



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PSI DARWIN D. VALDERAS,
Petitioner,

G.R. No. 205659

Present:

- versus -

GESMUNDO, C.J.,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

VILMA O. SULSE,
Respondent.

Promulgated:

MAR 09 2022

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DECISION

GAERLAN, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, as amended, assailing the Decision² dated September 17, 2012 and the Resolution³ dated January 23, 2013 issued by the Court of Appeals (CA) in CA-G.R. SP No. 120981. The said issuances affirmed the Joint Decision⁴ dated January 5, 2007 and Order⁵ dated October 26, 2010 which were

¹ *Rollo*, pp. 3-21.

² *Id.* at 22-32. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Normandie B. Pizarro and Manuel M. Barrios concurring.

³ *Id.* at 33-34.

⁴ *Id.* at 57-60. The Joint Decision was signed by Graft Investigation and Prosecution Officer Jamila R. Cruz-Sarga and concurred in by Director Eulogio S. Cecilio. It was recommended for approval by Emilio Gonzalez III, Deputy Ombudsman for the Military and Other Law Enforcement Offices, and, ultimately, approved by Ombudsman Ma. Merceditas N. Gutierrez.

⁵ *Id.* at 76-81. The Order was signed by Graft Investigation and Prosecution Officer Dyna I. Camba and concurred in by Director Eulogio S. Cecilio. It was recommended for approval by Emilio Gonzalez III, Deputy Ombudsman for the Military and Other Law Enforcement Offices, and, ultimately, approved by Ombudsman Ma. Merceditas N. Gutierrez.

rendered by the Office of the Ombudsman in OMB-P-A-06-0735-H which, in turn, found Police Senior Officer (PSI) Darwin D. Valderas (petitioner) guilty of Simple Neglect of Duty and meting upon him the penalty of suspension for one (1) month without pay.

Antecedents

The instant controversy was born in the aftermath of an alleged mauling incident involving Vilma O. Sulse (respondent), former Secretary of the *Sangguniang Bayan* of the Municipality of Taft, Eastern Samar, and Mayor Francisco Adalim (Mayor Adalim), then mayor of the said municipality, inside the Taft Police Station on May 9, 2006.⁶ Petitioner was the Chief of Police of Taft, Eastern Samar.

In the Complaint⁷ that she filed before the Office of the Ombudsman, respondent claimed that on May 9, 2006, she found her office ransacked, with official documents in disarray. At around 10:00 in the morning of the same day, she went to the Taft Police Station to report the incident to the law enforcement officers. The said police station was located at the back of the municipal hall.⁸

While respondent was reporting the ransacking of her office to Senior Police Officer (SPO) 1 Neceas Lusico (SPO1 Lusico), Mayor Adalim arrived and suddenly struck respondent several times on the head with an open palm. He also banged her head against the wall. Respondent claimed that apart from SPO1 Lusico, the incident was witnessed by Police Officer (PO) 1 Junrey Lusico, PO2 Carlito Baldevia, PO3 Nicolas Orsal, and PO3 Ireneo Garcia who all did nothing to stop Mayor Adalim from assaulting her.⁹

When petitioner arrived at the police station, respondent asked that the mauling incident be recorded in the police blotter. Petitioner, however, denied her request. Upon Mayor Adalim's order, respondent was detained at the police station. She was released at around 12:00 noon of the same day, when she surrendered to the police officers the two envelopes that she retrieved from her office.¹⁰

⁶ Id. at 23.

⁷ Id. at 85-86. The complaint is entitled, "Vilma O. Sulse, Complainant, versus SPO1 Neceas Lusico, PO1 Junrey Lusico, PO2 Carlito Baldevia, PO3 Nicolas Orsal, PO3 Ireneo Garcia, and Police Inspector Darwin Valderas, Respondents."

⁸ Id. at 85.

⁹ Id.

¹⁰ Id.

Respondent underwent a medical examination 43 days later, or on June 21, 2006. Dr. Nilda B. Acuba Anistoso (Dr. Anistoso), Municipal Health Officer of Sulat, Eastern Samar, reported that respondent suffered from “pain, right occipital area of the head” and “swelling and redness of the right posterior neck.”¹¹ Dr. Anistoso added that respondent’s injuries would incapacitate her for a period of not less than three days but not more than six days.

In his Counter-Affidavit,¹² petitioner averred that he could not have prevented respondent’s alleged mauling because, as respondent stated herself, petitioner arrived after the incident. Moreover, contrary to respondent’s claim, an incident between her and Mayor Adalim was recorded in the police blotter of Taft Police Station, albeit the same makes no mention of the mauling incident in question.¹³ Finally, respondent never made a request to have her own version of the events recorded in the police blotter.¹⁴

Per Entry Nos. 2081 and 2082¹⁵ of the Taft Police Station’s police blotter, Mayor Adalim and Vice Mayor Cornelio Adel (Vice Mayor Adel) accused respondent of stealing office records after she was replaced as *Sangguniang Bayan* Secretary by one Jakelyn Adalim White. Respondent appeared at the police station to discuss the matter with Mayor Adalim and Vice Mayor Adel. Thereafter, respondent turned over to the police authorities two folders, one annual budget calendar, and two blue-colored envelopes.

Petitioner likewise questioned the timeliness of the medical findings of Dr. Anistoso, arguing that respondent was examined 43 days after the alleged mauling incident.¹⁶

The Ombudsman’s Ruling

On January 5, 2007, the Ombudsman issued a Joint Decision¹⁷ finding petitioner and his fellow police officers guilty of Simple Neglect of Duty and meting against them the penalty of suspension without pay for two months.

The Ombudsman gave credence to respondent’s claim that she was mauled by Mayor Adalim inside the Taft Police Station. It held that had

¹¹ Id. at 90.

¹² Id. at 91-98.

¹³ Id. at 94.

¹⁴ Id. at 48.

¹⁵ Id. at 99.

¹⁶ Id. at 96.

¹⁷ Id. at 57-60.

petitioner and his colleagues not been remiss in their duty to keep peace and order, respondent would have been protected from the violence inside their very office.

Thus:

WHEREFORE, this Office finds respondents **P/INSP. DARWIN VALDERAS, SPO1 NECEAS LUSICO, PO3 IRENEO GARCIA, PO2 CARLITO BALDEVIA, PO1 JUNREY LUSICO, and PO3 NICOLAS ORSAL GUILTY** of Simple Neglect of Duty, and are hereby **SUSPENDED for TWO MONTHS WITHOUT PAY** pursuant to Section 52, Rule IV of the Uniformed Rules on Administrative Cases (CSC Resolution No. 331936 dated 31 August 1999) in relation to the Rules of Procedure of the Office of the Ombudsman (Administrative Order No. 7, as amended by Administrative Order No. 17, dated 07 September 2003).

Let a copy of this DECISION be furnished the Chief, Philippine National Police (PNP) for IMPLEMENTATION.¹⁸

Aggrieved, petitioner filed a Motion for Reconsideration¹⁹ of the foregoing ruling.

On October 26, 2010, the Ombudsman issued an Order²⁰ exonerating petitioner's colleagues. It found that respondent was not able to substantiate her claim that she was assaulted by Mayor Adalim. Likewise, none of respondent's witnesses saw her being manhandled by Mayor Adalim. Nevertheless, the Ombudsman maintained that petitioner must still be held liable for Simple Neglect of Duty because the police blotter did not contain a record of the alleged mauling incident.

Reducing petitioner's penalty to suspension without pay for one month, the Ombudsman disposed:

WHEREFORE, premises considered, the Decision dated January 5, 2007 is **MODIFIED**. Respondent **P/INSP. DARWIN VALDERAS** aka **P/INSP. DARWIN DEGUINION VALDERAS** is hereby found **GUILTY** of **SIMPLE NEGLIGENCE OF DUTY** and is meted the penalty of **SUSPENSION FROM OFFICE FOR ONE (1) MONTH WITHOUT PAY** in accordance with RA 6770 (The Ombudsman Act.) Further, let the instant administrative case be **DISMISSED** insofar as respondents **SPO1 NECEAS LUSICO** aka **SPO1 NECEAS ABENIS LUSICO, PO3 IRENEO GARCIA** aka **PO3 IRENEO DEREJE GARCIA, PO2**

¹⁸ Id. at 59.

¹⁹ Id. at 61-75.

²⁰ Id. at 76-81.

CARLITO BALDEVIA aka **PO2 CARLITO CEBUANO BALDEVIA**, **PO1 NICOLAS ORSAL** aka **PO1 NICOLAS AFABLE ORSAL**, **PO1 JUNREY LUSICO** aka **PO1 JUNREY AMORES LUSICO** are concerned.

SO ORDERED.²¹

Undaunted, petitioner filed a petition for *certiorari*²² before the CA.

The CA's Ruling

On September 17, 2012, the CA rendered the herein assailed Decision²³ denying petitioner's petition.

The appellate court ruled that the Ombudsman's rejection of respondent's claim that she was assaulted did not affect petitioner's administrative liability. According to the CA, even if the mauling incident never occurred, the police blotter should have at least contained a statement that Mayor Adalim and Vice Mayor Adel castigated or rebuked respondent inside the police station:

In this case, the subordinates of petitioner Valderas alleged in their Counter-Affidavit that private respondent Sulse was outside the police station when she was chanced upon by Adalim and Vice Mayor Cornelio Adel and they did not categorically state that they saw the whole incident. Granting that she asked for the recording of an assault that did not actually happen, the police officers should have at least entered in the blotter that Adalim and the vice-mayor severely rebuked or castigated her, but they did not.²⁴

Petitioner's motion for reconsideration was denied by the CA in the herein assailed Resolution²⁵ dated January 23, 2013.

Issue

Whether or not the CA erred in affirming the Ombudsman's finding of Simple Neglect of Duty on the part of petitioner.

²¹ Id. at 80.

²² Id. at 35-56.

²³ Id. at 22-32.

²⁴ Id. at 31-32.

²⁵ Id. at 33-34.

The Ruling of the Court

The petition is impressed with merit.

Procedural considerations

Petitioner raises questions of fact. Generally, only questions of law may be raised in a petition for review on *certiorari* under Rule 45²⁶ because questions of fact are generally not reviewable.²⁷ After all, this Court is not a trier of facts.²⁸ We are confined to the review of errors of law that may have been committed in the judgment under review.²⁹

Nevertheless, these precepts are not ironclad. When stringent application of the rules will result in manifest injustice, the Court may set aside technicalities and proceed with the substantial merits of the petition.³⁰ Moreover, jurisprudence enumerates the following exceptions:

1. When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
2. When the inference made is manifestly mistaken, absurd or impossible;
3. Where there is a grave abuse of discretion;
4. When the judgment is based on a misapprehension of facts;
5. When the findings of fact are conflicting;
6. When the [CA], in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
7. The findings of the [CA] are contrary to those of the trial court;
8. When the findings of fact are conclusions without citation of specific evidence on which they are based;
9. When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

²⁶ *Pascual v. Burgos*, 776 Phil. 167, 169 (2016).

²⁷ *Heirs of Villanueva v. Heirs of Mendoza*, 810 Phil. 172, 184 (2017).

²⁸ *Gatan v. Vinarao*, 820 Phil. 257, 265 (2017).

²⁹ *Spouses Sibay v. Spouses Bermudez*, 813 Phil. 807, 814 (2017).

³⁰ *Philippine Bank of Communications v. Court of Appeals*, 805 Phil. 964, 971 (2017).

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10. The finding of fact of the [CA] is premised on the supposed absence of evidence and is contradicted by the evidence on record.³¹

The Court finds exceptional circumstances in the instant case. The conclusion reached by the CA is grounded entirely on speculation, surmises, and conjectures. The appellate court affirmed the judgment of the Ombudsman which is based on a misapprehension of facts and a manifestly absurd inference.

Simple Neglect of Duty and the quantum of proof in administrative cases

When a public officer takes an oath of office, he or she binds himself or herself to faithfully perform the duties of the office and use reasonable skill and diligence, and to act primarily for the benefit of the public.³² In the discharge of duties, a public officer must use prudence, caution, and attention which careful persons use in the management of their affairs.³³ Public officials and employees are therefore expected to act with utmost diligence and care in discharging the duties and functions of their office.³⁴ Failure to do so may hold such public official or employee administratively liable for neglect of duty.

Negligence is the omission of the diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time, and of the place.³⁵ Neglect of duty is the failure of an employee to give one's attention to a task expected of him/her and is censurable under the Civil Service Rules.³⁶

Neglect of duty is classified as either gross or simple.

Gross neglect of duty or gross negligence pertains to "negligence characterized by the want of even slight 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, insofar as other persons may be affected. It is the omission of that care [which] even inattentive and thoughtless men never fail to give to their own property."³⁷ In

³¹ *Medina v. Asistio, Jr.*, 269 Phil. 225, 232 (1990).

³² *Salumbides, Jr. v. Office of the Ombudsman*, 633 Phil. 325, 340-341 (2010).

³³ *Seville v. Commission on Audit*, 699 Phil. 27, 32 (2012).

³⁴ *The Ombudsman v. Jurado*, 583 Phil. 132, 156 (2008).

³⁵ *Daplas v. Department of Finance*, 808 Phil. 763, 774 (2017).

³⁶ *Philippine Retirement Authority v. Rupa*, 415 Phil. 713, 720 (2001).

³⁷ *Civil Service Commission v. Beray*, G.R. No. 191946, December 10, 2019.

cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.³⁸

On the other hand, simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.³⁹ It is classified under Section 52(B)(1) of the Uniform Rules on Administrative Cases in the Civil Service as a less grave offense and is punishable by suspension from office for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense.⁴⁰

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.⁴¹ The complainants carry the burden of proving their allegations with substantial evidence.⁴² The standard of substantial evidence is satisfied when there is reasonable ground to believe that a person is responsible for the misconduct complained of, even if such evidence might not be overwhelming or even preponderant.⁴³

Petitioner is not guilty of Simple Neglect of Duty

In adjudging petitioner guilty of Simple Neglect of Duty, the Ombudsman ratiocinated that even though there was no evidence that respondent was physically harmed by Mayor Adalim, the police blotter should have contained a written recording of the said disproved mauling incident. And in affirming the Ombudsman, the CA went even further – that even if no mauling actually took place, the police blotter should have at least stated that respondent was severely rebuked or castigated by Mayor Adalim and Vice Mayor Adel inside the police station.

We cannot sustain these obtuse conclusions.

The facts show that respondent was confronted by Mayor Adalim and Vice Mayor Adel inside the Taft Police Station to discuss several documents which were reported missing from the *Sangguniang Bayan* secretariat. After being severely rebuked or castigated by both elected officials, respondent

³⁸ *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37-38 (2013).

³⁹ *Civil Service Commission v. Clave*, 683 Phil. 527, 533 (2012).

⁴⁰ *Rodriguez-Angat v. Government Service Insurance System*, 765 Phil. 213, 229 (2015).

⁴¹ *Department of Health v. Aquintey*, 806 Phil. 763, 772 (2017).

⁴² *Office of the Ombudsman v. Fetalvero, Jr.*, 836 Phil. 557, 560 (2018).

⁴³ *Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68, 77 (2015).

eventually surrendered the said documents to the police officers within the day.

While respondent claims that she made a request that the disproved mauling incident be recorded in the police blotter, petitioner insists that no such request was made upon him.

In finding for respondent, the Ombudsman and the CA relied on the Joint Affidavit⁴⁴ of Johnly Guray and Rogelio Docena, the pertinent portions of which reading as follows:

4. That also, Vilma O. Sulse was pleading to the police to record in their police blotter the incident which they witnessed about the manhandling made by Francisco Adalim against the former;
5. That the police officers present answered that they will do so, but they have first to take their lunch;
6. That all the while, while the policemen were taking their lunch, we just waited for them hoping that after they took their lunch, they will record into their police blotter the incident[.]⁴⁵

However, a cursory reading of the above entries would readily show that petitioner was singled out for administrative liability despite the fact that he was not explicitly named therein. It simply boggles the mind to accept the claim that respondent made her request for recording in the police blotter upon petitioner alone, while every other officer stationed at the Taft Police Station was exonerated. Indeed, the joint declaration of respondent's witnesses is not enough to conclude that there is substantial evidence that petitioner refused to perform the functions of his office, thereby constituting simple neglect of duty.

Furthermore, the Ombudsman and the CA both erred trying to set the standards on what should appear in a police blotter.

A police blotter is a book which records criminal incidents reported to the police.⁴⁶ It "contains the daily registry of all crime incident reports, official summaries of arrest, and other significant events reported in a police station."⁴⁷ Jurisprudence holds that entries in the police blotter should not be

⁴⁴ *Rollo*, p. 88.

⁴⁵ *Id.*

⁴⁶ *People v. Divina*, 293 Phil. 213, 228 (1993).

⁴⁷ Section 1, Rule 1, Philippine National Police Operational Procedures (March 2010 edition). Retrieved from <https://pro1.pnp.gov.ph/Downloads/POP.pdf> (last accessed February 3, 2022).

given undue significance or probative value as they are not evidence of the truth of their contents but merely of the fact that they were recorded.⁴⁸ Such entries are usually incomplete and inaccurate, sometimes from either partial suggestions or for want of suggestions or inquiries.⁴⁹

A police blotter is not a minutes of the events that happened within the four corners of a police station. Neither is it a journal that records whatever any person desires to be recorded. As an official police document, a police blotter must only contain the matters which are provided for in its definition – criminal incidents, official summaries of arrest, and other significant events reported to the police.

The Court finds it difficult to sanction petitioner for not recording in the police blotter a mauling incident which, as far as the records show, never occurred. And assuming *arguendo* that respondent was indeed severely rebuked or castigated inside the police station, the same does not automatically constitute a criminal incident or a related significant event that must be recorded in a police blotter.

It is undisputed that respondent was ordered to surrender official records that she took with her when she was relieved of her duties as Secretary of the *Sangguniang Bayan*. Mayor Adalim and Vice Mayor Adel as the chief executive of the Municipality of Taft and the presiding officer of the *Sangguniang Bayan*, respectively, are presumed to have acted with regularity in wielding the authority to discipline, by rebuking or castigating, erring officials under their authority. More importantly, at the risk of being repetitive, there is no evidence that respondent's request for recording in the police blotter was made upon petitioner alone, to the exclusion of all the other police officers who were present at the police station.

Accordingly, the Court finds petitioner not guilty of Simple Neglect of Duty.

A final note

The Court recognizes the disciplinary authority of the Ombudsman over all elective and appointive officials of the government and its subdivisions, instrumentalities, and agencies, with the exception only of impeachable officers, Members of Congress, and the Judiciary.⁵⁰ The Court

⁴⁸ *People v. Cabrera, Jr.*, 450 Phil. 356, 367 (2003).

⁴⁹ *People v. Silva*, 378 Phil. 1267, 1273 (1999).

⁵⁰ *Carpio Morales v. Court of Appeals*, 772 Phil. 672, 703 (2015).

likewise appreciates the role of the Ombudsman as agent of the people in ensuring accountability in public office.⁵¹

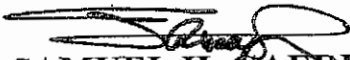
Nevertheless, the Ombudsman must be reminded to exercise utmost circumspection in its own pursuit of justice.⁵² As the Court had aptly stated in a case:

It must be stressed that [the Ombudsman] is not prosecuting ordinary citizens, but public servants who play instrumental roles in our system of government, regardless of rank. In this regard, to stubbornly pursue baseless cases against public officers not only places an unnecessary burden upon their person, but also ultimately hampers the effective dispensation of government functions due to the unique positions that they occupy x x x.⁵³

WHEREFORE, the petition is **GRANTED**. The Decision dated September 17, 2012 and the Resolution dated January 23, 2013 of the Court of Appeals in CA-G.R. SP No. 120981 are hereby **REVERSED** and **SET ASIDE**. The complaint filed against petitioner PSI Darwin D. Valderas before the Office of the Ombudsman, docketed as OMB-P-A-06-0735-H, is hereby **DISMISSED**.

Let a copy of this Decision be reflected in the permanent employment record of petitioner.

SO ORDERED.

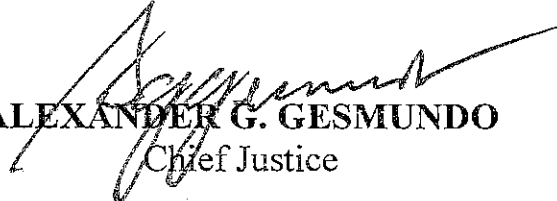

SAMUEL H. GAERLAN
Associate Justice

⁵¹ *Uy v. Sandiganbayan*, 407 Phil. 154, 166 (2001).

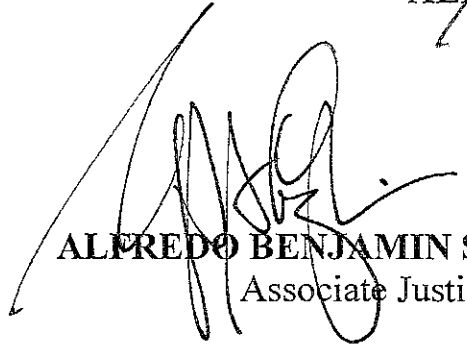
⁵² *Philippine National Police-Criminal Investigation and Detection Group v. Villafuerte*, 840 Phil. 243 (2018).

⁵³ *Id.* at 264.


WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



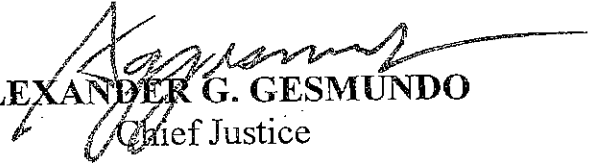
HENRI JEAN PAUL B. INTING
Associate Justice



JAPAR B. DIMAAMPAO
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.



ALEXANDER G. GESMUNDO
Chief Justice

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