



Republic of the Philippines
Supreme Court
Manila

EN BANC

CAMILO L. SABIO,
Petitioner,

G.R. No. 229882

- versus -

**FIELD INVESTIGATION
OFFICE (FIO), OFFICE OF
THE OMBUDSMAN,**
Respondent.

Present:
SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,*
BERSAMIN,
DEL CASTILLO,*
PERLAS-BERNABE,
LEONEN,**
JARDELEZA,
CAGUIOA,**
MARTIRES,***
TIJAM,
REYES, and
GESMUNDO,** *JJ.*

Promulgated:

February 13, 2018

X ----- X

DECISION

PER CURIAM:

Before the Court is a petition for review on *certiorari*¹ assailing the Decision² dated January 31, 2017 of the Court of Appeals (CA) in CA-G.R.

* No part.

** On Official Business.

*** On Official Leave.

¹ *Rollo*, pp. 30-83.

² *Id.* at 86-95. Penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino concurring.

SP No. 123692, which affirmed the Joint Decision³ dated July 28, 2011 of the Office of the Ombudsman (Ombudsman) in the consolidated cases OMB-C-A-09-0611-J, OMB-C-A-09-0609-J, and OMB-C-A-09-0608-J that adjudged petitioner Camilo L. Sabio (petitioner) guilty of the administrative offenses of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and thereby, imposed upon him the penalty of forfeiture of all his retirement benefits and privileges, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government.

The Facts

This case stemmed from separate Complaints⁴ filed by respondent Field Investigation Office (FIO) of the Ombudsman charging petitioner, former Chairman of the Presidential Commission on Good Government (PCGG), of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service arising out of the following acts: (1) excess monthly charges in the official use of PCGG-issued cellular phones for the years 2005 to 2007 in the total amount of ₱25,594.76,⁵ in violation of: (a) the ₱10,000.00 cap under Office Order No. CLS-001-2005 dated August 25, 2005;⁶ (b) Commission on Audit (COA) Circular No. 85-55-A⁷ against unnecessary, excessive, and extravagant expenditures; and (c) Administrative Order No. 103⁸ dated August 31, 2004 requiring all government agencies to adopt austerity measures, including at least 10% reduction in the consumption of utilities;⁹ (2) failure to deposit the aggregate amount of ₱10,350,000.00 consisting of the cash advances and partial remittances from sequestered corporations, *i.e.*, the Independent Realty Corporation (IRC) and Mid-Pasig Land Development Corporation (MPLDC),¹⁰ to the Agrarian Reform Fund of the Comprehensive Agrarian Reform Program (CARP), through the Bureau of Treasury (BOT), as required under Section 63 of Republic Act No. (RA) 6657, as amended in relation to Sections 20 and 21 of Executive Order No. (EO) 229;¹¹ and (3) failure to liquidate despite demand the amount of ₱1,555,862.03 out of the total cash advances that he used in his travels and litigation of foreign cases,¹² as required by Section 89 of Presidential Decree No. 1445¹³ and

³ Id. at 185-207. Signed by Graft Investigation and Prosecution Officer II Alteza A. Año, reviewed by Director, PIAB-B Moreno F. Generoso, recommended for approval by Assistant Ombudsman, PAMO I Aleu A. Amante, and approved by Ombudsman Conchita Carpio Morales.

⁴ See Complaint dated June 22, 2009, docketed as OMB-C-A-09-0611-J (id. at 96-107); Complaint dated May 29, 2009, docketed as OMB-C-A-09-0609-J (id. at 108-117); and Complaint dated May 29, 2009, docketed as OMB-C-A-09-0608-J (id. at 118-125).

⁵ See id. at 98-99.

⁶ See id. at 97.

⁷ Entitled "AMENDED RULES AND REGULATIONS ON THE PREVENTION OF IRREGULAR, UNNECESSARY, EXCESSIVE OR EXTRAVAGANT EXPENDITURES OR USES OF FUNDS AND PROPERTY," issued on September 8, 1985.

⁸ Entitled "DIRECTING THE CONTINUED ADOPTION OF AUSTERITY MEASURES IN THE GOVERNMENT."

⁹ See Section 1 (b) (2) of Administrative Order No. 103 dated August 31, 2004.

¹⁰ Comprised of several checks, the details of which have been tabulated in the Ombudsman's July 28, 2011 Joint Decision; *rollo*, pp. 189-190.

¹¹ Entitled "PROVIDING THE MECHANISMS FOR THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM," issued on July 22, 1987.

¹² *Rollo*, p. 88. See also id. at 119-120.

COA Circular No. 97-002¹⁴ dated February 10, 1997.

In his defense,¹⁵ petitioner claimed that the PCGG's operations are financed from the recovered ill-gotten wealth and from the ₱5,000,000.00 Confidential and Intelligence Funds (CIF) appropriated annually.¹⁶ However, during his tenure, the CIF for the years 2005 to 2010 were never released to him; hence, he had to utilize the cash remittances from the sequestered corporations in lieu thereof. He further explained that he had to engage the services of foreign lawyers who asked for hefty compensation in the litigation of foreign cases because while he actively took part in the litigation, he was not duly licensed to practice law in foreign countries.¹⁷

The Ombudsman Ruling

In a Joint Decision¹⁸ dated July 28, 2011, which was approved on October 11, 2011, the Ombudsman found substantial evidence against petitioner and accordingly, adjudged him guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service pursuant to Section 52 (A) of the Uniform Rules on Administrative Cases in the Civil Service.¹⁹

The Ombudsman found that petitioner failed to: (a) refute the allegations relative to his unpaid cellular phone charges, holding that his general denial along with the allegations concerning his duties and responsibilities as PCGG Chairman and the accomplishments of his office were not responsive to the charges; (b) refute the allegations concerning his non-remittance to the BOT of the amount of ₱10,350,000.00 received from the sequestered corporations despite the showing that he made use of the same as cash advances, and that he had, in fact, personally encashed the majority of the checks corresponding to the remittances; and (c) account for his unliquidated cash advance of ₱1,555,862.03 despite demand.²⁰ Thus, he was held liable for Grave Misconduct and Dishonesty.²¹

The Ombudsman likewise found that petitioner's acts of appropriating and/or misappropriating the proceeds of the ill-gotten wealth, excessive use of government resources, and failure to account for his cash advances tarnished the integrity of his public office, thus constituting Conduct

¹³ Otherwise known as the "GOVERNMENT AUDITING CODE OF THE PHILIPPINES," issued on June 11, 1978.

¹⁴ Entitled "RESTATEMENT WITH AMENDMENTS OF THE RULES AND REGULATIONS ON THE GRANTING, UTILIZATION AND LIQUIDATION OF CASH ADVANCES PROVIDED FOR UNDER COA CIRCULAR NO. 90-331 DATED MAY 3, 1990," issued on February 10, 1997.

¹⁵ See Consolidated Counter-Affidavit dated March 22, 2010; *rollo*, pp. 126-164.

¹⁶ *Id.* at 135.

¹⁷ *Id.* at 89. See also *id.* at 139 and 152.

¹⁸ *Id.* at 185-207.

¹⁹ *Id.* at 205.

²⁰ *Id.* at 200-202.

²¹ *Id.* at 202-203.

Prejudicial to the Best Interest of the Service.²² However, considering that petitioner is no longer connected with the PCGG, the Ombudsman declared the penalty of dismissal from the service as having been rendered moot, and thus, imposed on him instead the accessory penalty of forfeiture of all his retirement benefits and privileges, except accrued leave credits, if any, with prejudice to re-employment in the government, including government-owned or controlled corporations.²³

Aggrieved, petitioner filed a petition for review²⁴ before the CA, docketed as CA-G.R. SP No. 123692.

The CA Ruling

In a Decision²⁵ dated January 31, 2017, the CA declared the Ombudsman ruling to be amply supported by substantial evidence, and thus, affirmed the same.²⁶ It noted that petitioner failed to: (a) prove that the excess charges were used for calls, text, and data consumption while he was in the performance of his duties; (b) turn over and remit to the BOT upon demand the cash advances and remittances from sequestered corporations (duly covered by vouchers and checks) that automatically formed part of the funds of the CARP, which were not meant to be used for the operations of the PCGG, and hence, constituted technical malversation of funds; and (c) satisfactorily show by the corresponding receipts and vouchers that the amount of ₱1,555,862.03 was spent for the purposes for which it was released.²⁷

Hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA committed reversible error in upholding the Ombudsman's Joint Decision finding petitioner guilty of the administrative offenses of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service.

The Court's Ruling

At the outset, the Court emphasizes that as a general rule, factual findings of the Ombudsman are conclusive when supported by substantial evidence and are accorded due respect and weight, especially when affirmed

²² Id. at 203-204.

²³ Id. at 204.

²⁴ Dated April 11, 2012. Id. at 246-359.

²⁵ Id. at 86-95.

²⁶ Id. at 94.

²⁷ Id. at 92-93.

by the CA.²⁸

In this case, the Ombudsman found petitioner guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, which the CA affirmed.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate **gross misconduct** from simple misconduct, **the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest** in the former.²⁹

On the other hand, 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.³⁰ Civil Service Commission Resolution No. 06-0538³¹ classifies dishonesty in three (3) gradations, namely: serious, less serious or simple. In this case, petitioner was charged with serious dishonesty, which necessarily entails the presence of any of the following circumstances: (a) the dishonest act caused serious damage and grave prejudice to the Government; (b) the respondent gravely abused his authority in order to commit the dishonest act; (c) **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**; (d) the dishonest act exhibits moral depravity on the part of respondent; (e) the respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment; (f) the dishonest act was committed several times or in various occasions; (g) 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 (h) other analogous circumstances.

Dishonesty, like bad faith, is not simply bad judgment or negligence, but a question of intention. In ascertaining the intention of a person charged with dishonesty, consideration must be taken not only of the facts and

²⁸ See *Office of the Ombudsman v. Espina*, G.R. No. 213500, March 15, 2017, citing *Cabalit v. Commission on Audit-Region VII*, 679 Phil. 138, 157-158 (2012).

²⁹ See *Office of the Deputy Ombudsman for Luzon v. Dionisio*, G.R. No. 220700, July 10, 2017; citation omitted.

³⁰ See *Fajardo v. Corral*, G.R. No. 212641, July 5, 2017; citation omitted.

³¹ Otherwise known as the "Rules on the Administrative Offense of Dishonesty," dated April 4, 2006.

circumstances giving rise to the act committed by the respondent, but also of his state of mind at the time the offense was committed, the time he might have had at his disposal for the purpose of meditating on the consequences of his act, and the degree of reasoning he could have had at that moment.³²

Both grave misconduct and serious dishonesty, of which petitioner was charged, are classified as *grave offenses* for which the penalty of dismissal is meted even for first time offenders.³³

After a judicious study of the case, the Court finds that the evidence on record sufficiently demonstrate petitioner's culpability for the charges and fully satisfy the standard of substantial evidence, which is defined as such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine differently.³⁴

1. With respect to petitioner's excess cellular phone charges aggregating to ₱25,594.76.

Office Order No. CLS-001-2005 dated August 25, 2005 issued by petitioner himself set a ₱10,000.00 cap in the maximum monthly allocation of PCGG Commissioners in the official use of PCGG-issued cellular phones³⁵ and disallowed the previous practice of justifying any and all amounts in excess thereof, which shall henceforth be paid by the end-user.³⁶ On January 30, 2008, petitioner issued Office Order No. CLS-092-2008 clarifying that the monthly allocation fixed above shall not apply in cases where the official concerned is abroad, on official business, and the charges on text messages and voice calls are made by virtue thereof.³⁷

However, a reading of the complaint in OMB-C-A-09-0611-J shows that petitioner is being charged for excess monthly cellular phone charges for the periods December 27, 2005 to March 26, 2006, April 27 to May 26, 2006, July 27 to September 26, 2006, December 27, 2006 to May 26, 2007, and July 27 to August 26, 2007 for Account No. 38659931/Phone No. 9178589299 and the periods December 11, 2005 to March 10, 2006, April 11 to May 10, 2006, June 11 to August 10, 2006, December 11, 2006 to May 10, 2007, and July 11 to August 10, 2007 for Account No. 26780102/Phone No. 9175775266.³⁸ The charges cover a total of twelve (12) billing periods and clearly, were incurred prior to the issuance of Office Order No. CLS-092-2008 dated January 30, 2008, which, hence, would not apply.

³² See *The Office of the Court Administrator v. Egipto, Jr.*, A.M. No. P-05-1938, November 7, 2017; citation omitted.

³³ See Section 46 (A) (1) and (3), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).

³⁴ See *Fajardo v. Corral*, supra note 30.

³⁵ *Rollo*, p. 87.

³⁶ See *id.* at 97.

³⁷ *Id.* at 87 and 97.

³⁸ *Id.* at 98-99.

As aptly pointed out by the CA, petitioner cannot disregard with impunity Office Order No. CLS-001-2005 limiting the use of the PCGG-issued cellular phones, which he himself issued in line with the austerity measures implemented by the government to lessen operating expenses.³⁹ Notably, in seven (7) of the 12 billing cycles concerned, the excess usage amounted to between 15.96%⁴⁰ and 62.77%⁴¹ over the ₱10,000.00 cap given for cellular phone usage, rendering such excesses to be expenses that are irregular, or even excessive and extravagant⁴² under the auspices of COA Circular No. 85-55-A.

While misconduct generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose, a public officer shall be liable for grave misconduct only when the elements of corruption, clear intent to violate the law or **flagrant disregard of established rule are manifest**,⁴³ as in this case. Flagrant disregard of rules has been jurisprudentially demonstrated, among others, in the instances when there had been open defiance of a customary rule; in the repeated voluntary disregard of established rules in the procurement of supplies; in the practice of illegally collecting fees more than what is prescribed for

³⁹ Id. at 92.

⁴⁰ Minimum excess usage = (total excess charges for billing period August 27 to September 26, 2006 for Account No. 38659931/Phone No. 9178589299 and July 11 to August 10, 2006 for Account No. 26780102/Phone No. 9175775266 ÷ monthly cap) x 100%

Minimum excess usage = (₱1,595.58 ÷ ₱10,000.00) x 100% = 0.159558 x 100% = **15.9558%** or **15.96%**

⁴¹ Maximum excess usage = (total excess charges for billing period December 27, 2005 to January 26, 2006 for Account No. 38659931/Phone No. 9178589299 and December 11, 2005 to January 10, 2006 for Account No. 26780102/Phone No. 9175775266 ÷ monthly cap) x 100%

Maximum excess usage = (₱6,277.48 ÷ ₱10,000.00) x 100% = 0.627748 x 100% = **62.7748%** or **62.77%**

⁴² COA Circular No. 85-55-A dated September 8, 1985 defines the terms irregular, unnecessary, excessive, and extravagant as follows:

The term **“irregular expenditure”** signifies an expenditure incurred **without adhering to established rules, regulations, procedural guidelines, policies, principles or practices** that have gained recognition in law. Irregular expenditures are incurred **without conforming with prescribed usages and rules of discipline**. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. An anomalous transaction which fails to follow or violates appropriate rules of procedure, is likewise irregular. Irregular expenditures are different from illegal expenditures since the latter would pertain to expenses incurred in violation of the law whereas, the former is incurred in violation of applicable rules and regulations other than the law.

x x x x

x x x. The term **“excessive expenditures”** signifies **unreasonable expense or expenses incurred at an immoderate quantity and exorbitant price**. It also includes expenses which exceed what is usual or proper as well as expenses which are unreasonably high, and beyond just measure or amount. They also include expenses in excess of reasonable limits.

x x x x

x x x. The term **“extravagant expenditure”** signifies those **incurred without restraints, judiciousness and economy**. Extravagant expenditures exceed the bounds of propriety. These expenditures are immoderate, prodigal, lavish, luxurious, waste grossly excessive, and injudicious. (Emphases supplied)

⁴³ See *Imperial, Jr. v. Government Service Insurance System*, 674 Phil. 286, 300-301 (2011); citations omitted.

delayed registration of marriages; when several violations or disregard of regulations governing the collection of government funds were committed; and when the employee arrogated unto herself responsibilities that were clearly beyond her given duties. **The common denominator in these cases was the employee's propensity to ignore the rules as clearly manifested by his or her actions.**⁴⁴

Here, petitioner's flagrant disregard of the rule imposing a ₱10,000.00 cap on cellular phone usage is readily apparent from his repeated incurrence of irregular, excessive, and/or extravagant cellular phone charges over and above said cap for 7 of the 12 billing periods when excess usages were noted. Likewise, the intent to procure some benefit for himself is manifest from the undisputed fact that said charges have remained unpaid to date⁴⁵ despite the clear provisions of Office Order No. CLS-001-2005 that any and all amounts in excess of the said cap shall be paid by the end-user.

Consequently, the Court finds the CA to have correctly upheld petitioner's administrative liability for Grave Misconduct. However, it was not shown that the incurrence of excess charges involved any act of dishonesty to sustain liability for the charge of Serious Dishonesty.

2. With respect to petitioner's failure to remit to the CARP fund through the BOT the ₱10,350,000.00 remittances from the sequestered corporations that he used as cash advances, which he likewise failed to liquidate.⁴⁶

Under Section 63⁴⁷ of RA 6657, as amended, **all** amounts derived from the sale of ill-gotten wealth recovered through the PCGG shall accrue to the CARP fund⁴⁸ and shall be **considered automatically appropriated** for such purpose pursuant to Sections 20⁴⁹ and 21⁵⁰ of EO 229.

⁴⁴ Id. at 297.

⁴⁵ See Comment dated October 20, 2017; *rollo*, p. 406.

⁴⁶ Id. at 109-110.

⁴⁷ Section 63. *Funding Source*. — The initial amount needed to implement this Act for the period of ten (10) years upon approval hereof shall be funded from the Agrarian Reform Fund created under Sections 20 and 21 of Executive Order No. 229.

Additional amounts are hereby authorized to be appropriated as and when needed to augment the Agrarian Reform Fund in order to fully implement the provisions of this Act.

Sources of funding or appropriations shall include the following:

x x x x

(b) **All receipts** from assets recovered and **from sale of ill-gotten wealth** recovered through the Presidential Commission on Good Government[.] (Emphases supplied)

⁴⁸ See *Uy v. Sandiganbayan*, 477 Phil. 499, 514 (2004).

⁴⁹ Section 20. *Agrarian Reform Fund*. — As provided in Proclamation No. 131 dated July 22, 1987, a special fund is created, known as The Agrarian Reform Fund, an initial amount of FIFTY BILLION PESOS (P50 billion) to cover the estimated cost of the CARP from 1987 to 1992 which shall be sourced from the receipts of the sale of the assets of the Asset Privatization Trust (APT) and **receipts of sale of ill-gotten wealth recovered through the Presidential Commission on Good Government** and such other sources as government may deem appropriate. The amount collected and accruing to this special fund shall be **considered automatically appropriated** for the purpose authorized in this Order. (Emphases supplied)

⁵⁰ Section 21. *Supplemental Appropriations*. — The amount of TWO BILLION SEVEN HUNDRED MILLION PESOS (P2.7 billion) is hereby appropriated to cover the supplemental requirements of the

By its very nature, **ill-gotten wealth**⁵¹ **assumes a public character as they supposedly originated from the government itself, and must, perforce, be returned to the public treasury**, subject only to the satisfaction of positive claims of certain persons as may be adjudged by competent courts.⁵² **Accordingly, the proceeds from the sales thereof should likewise be remitted to the public treasury.**

However, despite the express provisions of Section 63 of RA 6657, as amended, petitioner converted the ₱10,350,000.00 remittances from the sequestered corporations (₱9,850,000.00 and ₱500,000.00 of which were placed in the names of petitioner and IRC Chairman and President Ernesto R. Jalandoni, respectively)⁵³ and the proceeds of the sale of A. Soriano Corporation shares, which formed part of the ill-gotten wealth of former President Ferdinand E. Marcos,⁵⁴ as his cash advances, and admittedly failed to verify the exact amount of resources made available to him to successfully carry out his tasks.⁵⁵

While it is acknowledged that the PCGG performs the herculean task of recovering ill-gotten wealth, petitioner failed to show any law, rule, regulation or authority that permits him to utilize receipts from the sale of the aforesaid shares – being classified as ill-gotten wealth – to be channelled for any other purpose than that provided under Section 63 of RA 6657, as amended. His reliance on the Special Provision of the General Appropriations Act for the Fiscal Year 2007⁵⁶ is misplaced because the subject cash advances were disbursed to him in the Fiscal Year 2006.⁵⁷ Neither was there any showing that the PCGG had no other funds⁵⁸ which

CARP for 1987, to be sourced from the **receipts of the sale of ill-gotten wealth recovered through the Presidential Commission on Good Government** and the proceeds from the sale of assets by the APT. The amount collected from these sources **shall accrue to The Agrarian Reform Fund and shall likewise be considered automatically appropriated** for the purpose authorized in this Order. (Emphases supplied)

⁵¹ In *Chavez v. PCGG* (360 Phil. 133, 165 [1998]), “‘ill-gotten wealth’ refers to assets and properties purportedly acquired, directly or indirectly, by former President Marcos, his immediate family, relatives and close associates through or as a result of their improper or illegal use of government funds or properties; or their having taken undue advantage of their public office; or their use of powers, influences or relationships, ‘resulting in their unjust enrichment and causing grave damage and prejudice to the Filipino people and the Republic of the Philippines.’”

⁵² See *id.*

⁵³ See *rollo*, pp. 189-190.

⁵⁴ *Id.* at 201-202 and 209.

⁵⁵ See *id.* at 136.

⁵⁶ *Id.* at 73-74.

⁵⁷ The details of which have been tabulated in the Ombudsman’s July 28, 2011 Joint Decision; *id.* at 189-190.

⁵⁸ Per COA Audit, the PCGG maintains four (4) separate books of accounts for the following funds:

- **Fund 101** which comprises the **appropriations by the National Government for general administration and support services of PCGG**;
- **Fund 151** which comprises the donation by the Philippine Development Alternatives Foundation, Inc. (PDAF) to PCGG representing the accrued interest on the principal amount donated to the Republic of the Philippines;
- **Fund 158** which comprises **monies recovered by PCGG from the sale of ill-gotten wealth and its remittances to the Bureau of the Treasury intended for the use of the Comprehensive Agrarian Reform Program (CARP)**; and
- **Fund 184** comprises collections and disbursements/disposition of funds pertaining to the sequestered assets of the “Marcos Cronies” which shall be kept in custody by the PCGG pending the resolution of appropriated court proceedings/cases in the Philippines.

may be utilized to serve the purposes for which such cash advances were applied. As aptly pointed out by the CA, receipts from the sale of ill-gotten wealth are not meant to be used for the operation of the PCGG, which is funded from a separate source, *i.e.*, through the general appropriation allocated by Congress. Thus, it is immaterial whether petitioner utilized the amount for the operational expenses of the PCGG for the achievement of its mandate.⁵⁹

Moreover, even assuming that petitioner may utilize a portion of the proceeds from the sale of ill-gotten wealth as cash advances, he failed to liquidate the same pursuant to COA Circular No. 97-002, which requires the liquidation of all cash advances at the end of each year and the refund of any unexpended balance to the Cashier/Collecting Officer who will issue the necessary official receipt.⁶⁰ Notably, in order to excuse himself from complying with the liquidation procedure under COA Circular No. 97-002, petitioner claimed that he used the receipts from the sale of ill-gotten wealth in replacement of his unreleased CIF,⁶¹ thereby implying that he could account therefor with a mere certification that the same was utilized for a public purpose in the performance of duty.⁶² The claim must be rejected for the reason that since the CIF is covered by an appropriation⁶³ specifically identifying and authorizing it as such, it is governed by a different set of liquidation procedures⁶⁴ which was, however, also not shown to have been followed in this case.

To add, the Court cannot subscribe to petitioner's claim that no bad faith can be attributed to him since he signed the vouchers and the checks by virtue of his position as head of the PCGG, but *left the encashment of the checks and their use to his fellow Commissioners Ricardo Abcede and Nicasio Conti, who were supposedly responsible for applying those cash advances to the use of the PCGG.*⁶⁵ On the contrary, it fortified petitioner's liability for Grave Misconduct and Serious Dishonesty because it

See <https://www.coa.gov.ph/phocadownloadpap/userupload/annual_audit_report/NGAs/2007/Nation_al_Government_Sector/Office-of-the-pres/PCGG_ES07.pdf> (visited January 15, 2018).

A perusal of the PCGG's Status of Allotments, Obligations and Balances for the fiscal years 2009 up to October 31, 2013 (no data for previous years are available) published in the PCGG's official website shows that **CIF forms part of Fund 101.** (See <<http://pcgg.gov.ph/wp-content/uploads/2015/02/statement-of-allotment-obligation-and-balances-fy-2009.pdf>> [visited January 15, 2018].)

However, it was not shown that there are no funds in **Fund 101** which may be realigned to the PCGG's confidential and intelligence activities to necessitate the use of **Fund 158.** (Emphases supplied)

⁵⁹ *Rollo*, p. 93.

⁶⁰ See Item 5.8 of COA Circular No. 97-002.

⁶¹ See *rollo*, p. 79.

⁶² See *id.* at 75.

⁶³ An appropriation is defined as "[a]n authorization made by law or other legislative enactment, directing payment out of government funds under specified conditions or for specific purposes." See <<http://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2012/GLOSSARY.pdf>> (visited January 15, 2018).

⁶⁴ COA Circular No. 92-385 dated October 1, 1992 requires the cash advance to be **liquidated within one (1) month from the date the same is received by the accountable officer concerned**, and that the grant of subsequent cash advances is subject to submission of liquidation vouchers for the previous cash advance, which must be accompanied by certified xerox copies of the: (a) pre-audited cash advance vouchers; (b) Request for Obligation of Allotment (ROA), and (c) allotment advice.

⁶⁵ See *rollo*, p. 50.

sufficiently demonstrated his propensity to disregard the law and established rules, and his predilection to distort the truth. In addition, transfer of cash advance from one accountable officer to another is not allowed, and hence, constitutes a violation of another provision⁶⁶ of COA Circular No. 97-002.

In a last ditch effort to escape administrative liability for the complained acts, petitioner invoked⁶⁷ his acquittal in the allied criminal cases for Violation of Section 3 (e) of RA 3019⁶⁸ and Malversation of Public Funds under Article 217⁶⁹ of the Revised Penal Code.⁷⁰ However, the Court holds that such acquittal on the basis of insufficiency of evidence which engendered reasonable doubt, cannot work in petitioner's favor. An administrative case is, as a rule, independent from criminal proceedings. As such, the dismissal of a criminal case on the ground of insufficiency of evidence or the acquittal of an accused who is also a respondent in an administrative case does not necessarily preclude the administrative proceeding nor carry with it relief from administrative liability. This is because the quantum of proof required in administrative proceedings is merely substantial evidence, unlike in criminal cases which require proof beyond reasonable doubt or that degree of proof which produces conviction in an unprejudiced mind.⁷¹

In this case, petitioner's administrative liability for Grave Misconduct and Serious Dishonesty does not rest on whether or not he has appropriated, took or misappropriated or consented or, through abandonment or negligence, permitted another person to take public funds for which he is accountable (which an accused in malversation of public funds must be shown to have committed), but rather on whether or not he flagrantly disregarded the law and established rules, or committed any distortion of the truth with respect to his handling and accounting of the public funds which came into his hands, as affirmatively shown in this case. Here, there was competent showing of a pattern of petitioner's open and repeated defiance of: (a) the law requiring the turn-over of receipts from the sale of ill-gotten wealth to the Agrarian Reform Fund when he channelled receipts from the sale of ill-gotten wealth to other purposes without any authority; and (b) the

⁶⁶ See Item 4.1.6 of COA Circular No. 97-002.

⁶⁷ See *rollo*, pp. 42-50.

⁶⁸ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT," dated August 17, 1960.

⁶⁹ Article 217. *Malversation of public funds or property; Presumption of malversation.* – Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

x x x x

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duty forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use. x x x (Emphasis supplied)

⁷⁰ See *Sandiganbayan* Decision dated April 20, 2016; *rollo*, pp. 208-244.

⁷¹ See *Ganzon v. Arlos*, 720 Phil. 104, 118 (2013).

proper liquidation procedures, rendering him liable for Grave Misconduct. On the other hand, his inconsistent categorizations of the subject cash advances sufficiently evince his intent to distort the truth in order to evade the proper liquidation procedure therefor, warranting his liability for Serious Dishonesty.

3. With respect to petitioner's failure to liquidate despite demand the amount of ₱1,555,862.03 out of the total cash advances that he used in his travels and litigation of foreign cases.

Petitioner claims that the amount of ₱1,555,862.03 forms part of his CIF which he utilized to successfully accomplish his mission and to carry out his tasks as then PCGG Chairman,⁷² and that his acquittal in the related criminal case⁷³ negates any gross misconduct and serious dishonesty on his part. Corollarily, as discussed in the immediately preceding section, such contentions must be dismissed as mere evasive tactics to skirt compliance with the proper liquidation procedures under COA Circular No. 97-002. As aptly observed by the CA:

Instead of presenting documentary evidence, such as receipts and vouchers, to satisfactorily show that the amount was spent for the purposes for which it was released, [petitioner] proceeded to glorify the achievements of the PCGG under his watch and discussed the historical origin of its mandate. His lengthy exposition, to be sure, is not responsive to the charge and is deemed an extraneous matter that would not sway this Court in exonerating him from administrative liability.⁷⁴

Petitioner's liability for grave misconduct and serious dishonesty must, perforce, be sustained.

Finally, the totality of petitioner's acts tarnished the image and integrity of his public office, which is tantamount to Conduct Prejudicial to the Best Interest of the Service.⁷⁵ Conduct prejudicial to the best interest of the service is a *grave offense* which carries the penalty of suspension of six (6) months and one (1) day to one (1) year for the first offense, and dismissal on the second offense.⁷⁶ However, in view of petitioner's culpability for all the three (3) charges, Section 50,⁷⁷ Rule 10 of the RRACCS dictates that the penalty to be imposed should be that corresponding to the most serious charge.

Petitioner's administrative liability for Grave Misconduct and Serious

⁷² See *rollo*, p. 79.

⁷³ Id. at 50-53.

⁷⁴ Id. at 93.

⁷⁵ See *Office of the Ombudsman-Field Investigation Office v. Faller*, G.R. No. 215994, June 6, 2016, 792 SCRA 361, 374-375; citation omitted.

⁷⁶ See Section 46 (B) (8), Rule 10 of the RRACCS.

⁷⁷ Section 50. *Penalty for the Most Serious Offense.* – If the respondent is **found guilty of two (2) or more charges or counts**, the **penalty** to be imposed should be **that corresponding to the most serious charge** and the rest shall be considered as aggravating circumstances. (Emphases supplied)

Dishonesty would have warranted his dismissal from the service even for the first offense,⁷⁸ if not for his separation from the office.⁷⁹ Accordingly, the Court finds the Ombudsman and the CA to have correctly imposed the corresponding administrative disabilities of forfeiture of petitioner's retirement benefits, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government.

As a final note, this 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."⁸⁰ This high constitutional standard of conduct is not intended to be mere rhetoric and taken lightly as 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. Thus, public officers, as recipients of public trust, are under obligation to perform the duties of their offices honestly, faithfully, and to the best of their ability.⁸¹ Unfortunately, petitioner miserably failed in this respect. As appositely pointed out by the CA:

We emphasize that despite the exalted position that [petitioner] had occupied in the executive arm of the government, he is not immune from administrative suit. As Chairman of the PCGG, he had no blanket authority to do as he pleased with the money and property of the government. He is covered by the same code of conduct and the rules and regulations pertaining to the handling and accounting of public funds. In fact, as an accountable public officer endowed with trust and confidence, [petitioner] is expected to comport himself with utmost responsibility and to observe the highest standard of ethical conduct. As holder of a public office[,] he must observe honesty, candor and faithful compliance with the law; nothing less is expected. Instead of demonstrating a conduct that is beyond reproach, [petitioner] abused his power and position to the detriment of the government and the public as a whole.⁸²

WHEREFORE, the petition is **DENIED**. The Decision dated January 31, 2017 of the Court of Appeals in CA-G.R. SP No. 123692, which upheld the Joint Decision dated July 28, 2011 of the Office of the Ombudsman in the consolidated cases OMB-C-A-09-0611-J, OMB-C-A-09-0609-J, and OMB-C-A-09-0608-J, is hereby **AFFIRMED**. Petitioner Camilo L. Sabio is found **GUILTY** of the administrative offenses of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and accordingly, meted the penalty of forfeiture of all his retirement benefits and privileges, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the

⁷⁸ See Section 46 (A) (1) and (3), Rule 10 of the RRACCS.

⁷⁹ See *rollo*, p. 204.


⁸⁰ Section 1, Article XI of the 1987 Constitution

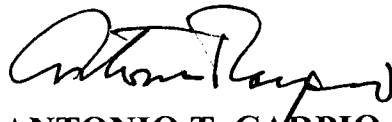
⁸¹ See *Office of the Ombudsman v. Espina*, supra note 28.

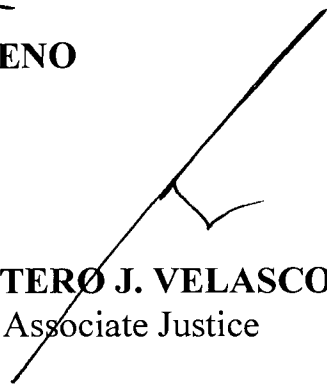
⁸² *Rollo*, p. 94.


government, including government-owned or controlled corporations.

SO ORDERED.

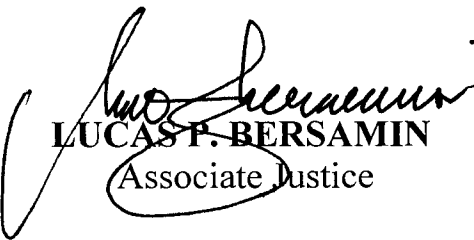

MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice

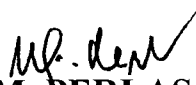

PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

No Part
DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

No Part
MARIANO C. DEL CASTILLO
Associate Justice

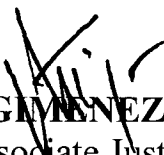

ESTELA M. PERLAS-BERNABE
Associate Justice

On Official Business
MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

On Official Business
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On Official Leave
SAMUEL R. MARTIRES
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

On Official Business
ALEXANDER G. GESMUNDO
Associate Justice

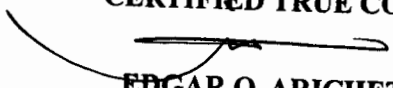
CERTIFICATION

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.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY



EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court