelo B. Jandayan (Ret.) are **REINSTATED**.

³⁴ Id. at 12, citing *Office of the Ombudsman, et al. v. PS/Supt. Espina*, 807 Phil. 529, 540-542 (2017).

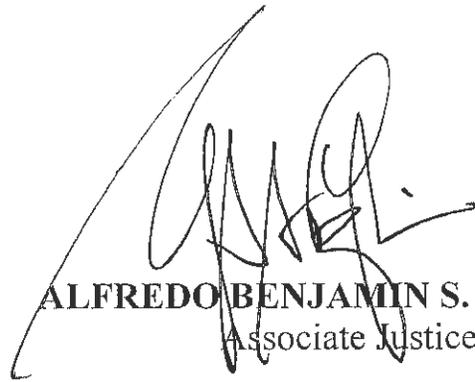
³⁵ G.R. No. 221848, August 30, 2016, 801 SCRA 586.

³⁶ Id. at 596.

³⁷ Id.

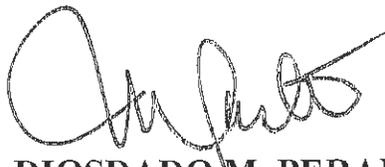


SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



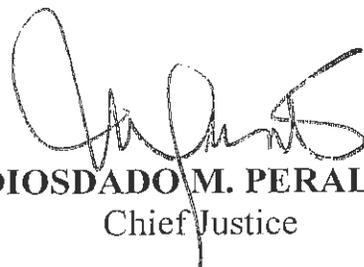
MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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