



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**RICARDO O. TRINIDAD, JR.,**  
*Petitioner,*

**G.R. No. 227440**

Present:

-versus-

**PERLAS-BERNABE,\* S.A.J.,**  
*Chairperson,*  
**GESMUNDO, Acting**  
*Chairperson*  
**LAZARO-JAVIER,**  
**LOPEZ, and**  
**ROSARIO,\*\* JJ.**

**OFFICE OF THE**  
**OMBUDSMAN and FIELD**  
**INVESTIGATION OFFICE,**  
**OFFICE OF THE**  
**OMBUDSMAN,**  
*Respondents.*

Promulgated:

**DEC 02 2020**

x-----x

**RESOLUTION**

**LOPEZ, J.:**

This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assails the June 28, 2016 Court of Appeals' (CA) Decision<sup>2</sup> in CA-G.R. SP No. 142793 finding petitioner Ricardo O. Trinidad, Jr. (Ricardo), guilty of gross negligence.

**Antecedents**

Ricardo served as Engineer II in the Department of Public Works and Highways – Quezon City Second Engineering District (DPWH-QCSED), and was tasked to oversee laborers of the DPWH-QCSED's Oyster Program designed to provide jobs to Filipinos as gardeners or cleaners. Among the laborers of the program are Michael Bilya (Bilya), Danilo Martinez

\* ON OFFICIAL LEAVE.

\*\* Designated additional Member *per* Special Order No. 2797 dated November 5, 2020.

<sup>1</sup> *Rollo*, pp. 10-33.

<sup>2</sup> *Id.* at 37-46: penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez.

(Martinez), Norwena Sanchez (Sanchez), and Danilo dela Torre (dela Torre). Ricardo signed the daily time records (DTRs) of Bilya, Martinez, Sanchez, and dela Torre for April and May 2005. However, it was found that some of them were either simultaneously employed as traffic aides of the Metropolitan Manila Development Authority (MMDA), or as field coordinators in the Office of Congresswoman Nanette C. Daza; and received double, and even triple compensations from the three government agencies.<sup>3</sup>

Due to this irregularity, an administrative case for dishonesty, gross neglect of duty, grave misconduct, and conduct prejudicial to the best interest of the service, was filed by the Field Investigation Office (FIO) of the Office of the Ombudsman (Ombudsman) against Ricardo and the other approving authorities of the other government agencies involved for signing the workers' DTRs.<sup>4</sup>

On November 5, 2014,<sup>5</sup> the Ombudsman found Ricardo guilty of gross neglect of duty, and meted the penalty of dismissal from the service. The Ombudsman ruled that Ricardo's reliance on the logbook prepared by his subordinate amounts to "*wanton attitude and gross lack of precaution.*"<sup>6</sup>

The dispositive portion of the Decision, reads:

**WHEREFORE**, this Office finds respondents **LEONICIO GALANG OCAMPO, RICARDO OLIVA TRINIDAD, JR. and EVANGELINE BULAONG ABRIGONDA, GUILTY of GROSS NEGLIGENCE OF DUTY** and as such, are hereby meted the penalty of **DISMISSAL FROM THE SERVICE** with accessory penalties, pursuant to the Revised Rules on Administrative Cases in the Civil Service: CSC Resolution No. 1101502 dated November 21, 2011.

In the event that the penalty can no longer be enforced due to respondents' separation from service, the penalty shall be converted into **FINE EQUIVALENT TO ONE YEAR SALARY** shall be imposed, payable to the Office of the Ombudsman, and may be deductible from respondents' retirement benefits, accrued leave credits or any receivable from her office.

**SO ORDERED.**<sup>7</sup> (Emphases in the original, underscoring supplied.)

Aggrieved, Ricardo elevated the case to the CA, which affirmed the decision of the Ombudsman.<sup>8</sup> The CA held that the laborers had DTRs in all

<sup>3</sup> *Id.* at 38-39.

<sup>4</sup> *Id.* at 39.

<sup>5</sup> *Id.* at 407-416.

<sup>6</sup> *Id.* at 411.

<sup>7</sup> *Id.* at 414-415.

<sup>8</sup> *Supra* note 2, at 46. The dispositive portion of the decision states:

**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED**. The Decision dated November 5, 2014 of the Office of the Ombudsman is **AFFIRMED**.

**SO ORDERED.** (Emphases in the original.)



three government agencies, and the DTRs were approved by Ricardo pursuant to his designation as inspector of the Oyster Program. Ricardo's sole reliance on the logbook as basis for the DTRs amounts to gross negligence. Ricardo sought reconsideration but was denied.<sup>9</sup>

Hence, this Petition.<sup>10</sup> Ricardo asserts that the evidence on record is insufficient to sustain a finding of gross negligence against him. The findings of gross negligence by the Ombudsman and the CA, which were anchored on his own admission that he merely relied on the logbook prepared by his subordinate, is unfounded.

### The Court's Ruling

The petition is partly meritorious.

We stress that this Court is not a trier of facts. In a petition for review on *certiorari* under Rule 45, the Court's judicial review is generally confined only to errors of law. While it is widely held that this rule of limited jurisdiction admits of exceptions, none exist in the instant case.<sup>11</sup> Hence, We affirm the findings of the Ombudsman and the CA that Ricardo relied solely on his subordinate's logbook in signing the workers' DTRs.<sup>12</sup> Consequently, the only matter to be resolved is whether Ricardo's reliance on the logbook constitutes gross negligence.

*The unjustified reliance on one's subordinate constitutes inexcusable negligence*

Ricardo argues that his act of signing the DTRs should not be considered as negligence because he was in good faith when he relied on the work of his subordinate. His reliance on his subordinate is justified considering that his duties with the Oyster Program comprise only five percent (5%) of his total duties. To support this claim, Ricardo cites the case of *Arias v. Sandiganbayan* (*Arias case*),<sup>13</sup> wherein this Court declared that “[a]ll heads of offices have to rely to a reasonable extent on their subordinates.”<sup>14</sup> x x x.

<sup>9</sup> *Rollo*, pp. 48-49.

<sup>10</sup> *Supra* note 1.

<sup>11</sup> *Navaja v. Hon. de Castro*, 761 Phil. 142 (2015). The recognized exceptions are: (a) When the findings are grounded entirely on speculation, surmises, or conjectures; (b) When the inference made is manifestly mistaken, absurd, or impossible; (c) When there is grave abuse of discretion; (d) When the judgment is based on a misapprehension of facts; (e) When the findings of facts are conflicting; (f) When in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant or the appellee; (g) When the CA's findings are contrary to those by the trial court; (h) When the findings are conclusions without citation of specific evidence on which they are based; (i) When the facts set forth in the petition, as well as in the petitioner's main and reply briefs, are not disputed by the respondent; (j) When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (k) When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. *Id.* at 155. (Citation omitted.)

<sup>12</sup> *Rollo*, pp. 45 and 409-410.

<sup>13</sup> 259 Phil. 794 (1989).

<sup>14</sup> *Id.* at 801.

We are not persuaded.

The *Arias* case does not grant officials with a blanket authority to depend on their underlings. There are two important distinctions between the *Arias* case and the case at bar. *First*, *Arias* was a head of a department tasked to supervise voluminous records and documents. *Second*, *Arias* case involved a criminal case for causing undue injury to the government.

As to the first distinction, the Court's consideration in favor of *Arias* is, in large part, due to the sheer volume of papers he must sign, which included the irregular purchase orders subject of the charge against him. The Court noted that *Arias* could not have possibly scrutinized each and every one of the hundreds of documents, letters, memoranda, vouchers, and supporting papers he had to sign. This is not the case here, because Ricardo was tasked with supervising only four workers of the Oyster Program for a brief period of two months. Yet, he failed to exercise due diligence in even verifying that the workers reported for work. Ricardo never alleged in any of his pleadings that he personally saw them report for duty, nor that he exerted any effort to supervise them in any way.

Anent the second distinction, the *Arias* case, involved a criminal case for gross negligence, while Ricardo's case, pertains to administrative negligence. The *Arias* case, dealt exclusively with the guilt of *Arias* and his co-accused beyond reasonable doubt to defraud the government, without discussing whether they were guilty of negligence.<sup>15</sup> These distinctions between criminal and administrative gross negligence stem from the differences in their purpose, which go beyond a mere difference in the required quantum of evidence. We declared in *Dr. De Jesus v. Guerrero III*,<sup>16</sup> that the purpose of administrative proceedings is mainly to protect the public service, based on the time-honored principle that a public office is a public trust. On the other hand, the purpose of criminal prosecution is the punishment of the criminal.

Clearly, criminal gross negligence is treated differently from administrative gross negligence. While good faith may exculpate a public official from criminal liability, the same does not necessarily relieve him from administrative liability. In *Office of the Court Administrator v. Clerk of Court Marasigan*,<sup>17</sup> respondent Marasigan, a Clerk of Court, was found liable for administrative gross negligence for failing to supervise his subordinates in managing court funds. Marasigan claimed that he assigned the task to one of his subordinates in good faith. The Court declared that no amount of good faith could relieve Marasigan from liability for failing to properly administer and safeguard the court's funds. In the more recent case of *Roy III v. The Honorable Ombudsman*,<sup>18</sup> We declared that malice or fraudulent intent cannot

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<sup>15</sup> *Id.*

<sup>16</sup> 614 Phil. 520 (2009).

<sup>17</sup> 677 Phil. 500 (2011).

<sup>18</sup> G.R. No. 225718, March 4, 2020, citing *Arias v. Sundiganbayan*, *supra* note 13 and *Sistoza v. Desierto*, 437 Phil. 117 (2002).



be automatically inferred from a mere signature appearing on the purchase order. The Court added that negligence in signing an irregular purchase order would, at worst, only amount to gross negligence.

In this case, Ricardo insists that his reliance on the logbook prepared by his subordinate is justified because his tasks in connection with the Oyster Program comprise only a mere five percent (5%) of his total duties; essentially arguing that a task as miniscule as that, could permissibly be entrusted to one of his subordinates. Such argument cannot be countenanced by this Court. Even assuming that Ricardo's claim is true, he was still duty-bound to perform even a minor task. A public officer's duty, no matter how miniscule, must still be diligently accomplished. No less than the Constitution<sup>19</sup> 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.<sup>20</sup> Although supervising the workers of the Oyster Program may have consisted a very small percentage of Ricardo's tasks, he was still duty-bound to faithfully accomplish it, and to not simply entrust it to his subordinate. Thus, Ricardo cannot be excused for having merely relied on his subordinate, even if it was done in good faith. However, this Court finds that Ricardo's negligence in this case cannot be considered as gross.

*Ricardo is guilty only of Simple Negligence*

Dereliction of duty may be classified as gross or simple neglect of duty or negligence.<sup>21</sup> Simple negligence is defined as the failure of an employee to give proper attention to a required task expected of him, or to discharge a duty due to carelessness or indifference.<sup>22</sup> On the other hand, gross negligence is characterized by want of even the slightest care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, or by flagrant and palpable breach of duty.<sup>23</sup> It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty.

Gross negligence, thus, involves an element of intent, more than mere carelessness or indifference to do one's duty. To be held liable for gross negligence, a public official must have intentionally shirked his duty, fully aware that he is duty-bound to perform. Simply, gross negligence involves consciously avoiding to do one's work. In *COC Marigomen*,<sup>24</sup> Manabat – a security guard of the CA – was found guilty of simple negligence for

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<sup>19</sup> The 1987 Constitution, Article XI, Section 1, provides: "Public office is a public trust. Public 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."

<sup>20</sup> *Judge Gaviola v. Court Aide Navarette*, 341 Phil. 68, 70-71 (1997).

<sup>21</sup> *Re: Complaint of Aero Engr. Reci Against Marquez and DCA Bahia Relative to Crim. Case No. 05-236956*, 805 Phil. 290, 292 (2017).

<sup>22</sup> See *Court of Appeals by: COC Marigomen v. Manabat, Jr.*, 676 Phil. 157, 164 (2011).

<sup>23</sup> *Re: Complaint of Aero Engr. Reci Against Marquez and DCA Bahia Relative to Crim. Case No. 05-236956*, *supra* note 20; *Court of Appeals by: COC Marigomen v. Manabat, Jr., Id.*

<sup>24</sup> *Supra* note 22.



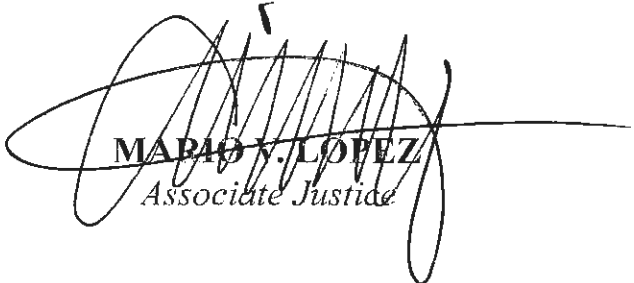
accidentally firing his service firearm. Meanwhile, in *Sarno-Davin v. Quirante*,<sup>25</sup> this Court increased Regional Trial Court Clerk III Quirante's liability from simple to gross negligence for failing to transmit the records of the case to the CA.

Here, We cannot reasonably conclude that Ricardo's failure to check the actual attendance of the workers amounts to gross negligence. *First*, his failure to check the attendance of the workers of the Oyster Program involves mere carelessness considering that Ricardo's tasks relating to the program was not part of his normal duties as engineer, and was merely a transitory duty. He was not made aware that he was to personally supervise the workers of the program. *Second*, there is no showing or even any imputation that Ricardo conspired with the workers to defraud the government, nor did he benefit from the worker's double and triple compensation. *Third*, Ricardo could not be reasonably expected to investigate whether the workers were employed in different government institutions since he was not the one who hired them. *Lastly*, there is no allegation that Ricardo has committed any prior infractions, nor has he been administratively charged in the past. Nonetheless, Ricardo's carelessness in relying on his subordinate's logbook in signing the workers' DTRs, and in his duty of supervising the workers of the Oyster Program – believing that such a minor task does not entail his full attention – is tantamount to simple negligence.

Under Section 46 of the 2011 Revised Rules on Administrative Cases in the Civil Service, simple neglect of duty is classified as a less grave offense, punishable by suspension without pay, for one (1) month and one (1) day, to six (6) months, for the first offense. Considering that the task of supervising the Oyster Program's workers is not Ricardo's primary task as an engineer of the DPWH, and this being his first infraction, We deem it proper to impose the penalty of suspension for two (2) months.

**FOR THESE REASONS**, the petition is **PARTLY GRANTED**. The Court of Appeals' Decision dated June 28, 2016, in CA-G.R. SP No. 142793, is **MODIFIED** in that petitioner Ricardo O. Trinidad, Jr. is **SUSPENDED** for two (2) months, without pay, for simple neglect of duty. He is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

**SO ORDERED.**

  
**MARIO V. LOPEZ**  
Associate Justice

<sup>25</sup> A.M. No. P-19-4021, January 15, 2020. In the cited case, Quirante, in an attempt to justify her failure to transmit the records, claimed that the litigants failed to pay for the duplicate copies to be forwarded to the CA, a requirement not found in the Rules. In imposing a higher penalty, the Court considered that it was Quirante's third infraction, having been reprimanded in the first, and held liable for simple negligence in the second administrative charge against her.

**WE CONCUR:**

(ON OFFICIAL LEAVE)  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*


  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

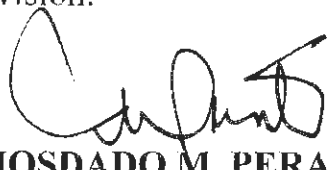
**ATTESTATION**

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

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*  
*Acting Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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*