



Republic of the Philippines
Supreme Court
Manila

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Wilfredo V. Lapitan
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Division Clerk of Court
Third Division

AUG 07 2017

THIRD DIVISION

ANGELICA A. FAJARDO,
Petitioner,

G.R. No. 212641

Present:

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, JJ.

- versus -

MARIO J. CORRAL,
Respondent.

Promulgated:

July 5, 2017
Mis. DC Batt

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DECISION

TIJAM, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, which seeks to annul and set aside the Decision¹ dated September 16, 2013 and Resolution² dated May 9, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 121180.

Respondent Mario J. Corral (Corral), Officer-in-Charge (OIC) Manager of the Treasury Department of the Philippine Charity Sweepstakes Office (PCSO), filed a Complaint-Affidavit docketed as OMB-C-A-09-0355-G against petitioner Angelica Fajardo (Fajardo) for Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of Service before the Office of the Ombudsman (Ombudsman).³

¹ Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Isaias P. Dicdican and Michael P. Elbinias; *rollo*, pp. 39-59.

² *Id.* at 91-92.

³ *Id.* at 40.

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Fajardo was designated as OIC, Division Chief III, Prize Payment (Teller) Division of the Treasury Department of the PCSO. Her duties included instituting procedures in actual payment of prizes, conducting periodic check-up, actual counting of paid winning tickets, and requisitioning of cash for distribution to paying tellers. She was also authorized to draw cash advance of PhP 3,000,000.00 (PhP 2,000,000.00 for payment of sweepstakes and lotto low-tier prizes, and PhP 1,000,000.00 for the PCSO-POSC Scratch IT Project.⁴ For such accountability, Fajardo was bonded with the Bureau of Treasury for PhP 1,500,000.00. In line with her duties, she was issued a vault, which she alone has access to as she held its key and knew the combination to open the same, to keep the money and documents in her custody.⁵

On November 13, 2008, a team from the PCSO Internal Audit Department (IAD) conducted a spot audit on Fajardo's cash and cash items. The team discovered that Fajardo had a shortage of PhP 218,461.00.⁶ After such audit, Fajardo did not report for work, so said team of auditors sealed her vault on November 17, 2008 and her steel cabinet on November 28, 2008.⁷

Corral required Fajardo to report for work, to explain her shortage during the audit, and to be physically present in the opening of her vault. Fajardo requested an additional five working days within which to report back to work, but she failed to do the same despite the lapse of such extended period.⁸

On January 8, 2009, another cash count was conducted, upon recommendation of the Commission on Audit (COA). Said audit was held in the presence of Fajardo and representatives from IAD and COA. During the said cash count, it was discovered that cash worth PhP 1,621,476.00 and checks worth PhP 37,513.00 were missing. As such, Fajardo had a total shortage of PhP 1,877,450.00. It was also discovered that there were undetermined number of paid winning sweepstakes tickets amounting to PhP 1,024,870.00 dating back from 2004, which were not processed for liquidation/replenishment.⁹

Five days thereafter or on January 13, 2009, a letter was issued to Fajardo, which ordered her to immediately produce the missing funds and to explain such shortage. However, Fajardo failed to account and to produce the missing funds, and to give a reasonable excuse for such shortage.¹⁰

⁴ Id. at 40 and 102.

⁵ Id. at 40.

⁶ Cash Examination Count Sheet; id. at 127.

⁷ Id. at 40-41.

⁸ Id. at 44.

⁹ Id. at 42 and 44.

¹⁰ Id. at 41.

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In a Letter dated January 27, 2009, Fajardo admitted her mistake. She offered to settle her accountability by waiving all her rights to bonuses and monetary benefits for 2008 and paying PhP 300,000.00. In her letter, Fajardo did not question the regularity of the conduct of spot audits.¹¹

In her Counter-Affidavit, Fajardo denied that spot audits were conducted; and if so, such were done contrary to established rules. Hence, the results could not be the basis of any action against her. She maintained that the team of auditors excluded the vale sheets and other cash items, and that she was not given the opportunity to rule, balance, and close her books before the conduct of the cash count. Fajardo also claimed that she was forced to sign Certifications and Demands (Cash Examination Count Sheet), containing her alleged shortage, on two different occasions.¹²

THE OMBUDSMAN RULING

In a Decision¹³ dated September 1, 2010, the Ombudsman found Fajardo guilty of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of Service. The *fallo* thereof reads:

WHEREFORE, finding substantial evidence of guilt for Serious Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, respondent ANGELICA A. FAJARDO is hereby meted the penalty of DISMISSAL from the service, with all its accessory penalties.

Pursuant to Section 7, Administrative Order No. 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, Series of 2006, the Chairman of the Philippine Charity Sweepstakes Office is hereby directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number: OMB-C-A-09-0355-G, entitled "Mario J. Corral vs. Angelica A. Fajardo" to this Office, thru the Central Records Division, 2nd Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128, Quezon City.

Compliance is respectfully enjoined consistent with Sec. 3(e) of R.A. No. 3019 (Anti-Graft and Corrupt Practices Act) and Section 15(3) of R.A. No. 6770 (Ombudsman Act of 1989).

SO ORDERED.¹⁴

Fajardo filed a motion for reconsideration, which was denied in an Order¹⁵ dated March 16, 2011.

¹¹ Id. at 44.

¹² Id. at 41-42.

¹³ Reviewed by Acting Director Medwin S. Dizon, recommended by Acting Assistant Ombudsman Mary Susan S. Guillermo and approved by Ombudsman Ma. Mercedes N. Gutierrez; id. at 128-141.

¹⁴ Id. at 139-140.

¹⁵ Id. at 164-172.

Aggrieved, Fajardo filed a Petition for Review before the CA.

THE CA RULING

In a Decision¹⁶ dated September 16, 2013, the CA dismissed said petition and affirmed the ruling of the Ombudsman. The dispositive portion reads:

ACCORDINGLY, the Petition for Review is **DISMISSED**. The Decision dated 1 September 2010, and the Order dated 16 March 2011, of the Office of the Ombudsman, are **AFFIRMED**.

SO ORDERED.¹⁷

Fajardo filed a Motion for Reconsideration, which was denied by the CA in a Resolution¹⁸ dated May 9, 2014.

Hence, this petition.

ISSUE

WHETHER OR NOT FAJARDO IS GUILTY OF SERIOUS DISHONESTY, GRAVE MISCONDUCT AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF SERVICE.

OUR RULING

Fajardo avers that there was no substantial evidence to support the pronouncement of her administrative liability.

We do not agree.

At the outset, it must be emphasized that questions of fact may not be raised by *certiorari* under Rule 45 because We are not a trier of facts. As a rule, factual findings of the Ombudsman and the CA are conclusive and binding in the absence of grave abuse of discretion.¹⁹

We find no reason to deviate from the factual findings of both the Ombudsman and the CA.

A finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the [petitioner] has committed acts stated in the complaint or formal charge.²⁰ Substantial

¹⁶ *Supra* at note 1.

¹⁷ *Rollo*, p. 59.

¹⁸ *Supra* at note 2.

¹⁹ *Fajardo v. Office of the Ombudsman, et al.*, G.R. No. 173268, August 23, 2012.

²⁰ *Office of the Ombudsman v. Santos*, G.R. No. 166116, March 31, 2006.

evidence 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.²¹

In the case at bar, it is established that Fajardo, entrusted with the funds of PCSO, failed to account for cash and cash items in the amount of PhP 1,877,450.00 and paid winning sweepstakes tickets in the amount of PhP 1,024,870.00. When she was asked to expound on such shortage, she offered no satisfactory explanation for the same.

The evidence presented were the two Certifications and Demands (Cash and Examination Count Sheet) which were signed by Fajardo, stating the shortage of funds on her account. It is undisputed that Fajardo offered no explanation for such shortage of funds when demand was made and admitted her accountability in a Letter dated January 27, 2009.

Fajardo reasoned that her act of signing the Certifications was no proof of admission of the shortage, but a mere acknowledgement that a demand was made upon her to produce cash. Such argument, which was copied entirely from the case of *Rueda, Jr. v. Sandiganbayan*²² without proper citation, is flimsy. While the act of signing such certifications is not tantamount to admission of its contents, still, the fact remains that there was shortage of funds on Fajardo's account and that she failed to explain the reasons for the same despite reasonable opportunity.

To Our mind, the facts established and the evidence presented support the finding of Fajardo's guilt.

Fajardo was charged with serious dishonesty, grave misconduct and conduct prejudicial to the best interest of service.

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth.²³ Under CSC Resolution No. 06-0538, dishonesty may be classified as serious, less serious or simple. In this case, Fajardo was charged with *serious dishonesty*, which necessarily entails the presence of any one of the following circumstances:

- (1) the dishonest act caused serious damage and grave prejudice to the Government;
- (2) the respondent gravely abused his authority in order to commit the dishonest act;
- (3) **where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption;**

²¹ *Advincula v. Dicen*, G.R. No. 162403, May 16, 2005.

²² G. R. No. 129064, November 29, 2000.

²³ *Alfonon v. Delos Santos, et al.*, G.R. No. 203657, July 11, 2016.

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- (4) The dishonest act exhibits moral depravity on the part of respondent;
- (5) The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;
- (6) The dishonest act was committed several times or in various occasions;
- (7) The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to impersonation, cheating and use of crib sheets; and
- (8) Other analogous circumstances.²⁴ (Emphasis supplied)

Grave misconduct is defined as the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer coupled with the elements of corruption, willful intent to violate the law or to disregard established rules.²⁵ Corruption, as an element of grave misconduct, consists in the official or employee's act of unlawfully or wrongfully using his position to gain benefit for one's self.²⁶ Lastly, **conduct prejudicial to the best interest of service** deals with a demeanor of a public officer which "tarnished the image and integrity of his/her public office".²⁷

Clearly, Fajardo's acts constitute serious dishonesty for her dishonest act deals with money on her account; and that her failure to account for the shortage showed an intent to commit material gain, graft and corruption. Evidence of misappropriation of the missing funds is not required because the existence of shortage of funds and the failure to satisfactorily explain the same would suffice.²⁸

Grave misconduct was committed when Fajardo failed to keep and account for cash and cash items in her custody. It must be noted that she was issued a vault by the PCSO and was bonded by the Bureau of Treasury for her to effectively carry out her duties and responsibilities. Yet, investigation conducted by the PCSO reveals that she failed to perform such duties when such funds on her account were reported missing. Her corrupt intention was evident on her failure to explain such missing funds despite reasonable opportunity to do the same.

Lastly, conduct prejudicial to the best interest of service was committed because the acts of Fajardo tarnished the image of PCSO, as the principal government agency for raising and providing funds for health programs, medical assistance and services, and charities of national character,²⁹ considering that aside from the shortage of funds, unpaid

²⁴ CSC Resolution No. 06-0538, Section 3.

²⁵ *Office of the Ombudsman v. Apolonio*, G.R. No. 165132, March 7, 2012.

²⁶ *Seville v. Commission of Audit*, G.R. No. 177657, November 20, 2012.

²⁷ *Largo v. Court of Appeals, et al.*, G.R. No. 177244, November 20, 2007.

²⁸ *Belleza v. Commission on Audit*, G.R. No. 133490, February 27, 2002.

²⁹ Republic Act No. 1169, AN ACT PROVIDING FOR CHARITY SWEEPSTAKES, HORSE RACES, AND LOTTERIES. Approved June 18, 1954.

winning tickets dated 2004 were also found in Fajardo's possession when she should have liquidated and replenished the same. The CA correctly held that the public would lose their trust to PCSO because of the reported misappropriation of funds, which are allotted as prizes.³⁰


WHEREFORE, the instant petition is **DENIED**. Accordingly, the Decision dated September 16, 2013 and Resolution dated May 9, 2014 of the Court of Appeals in CA-G.R. SP No. 121180 are **AFFIRMED in toto**.

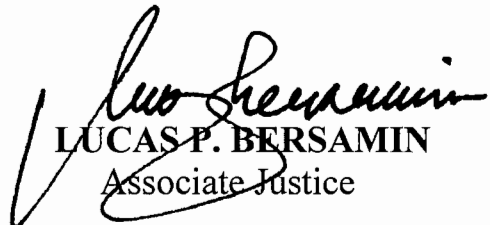
Petitioner Angelica A. Fajardo is **DISMISSED FROM SERVICE**, with all its accessory penalties.

SO ORDERED.



NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice

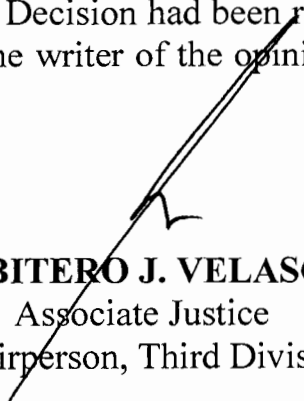

BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

³⁰ Rollo, p. 55.


ATTESTATION

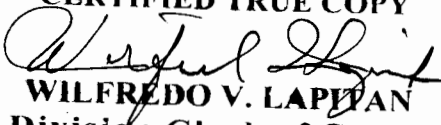
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
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.


MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

AUG 07 2017

