

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LAWRENCE LLUCH-CRUZ,
Petitioner,

G.R. Nos. 219986-87

Present:

-versus-

LEONEN, *J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.*,
LOPEZ, J., and
KHO, JR., *JJ.*

ROBERT L. ONG,
Respondent.

Promulgated:
SEP 28 2022

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DECISION

LEONEN, *J.*:

Before the Office of the Ombudsman may investigate a public officer charged with oppression due to an invalid reassignment, there must first be a definitive ruling by the Civil Service Commission on the invalidity of the reassignment.

This Court resolves a Petition for Review on Certiorari¹ assailing the Consolidated Decision² and Consolidated Resolution³ of the Court of

* On official business.

¹ *Rollo*, pp. 12–25.

² Id. at 27–33. The October 17, 2014 Decision in CA-G.R. SP No. 05500-MIN and CA-G.R. SP No. 05524-MIN was penned by Associate Justice Henri Jean Paul B. Inting (now a Member of this Court) and concurred in by Associate Justices Edgardo A. Camello and Pablito A. Perez of the Twenty-Second Division of the Court of Appeals, Cagayan de Oro.

³ Id. at 35–37. The June 17, 2015 in CA-G.R. SP No. 05500-MIN and CA-G.R. SP No. 05524-MIN Resolution was penned by Associate Justice Henri Jean Paul B. Inting (now a Member of this Court)

Appeals, which, in turn, affirmed the Decision⁴ of the Office of the Ombudsman finding Mayor Lawrence Lluch-Cruz (Mayor Lluch-Cruz), then mayor of Iligan City, guilty of oppression in violation of Section 52 of the Uniform Rules on Administrative Cases in the Civil Service.⁵

Roberto L. Ong (Ong) is a licensed mechanical engineer employed as Engineer III in the City Engineer's Office of Iligan City.⁶ In September 2009, Ong filed an administrative case against several persons, including Mayor Lluch-Cruz.⁷ On August 31, 2017, during the administrative case's pendency, Mayor Lluch-Cruz issued a Memorandum reassigning Ong from the City Engineer's Office to the City Veterinarian Office.⁸ The reassignment order reads:

In the interest of public service, effective immediately, you are hereby reassigned to the City Veterinarian's Office.

Under this order, you shall report to and be under the direct supervision of Dr. Dahlia M. Valera, City Veterinarian, who shall give details of your duties and responsibilities thereat.

This order is in line with the sincere intent of this administration to professionalize the bureaucracy by establishing a continuing program for the development of personnel through training, scholarships, and other development activities, and strategies such as coaching, counselling, job rotation, on-the-job training, and the like, in consonance with existing and applicable CSC rules and regulations.⁹

This prompted Ong to appeal the reassignment order before the Civil Service Commission, alleging that the reassignment constituted constructive dismissal since: (1) he had not been given definite duties and responsibilities; (2) the office he was reassigned to was not in the existing organizational

and concurred in by Associate Justices Edgardo A. Camello and Pablito A. Perez of the Former Twenty-Second Division of the Court of Appeals, Cagayan de Oro City.

⁴ Id. at 48-54. The November 29, 2012 Decision in OMB-M-A-10-308-I was penned by Graft Investigation and Prosecutor I Marilou B. Unabia and Reviewed by Director IV Maria Iluminada S. Lapid-Viva and Assistant Ombudsman Rodolfo M. Elman, CESO III of the Office of the Ombudsman, Mindanao.

It was recommended for approval on January 2, 2013 by Deputy Ombudsman for Mindanao Humphrey T. Monteroso and approved by Ombudsman Conchita Carpio Morales on February 13, 2013.

⁵ CSC RESOLUTION No. 991936 (1999), sec. 52 provides:

SECTION 52. *Classification of Offenses.* — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are *grave offenses* with their corresponding penalties:

.....
14. Oppression

1st offense — Suspension (6 mos. 1 day to 1 year)

2nd offense — Dismissal[.]

Note: The Uniform Rules on Administrative Cases in the Civil Service (1999) is the applicable rule since the current Revised Rules on Administrative Cases (RRACCS) was passed on 2014, or before promulgation of the Office of the Ombudsman's Decision finding petitioner guilty.

⁶ *Rollo*, p. 48.

⁷ Id. at 28.

⁸ Id.

⁹ Id. at 39.

structure; and (3) the office he was reassigned to was too far from the place he was assigned.¹⁰

Mayor Lluch-Cruz explained that Ong had been reassigned to several other offices before and that his reassignment to the City Veterinarian's Office was connected to the rehabilitation of the slaughterhouse, and that the City had been contemplating the return of the slaughterhouse operations to the City Veterinarians' Office.¹¹

In its September 13, 2011 Decision,¹² the Civil Service Commission found that while the reassignment order had been recalled during the pendency of the appeal, the order nonetheless transgressed the reassignment guidelines. The Commission found that Ong's reassignment placed him on floating status and that his alleged duties of rehabilitating the slaughterhouse appeared to be an afterthought since the slaughterhouse and the City Veterinarian's Office were separate and distinct units.¹³ The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, the appeal of Robert L. Ong is hereby GRANTED. While the assailed reassignment order has been recalled in the meantime, the Commission deems it necessary, if only for the proper guidance of the concerned parties, to strike down the same for not being in conformity with the rules on reassignment.¹⁴

Ong had likewise filed a Complaint against Mayor Lluch-Cruz and Acting City Human Resource Management Officer Ophelia A. Cayaco before the Office of the Ombudsman for oppression and violation of Republic Act No. 6713.¹⁵

In its November 29, 2012 Decision,¹⁶ the Office of the Ombudsman found Mayor Lluch-Cruz guilty of oppression and suspended him from service for four months. The charge for violation of Republic Act No. 6713 was dismissed. The dispositive portion reads:

WHEREFORE, finding substantial evidence that respondents have committed Oppression, they are suspended from the service for four (4) months pursuant to Section 25(2) of The Ombudsman Act (R.A. No. 6770) in relation to Section 66(b) of The Local Government Code of 1991 (R.A. No. 7160). The incumbent Regional Director of the Department of the Interior and Local Government, Region XII (DILG-XII), Purok Marañon,

¹⁰ Id. at 40-41.

¹¹ Id. at 41.

¹² Id. at 39-47. The September 13, 2011 Decision in CSC No. 110529 was penned by Commissioner Mary Ann Z. Fernandez-Mendoza and concurred in by Chairperson Francisco T. Duque III. Meanwhile, Commissioner Rasol L. Mitnug was on leave.

¹³ Id. at 46.

¹⁴ Id. at 47.

¹⁵ Id. at 49.

¹⁶ Id. at 48-54.

Barangay Zone III, Koronadal City, is directed to immediately implement this Order in accord with Memorandum Circular No. 01, Series of 2006 of the Honorable Ombudsman, proof of compliance to this directive to be submitted within ten (10) days from receipt hereof.

The charge for violation of Section 4(c), R.A. No. 6713 is dismissed, Section 11 thereof providing the same administrative penalties under Section 25(2) of R.A. No. 6770 (The Ombudsman Act).

SO DECIDED.¹⁷

The Office of the Ombudsman agreed with the findings of the Civil Service Commission that Ong's reassignment was not in accord with civil service laws and rules and, thus, was not made in good faith.¹⁸

Aggrieved, Mayor Lluch-Cruz filed both a Petition for Review and a Petition for Certiorari before the Court of Appeals, questioning the Decision of the Office of the Ombudsman.¹⁹

On October 17, 2014, the Court of Appeals rendered a Consolidated Decision²⁰ denying the Petitions but modifying the penalty to a fine equivalent to four months salary in lieu of suspension.

The Court of Appeals affirmed the Civil Service Commission's finding that Mayor Lluch-Cruz reassigned Ong during the pendency of the administrative cases the latter filed against the former and placed Ong on floating status. It likewise agreed with the factual findings that Ong's reassignment to oversee the rehabilitation of the slaughterhouse was a mere afterthought since the slaughterhouse was a separate unit from the City Veterinarian's Office.²¹

The Court of Appeals ruled that these acts, when taken together, show that there was oppression.²² Considering that Mayor Lluch-Cruz was no longer the incumbent mayor, the Court of Appeals modified the penalty from suspension to a fine of four months salary.²³

Mayor Lluch-Cruz moved for reconsideration but was denied by the Court of Appeals in a Consolidated Resolution²⁴ dated June 17, 2015.

¹⁷ Id. at 53.

¹⁸ Id. at 51-52.

¹⁹ Id. at 27.

²⁰ Id. at 27-33.

²¹ Id. at 30-31.

²² Id. at 31-32.

²³ Id. at 32.

²⁴ Id. at 35-37.

Hence, this Petition was filed.²⁵

Petitioner Mayor Lluch-Cruz argues that the Office of the Ombudsman failed to conduct its own investigation since it merely relied on the factual findings of the Civil Service Commission.²⁶ He submits that because it failed to arrive at its own findings of fact, it could not have validly found him liable for oppression since the Civil Service Commission's investigation only addressed the issue of whether he violated the rules on reassignment.²⁷

Petitioner contends that respondent's reassignment was not a mere afterthought, attaching several documents²⁸ proving that the City intended to rehabilitate the slaughterhouse and that his reassignment was related to the planned rehabilitation.²⁹

Respondent Ong, on the other hand, counters that the issues and arguments in the Petition were a mere rehash or reiteration of matters already resolved by both the Office of the Ombudsman and the Court of Appeals and that there was no factual or legal basis for this Court to reverse these Decisions.³⁰

In rebuttal, petitioner reiterates the arguments in his Petition and insists that the Office of the Ombudsman, being an independent constitutional body, should have come to its own investigation of the facts instead of merely relying on the Civil Service Commission's findings of facts.³¹

From the arguments of the parties, this Court is tasked to resolve the issues of whether or not the Court of Appeals erred in affirming the Decision of the Office of the Ombudsman finding petitioner guilty of oppression. In resolving this issue, this Court must also pass upon the question of whether or not respondent's reassignment to the City Veterinarian's Office was valid.

"Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority."³² Oppression is considered an offense under Section 52 of the Uniform Rules on Administrative Cases in the Civil Service.³³

²⁵ Id. at 12-25.

²⁶ Id. at 17-18.

²⁷ Id. at 18-19.

²⁸ Id. at 55-66.

²⁹ Id. at 19-20.

³⁰ Id. at 73-77.

³¹ Id. at 98-99.

³² *Office of the Ombudsman v. Caberoy*, 746 Phil. 111, 199 (2014) [Per J. Reyes, Third Division]

³³ CSC RESOLUTION No. 991936 (1999), sec. 52 provides:

To determine whether a public officer excessively used his authority to cause injury to a person, the Office of the Ombudsman had to determine first the extent of petitioner's authority. Hence, its resort to the findings of the Civil Service Commission was necessary.

The extent of the Office of the Ombudsman's investigation with regard to allegations of oppression as a result of invalid reassignments have already been discussed in *Reyes v. Belisario*,³⁴ wherein this Court stated that for the Office of the Ombudsman to determine the existence of oppression, there must first be a definitive ruling from the Civil Service Commission that the reassignment was invalid:

The factual starting point in the consideration of this case is the propriety of the reassignments that the petitioner, as the LWUA Administrator, ordered; this event triggered the dispute that is now before us. The reassignments, alleged to be without legal basis and arbitrary, led to the highhanded implementation that the respondents also complained about, and eventually to the CSC rulings that the respondents were constructively dismissed. They led also to the charge of harassment and oppression filed against the petitioner, which charge the Ombudsman dismissed. This dismissal, found by the CA to be attended by grave abuse of discretion, is the primary factual and legal issue we have to resolve in passing upon the propriety of the actions of the Ombudsman and the CA in the case.

As the CSC and Ombudsman cases developed, the validity of the reassignments was the issue presented before CSC; the latter had the authority to declare the reassignments invalid but had no authority to penalize the petitioner for his acts. The character of the petitioners' actions, alleged to be harassments and to be oppressive, were brought to the Ombudsman for administrative sanctions against the petitioner; it was the Ombudsman who had the authority to penalize the petitioner for his actions against the respondents.

Under this clear demarcation, neither the CSC nor the Ombudsman intruded into each others' jurisdictional domain and no forum shopping issue could have succeeded because of simultaneous recourses to these agencies. While both entities had to examine and to rule on the same set of facts, they did so for different purposes and for different resulting actions.

The CSC took the graft charges the respondents brought against the petitioner into account, but this was for purposes of looking at the motive behind the reassignments and of viewing the petitioners' acts in their

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³⁴ 612 Phil. 936 (2009) [Per J. Brion, Second Division].

totality. The same is true in viewing the manner of the implementation of the reassignments. Largely, however, the CSC based its ruling on a legal point that the LWUA Board, not the LWUA Administrator, can order reassignments. Thus, the CSC ruled that the reassignments constituted constructive dismissal.

On the other hand, the Ombudsman, also relying on the events that transpired, should have judged the petitioners' actions mainly on the basis of whether they constituted acts of harassment and oppression. In making this determination, the Ombudsman could not have escaped considering the validity of the reassignments made a determination that is primarily and authoritatively for the CSC to make. The charge of harassment and oppression would have no basis if the reassignments were in fact valid as they were alleged to be the main acts of harassment and oppression that drove the commission of the petitioners other similarly-motivated acts. *In this sense, the validity of the reassignments must necessarily have to be determined first as a prior question before the full consideration of the existence of harassment or oppression could take place. Stated otherwise, any finding of harassment and oppression, or their absence, rendered without any definitive ruling on the validity of the reassignments would necessarily be premature. The finding would also suffer from the lack of factual and legal bases.*³⁵ (Emphasis supplied and citations omitted)

For reassignments to be valid, they must comply with the following guidelines:

Sec. 6. . .

....

Reassignment shall be governed by the following rules:

....

3. Reassignment of employees with station-specific place of work indicated in their respective appointments shall be allowed only for a maximum period of one (1) year. An appointment is considered station-specific when the particular office or station where the position is located is specifically indicated on the face of the appointment paper. Station-specific appointment does not refer to a specified plantilla item number since it is used for purposes of identifying the particular position to be filled or occupied by the employee.

4. If appointment is not station-specific, the one-year maximum shall not apply. Thus, reassignment of employees whose appointments do not specifically indicate the particular office or place of work has no definite period unless otherwise revoked or recalled by the Head of Agency, the Civil Service Commission or a competent court.

5. If an appointment is not station-specific, reassignment to an organizational unit within the same building or from one building to another or contiguous to each other in one work area or compound is allowed.

³⁵ *Reyes v. Belisario*, 612 Phil. 936, 956-958 (2009) [Per J. Brion, Second Division].

Organizational unit refers to sections, divisions, and departments within an organization.

6. Reassignment outside geographical location if with consent shall have no limit. However, if it is without consent, reassignment shall be for one (1) year only. Reassignment outside of geographical location may be from one Regional Office (RO) to another RO or from the RO to the Central Office (CO) and vice-versa.

7. Reassignment is presumed to be regular and made in the interest of public service unless proven otherwise or if it constitutes constructive dismissal . . .

a) Reassignment of an employee to perform duties and responsibilities inconsistent with the duties and responsibilities of his/her position such as from a position of dignity to a more servile or menial job;

b) Reassignment to an office not in the existing organizational structure;

c) Reassignment to an existing office but the employee is not given any definite duties and responsibilities;

d) Reassignment that will cause significant financial dislocation or will cause difficulty or hardship on the part of the employee because of geographical location; and

e) Reassignment that is done indiscriminately or whimsically because the law is not intended as a convenient shield for the appointing/disciplining authority to harass or oppress a subordinate on the pretext of advancing and promoting public interest.³⁶

In this case, there was a definitive ruling by the Civil Service Commission that respondent's reassignment was invalid. The Commission found that respondent was reassigned during the pendency of an administrative case he filed against petitioner and that his reassignment resulted in his floating status. It also found no merit to the argument that respondent was transferred to the City Veterinarian's Office to oversee the rehabilitation of the slaughterhouse since the slaughterhouse was a distinct and separate unit from the City Veterinarian's Office. The findings of the Civil Service Commission reads:

. . . In the present case, it bears emphasis that the argument of Ong that his reassignment to the City Veterinarian's Office placed him on floating status because he was not given any work thereat has not been controverted. As such, the same is deemed established. Consequently, sans any specific work assignment in his new posting, it follows that Ong's reassignment has indubitably transgressed the guidelines on reassignment.

The posturing of Mayor Cruz that Ong was, in fact, reassigned to the slaughterhouse for him to oversee the equipment and machineries thereat in the wake of its planned rehabilitation cannot be given weight and credence. As a matter of fact, it appears to be a mere afterthought as correctly pointed

³⁶ REVISED RULES ON REASSIGNMENT, CIVIL SERVICE COMMISSION RESOLUTION No. 04-1458 (2004).

out by Ong. For, the assailed order reassigned Ong not to the city government's slaughterhouse but to the City Veterinarian's Office. At the time of the reassignment, it appears that these units were distinct and separate. This much can be inferred from what the Mayor intimated in his comment that plan was afoot to return the slaughterhouse to the supervision of the City Veterinarian's Office.

The fact, too, that Ong had been the subject of previous reassignments does not automatically mean that his most recent reassignment would be free from legal infirmities. There is no showing that Ong ever contested his reassignments prior to the one at bar. Thus, it is not known whether, indeed, his past reassignments were in accord with Civil Service Law and rules as there was never any opportunity to review them. More importantly, each reassignment has a life of its own. It is therefore evaluated and assessed on its own substance and merit taking into account the particular circumstances surrounding it. Thus, it may happen that an earlier reassignment may be regarded valid but due to material changes in circumstances, a later one would no longer be deemed legal. Furthermore, it must be pointed out that a customary practice, no matter how long continued, cannot legalize an unlawful action.³⁷

Petitioner harps on the Office of the Ombudsman's alleged failure to conduct its own investigation on the facts of the case, opining that had they done so, he would have been absolved of the offense.

As stated in *Reyes v. Belisario*,³⁸ "the validity of the reassignments must necessarily have to be determined first [by the Civil Service Commission] as a prior question before the full consideration of the existence of harassment or oppression [by the Office of the Ombudsman] could take place." The Office of the Ombudsman, using as its basis the Civil Service Commission's finding that respondent's reassignment was invalid, found petitioner guilty of oppression. The Office of the Ombudsman needed to wait for the Civil Service Commission findings before it could make its own investigation and conclusion. Necessarily, it also needed to quote the Commission's findings to determine the existence of oppression. There is thus no merit to petitioner's argument that the Office of the Ombudsman failed to conduct an independent investigation from the Civil Service Commission.

Petitioner also argues that the transfer of slaughterhouse to the City Veterinarian's Office was envisioned when respondent was reassigned so he could oversee the slaughterhouse's rehabilitation. The documents petitioner submitted, however, only show the proposed plan to rehabilitate the slaughterhouse.³⁹ At the time petitioner reassigned respondent to the City Veterinarian's Office, the slaughterhouse was not yet transferred to the City Veterinarian's Office. If petitioner meant for respondent to oversee the rehabilitation of the slaughterhouse, he should have been transferred there instead of the City Veterinarian's Office.

³⁷ *Rollo*, p. 46.

³⁸ 612 Phil. 937, 957 (2009) [Per J. Brion, Second Division].


³⁹ *Rollo*, pp. 55-66.

There is, thus, merit to the contention that respondent's task of overseeing the slaughterhouse was a mere afterthought, designed to provide a somewhat palatable excuse as to why respondent was placed on an indefinite floating status. Clearly, petitioner exercised an excessive use of authority to be able to oppress respondent in retaliation to the complaints respondent filed against him.

ACCORDINGLY, the Petition is **DENIED**. The October 17, 2014 Consolidated Decision and June 17, 2015 Consolidated Resolution in CA-G.R. SP No. 05500-MIN and CA-G.R. SP No. 05524-MIN are **AFFIRMED**.


Petitioner Lawrence Lluch-Cruz is found **GUILTY** of oppression in violation of Section 52 of the Uniform Rules on Administrative Cases in the Civil Service in the course of official duties and is hereby **FINED**, in lieu of suspension, in the amount equivalent to four (4) months of his salary as Mayor of Iligan City.

SO ORDERED.



MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice

On official business
MARIO V. LOPEZ
Associate Justice




JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

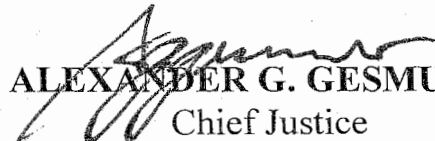
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice

