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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

OFFICE OF THE OMBUDSMAN,
Petitioner,

G.R. No. 227268

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
REYES, J., JR.,* and
HERNANDO,** JJ.

- versus -

PCSUPT. RAUL D. PETRASANTA,
Respondent.

Promulgated:

August 28, 2019

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DECISION

PERALTA, J.:

Before us is a petition for *certiorari*¹ under Rule 65 of the Rules of Court assailing the Decision² dated April 19, 2016 and the Resolution³ dated August 4, 2016 of Court of Appeals in CA-G.R. SP No. 141070, entitled “*PCSupt. Raul D. Petrasanta v. Fact Finding Investigation Bureau – Office of the Deputy Ombudsman for the Military and Other Law Enforc[e]ment Offices (FFIB-MOLEO) and Hon. Conchita Carpio-Morales[,] in her capacity as Ombudsman[,] and Sec. Manual A. Roxas II[,] in his capacity as Secretary of the Department of Interior and Local Government,*” for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

* Designated additional member, in lieu of Associate Justice Henri Jean Paul B. Inting, per Raffle dated August 24, 2019.

** On wellness leave.

¹ *Rollo*, pp. 3-41.

² *Id.* at 46-60. Penned by Associate Justice Josep Y. Lopez, with the concurrence of Associate Justices Socorro B. Inting and Renato C. Francisco.

³ *Id.* at 62-64.

The antecedent facts are summarized as follows:

In a letter dated May 25, 2011, WERFAST Documentation Agency (*WERFAST*), through its General Manager Enrique Valerio (*Valerio*), proposed to then Philippine National Police (*PNP*) Chief Raul M. Bacalzo for the establishment of: (a) an Online Computerized Renewal System and Courier Delivery Service for the renewal of firearms licenses to the PNP; and (b) the execution of an agreement for said purpose.⁴

Acting on said proposal, the PNP, through Napoleon R. Estilles (*Estilles*), then Chief of the PNP-Firearms and Explosive Office (*PNP-FEO*), entered into a Memorandum of Agreement (*MOA*) No. 05-2011, dated May 2011, with WERFAST.⁵ Under the terms of the said MOA, the PNP undertook to allow WERFAST to provide a courier service system for applications for renewal of firearms licenses. In turn, WERFAST agreed to donate equipment for the establishment of an online system for such applications. The agreement was for a period of five (5) years, renewable for another (5) years. Said MOA was notarized only on September 13, 2011.⁶

On May 31, 2011, Estilles issued Letter Order No. 0531-40-11, creating a Technical Working Group (*TWG*) that would study the proposal of WERFAST. Respondent PCSupt. Raul Petrasanta was designated as chairman of the TWG.⁷

After studying the proposal of WERFAST, the TWG issued a Memorandum dated June 30, 2011, favorably recommending the same. The pertinent portions of the Memorandum read:

5. After careful study based on development goals and transformation agenda of the PNP, the TWG recommends the following:
 - a. Implementation of an online renewal system that can be directly accessed by clients via internet;
 - b. Adoption of courier system to complement online program and ensure delivery of licenses to rightful owner or at indicated address;
 - c. WerFast to develop the program and turn-over along with necessary IT infrastructure to FEO to be used for deployment of the said programs to include maintenance;
 - d. That operation of the program and use of its infrastructure shall be x x x sole responsibility of FEO;

⁴ *Id.* at 5-6.

⁵ *Id.* at 6.

⁶ *Id.* at 10.

⁷ *Id.* at 8.



- e. That courier system shall be responsibility of WerFast, provided WerFast shall report delivery/non-delivery of licenses to FEO;
- f. Creation of Online Renewal Desk (ORD) within Computer Section to be dedicated to the said program and be composed of x x x 6-man team;
- g. Lateral arrangements/coordination with other service providers of FEO shall be initiated by WerFast and coordinated with FEO for implementation.⁸ (Citation omitted.)

On June 30, 2011, Gil Meneses (*Meneses*), then head of the PNP-Civil Security Group, requested the PNP-Legal Service for its legal opinion on the proposal of WERFAST.⁹

In response, the PNP-Legal Service issued Legal Opinion No. 11-048,¹⁰ holding that “the proposal of WERFAST can be considered as request for the PNP to endorse or accredit the courier service it is offering.”¹¹ The PNP-Legal Service also recommended that the engagement of a courier service should not be made mandatory, but optional; and the service provider should not be exclusively WERFAST.

On August 7, 2012, the PNP-Legal Service issued Memorandum No. 12-257, recommending the creation of an accreditation committee and the formulation of the rules for accreditation.¹²

In a letter¹³ dated September 14, 2012, addressed to respondent, WERFAST submitted its application for accreditation with the following supporting documents:

- a. Certificate of Incorporation dated August 10, 2011 issued by the Securities and Exchange Commission (*SEC*);¹⁴
- b. Certificate of Registration dated August 26, 2011 issued by the Bureau of Internal Revenue (*BIR*)-Revenue Region No. 038;¹⁵

⁸ *Id.* at 9-10.

⁹ *Id.* at 10.

¹⁰ *Id.* at 125-128.

¹¹ *Id.* at 10.

¹² *Id.* at 11.

¹³ *Id.* at 132.

¹⁴ *Id.* at 133.

¹⁵ *Id.* at 134.

- c. Certificate of Business Name Registration dated December 6, 2010 issued by the Department of Trade and Industry (*DTI*);¹⁶ and
- d. Philrem Service Corporation's (*Philrem*) Company Profile with attached Bangko Sentral ng Pilipinas Certificate of Registration and SEC Articles of Registration.¹⁷

Meneses then issued Letter Order No. 545 dated November 19, 2012, creating the FEO Courier Services Accreditation Board (*FEO-CSAB*) and naming respondent as its chairman.¹⁸

On February 12, 2013, Meneses sent to then PNP Chief Alan L. Purisima (*Purisima*) a Memorandum recommending the delivery of license cards by courier service to the addresses of the applicants be made mandatory. On February 17, 2013, Purisima approved Meneses's Memorandum.¹⁹

On March 13, 2013, Meneses issued the Policy on Accreditation of FEO Courier Service (*Policy on Accreditation*).²⁰ Section 5 thereof provides that a courier service provider may be accredited under the following conditions:

- e. QUALIFICATIONS/CRITERIA FOR ACCREDITATION:
 - 5.1 Applicant must be a local entity with appropriate business permits and is duly registered with the Securities and Exchange Commission (SEC);
 - 5.2 It has completed and submitted all its reportorial requirement to the SEC;
 - 5.3 It has updated permits from LGU where its main office is located;
 - 5.4 It has paid all its income taxes for the year, as duly certified by the Bureau of Internal Revenue (BIR);
 - 5.5 It must have secured clearances from the Directorate of Intelligence;
 - 5.6 It must have an extensive network all over the Philippines; and
 - 5.7 The application shall be made in the name of the company represented by its President or any of its key officers as duly authorized in a board resolution for that purpose.²¹

¹⁶ *Id.* at 135.

¹⁷ *Id.* at 136-155.

¹⁸ *Id.* at 12.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 13.



On the other hand, Section 6 of the Policy on Accreditation provides for the procedure of accreditation, to wit:

6. PROCEDURE FOR ACCREDITATION OF COURIER SERVICE PROVIDER:
 - 6.1 The Applicant will submit his intention to the Accreditation Board together with all the required documents arranged and properly tabulated in a folder;
 - 6.2 The Board Secretariat will check/verify the completeness and validity of all submitted documents of the applicant. Should he so desire, he may validate the requirements submitted with the Originating Office;
 - 6.3 The Board Secretariat, after being satisfied with all the requirements, shall schedule a Board meeting to discuss and evaluate the Qualification of the applicant;
 - 6.4 In case there is lacking requirement, the Board is given the authority to accredit applicants in exceptional cases, subject to the condition that the Accreditation shall only be an "Interim Accreditation["];
 - 6.5 If the Applicant meets all the requirements, the Accreditation Board shall issue an Accreditation Certificate subject to the performance review every two (2) years unless sooner revoked for any violation of existing laws or terms and conditions of the Accreditation. Poor performance rating during the performance review is a valid ground to suspend and/or revoke an accreditation.²²

On April 1, 2013, FEO-CSAB accredited WERFAST through Resolution No. 2013-027,²³ the pertinent portion of which reads:

WHEREFORE, it is resolved as it is hereby resolved that WERFAST DOCUMENTATION AGENCY is ACCREDITED by the Firearms and Explosives Office to provide courier services to all clients of FEO relative to the licensing of firearms.

This accreditation shall take effect upon execution hereof and shall have one (1) year validity commencing from the date of signing by the Committee.²⁴

The accreditation of WERFAST by the FEO-CSAB was based on the following grounds:

- a. It is a licensed local corporation with proper business permit and is duly registered under the Department of Trade and Industry with Registration No. 012295502 valid from December 6, 2010 to December 6, 2012;

²² *Id.* at 13-14.

²³ *Id.* at 14.

²⁴ *Id.* at 15.

- b. It has an approved MOA with the PNP for courier service for FEO dated August 24, 2011;
- c. It is in joint venture with CMIT Consultancy Group, Inc. which operates worldwide and with Philippine Remittance Service, Ltd., which has 14 distribution centers and over 200 courier services all over the Philippines, capable of delivering the firearms licenses; and
- d. It has submitted clearances from the Bureau of Internal Revenue, Regional Trial Court, Court of Appeals, and Supreme Court.²⁵

Subsequently, less than a month after the implementation of the courier service provided by WERFAST, the FEO received complaints against WERFAST's services. The complaints were:

- a. Delay in the delivery or non-delivery of applicants' firearm license cards;
- b. Processing through WERFAST takes at least 1.5 days inside the FEO even during the "off peak" season;
- c. No Official Receipt is issued;
- d. The WERFAST website [indicated in the "contract" is existent, but] cannot be used most of the time. The tracking option is useless as it is not able to trace the numbers indicated;
- e. Upon receipt of the package, the courier indicated is LBC and not WERFAST. This has caused confusion because of the fact that LBC charges Php 90.00/package versus the Php 190.00 that is charged by WERFAST;
- f. There are instances that LBC would directly call the clients to [pick up] their licenses at designated LBC Branches; and
- g. Processing time of WERFAST transaction inside FEO was cut until 3:00 P.M. only.²⁶

Respondent informed WERFAST about the complaints against it through a letter²⁷ dated July 18, 2013. Despite the said letter, WERFAST did not take any remedial action to address the complaints.

On September 23, 2013, respondent was relieved from his post as Chief of FEO and was assigned as Regional Director of Region III.²⁸



²⁵ *Id.* at 16.

²⁶ *Id.* at 16-17.

²⁷ *Id.* at 166.

²⁸ *Id.* at 50.

In March 2014, the PNP terminated its contract with WERFAST due to the latter's gross inefficiency.²⁹

On April 16, 2014, Glenn Gerard C. Ricafranca (*Ricafranca*) filed before petitioner Office of the Ombudsman an administrative complaint against Purisima and Estilles, docketed as OMB-P-A-14-0333, for *Grave Abuse of Authority* and violation of Republic Act No. 6713 or the *Code of Conduct and Ethical Standards for Public Officials and Employees*. Ricafranca alleged that there were "highly controversial arrangements in favor of WERFAST," such as: (1) the mandatory nature of the courier service provided; (2) WERFAST had not yet been incorporated at the time MOA No. 05-2011 was executed; (3) there was no authority from the Department of Transportation and Communications to deliver mails and parcels to the public; and (4) Purisima's personal ties with WERFAST's incorporators and officers.³⁰

On October 9, 2014, the FFIB-MOLEO also filed administrative complaints against respondent and several other PNP officials before petitioner for *Grave Abuse of Authority*, *Grave Misconduct*, and *Serious Dishonesty*. The case was docketed as OMB-P-A-14-0659. The FFIB-MOLEO chiefly alleged that the PNP officials involved failed to properly evaluate the qualification and capabilities of WERFAST to engage in courier service. It averred that the accreditation of WERFAST conferred unwarranted benefit, advantage, and preference resulting to undue injury to applicants of firearms licenses.³¹

Considering that both OMB-P-A-14-0333 and OMB-P-A-14-0659 arose from the same facts and circumstances, petitioner consolidated both cases in the proceedings before it.

In his Counter-Affidavit, respondent asserted that he had no participation in the execution of MOA No. 05-2011 between Estilles and WERFAST. He also asserted that the accreditation of WERFAST was in accordance with the Policy on Accreditation and the accreditation was only interim.³²

In an Order dated December 3, 2014, petitioner preventively suspended respondent³³ and the other police officials.

The police officials involved independently submitted their respective Answers and Position Papers. In the case of respondent, his defense was

²⁹ *Id.* at 17.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 18.

³³ *Id.*

anchored mainly on the presumption of regularity in the performance of official duty. He pointed out that he was designated as Chief of FEO on May 11, 2012 and, hence, he had no participation in MOA No. 05-2011 executed between Estilles and WERFAST. Furthermore, he contended that he acted with due diligence as Chief of FEO when he took immediate steps to address the complaints against WERFAST. He insisted that the FEO-CSAB could have revoked WERFAST's accreditation, only if its members were not relieved from their respective posts.

In its Consolidated Decision³⁴ dated June 25, 2015, petitioner found respondent, together with the other police officials, guilty of *Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty*.

Aggrieved, respondent filed a Petition for Review with the Court of Appeals.

On April 19, 2016, the Court of Appeals granted respondent's Petition for Review through the assailed Decision,³⁵ the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is hereby GRANTED. The Consolidated Decision dated 25 June 2015 of the Office of the Ombudsman in OMB-P-A-14-0333 and OMB-P-A-14-0659 is REVERSED and SET ASIDE. The Complaint for Grave Abuse of Authority, Grave Misconduct and Serious Dishonesty against Petitioner PCSUPT. Petrasanta is hereby DISMISSED for lack of merit. All the accessory penalties attached to his dismissal from service are likewise RECALLED and LIFTED.³⁶

Petitioner filed a Motion for Reconsideration, but the same was denied. Hence, this Petition.

Petitioner raised the following errors of the Court of Appeals:

I.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REVERSED AND SET ASIDE PETITIONER'S CONSOLIDATED DECISION DATED 25 JUNE 2015 IN OMB-P-A-14-0333 and OMB-P-A-14-0659 FINDING RESPONDENT GUILTY OF GRAVE ABUSE OF AUTHORITY, GRAVE MISCONDUCT, AND SERIOUS DISHONESTY.

³⁴ *Id.* at 65-111.

³⁵ *Id.* at 46-60.

³⁶ *Id.* at 59-60.

A.

THE COURT OF APPEALS GROSSLY MISAPPRECIATED AND/OR WANTONLY DISREGARDED THE ESTABLISHED FACTS WHEN IT OVERTURNED PETITIONER'S FINDING THAT THERE WAS SUBSTANTIAL EVIDENCE TO HOLD RESPONDENT GUILTY OF SAID OFFENSES.

i.

THE COURT OF APPEALS WANTONLY DISREGARDED PETITIONER'S FINDING THAT WERFAST DID NOT SUBSTANTIALLY COMPLY WITH THE REQUIREMENTS UNDER THE POLICY ON ACCREDITATION.

ii.

THE COURT OF APPEALS GROSSLY MISAPPRECIATED AND/OR WANTONLY DISREGARDED PETITIONER'S FINDING THAT THE ACCREDITATION OF WERFAST WAS NOT INTERIM.

II.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT COMPLETELY AND UTTERLY DISREGARDED THE PROVISIONS OF REPUBLIC ACT (R.A.) NO. 9184, OTHERWISE KNOWN AS THE "GOVERNMENT PROCUREMENT REFORM ACT," AS AMENDED, AND RULED THAT PUBLIC BIDDING IS NO LONGER REQUIRED IN THE PROCUREMENT OF COURIER SERVICE FROM WERFAST SINCE IT WAS NOT CLAIMING FOR EXCLUSIVITY OF SERVICE AND PROVIDED THAT IT UNDERGOES THE PROCESS OF ACCREDITATION.


III.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GROSSLY MISAPPRECIATED AND/OR WANTONLY DISREGARDED PETITIONER'S FINDING OF CONSPIRACY BETWEEN HEREIN RESPONDENT AND HIS CO-RESPONDENTS IN OMB-P-A-14-0333 and OMB-P-A-14-0659.³⁷

The petition is impressed with merit.

We shall first discuss the procedural remedy availed by the petitioner.

³⁷ *Id.* at 20-21.



Respondent, in his Comment³⁸ to the instant Petition dated October 12, 2018, asserts that the assailed Decision and Resolution of the Court of Appeals have attained finality on August 31, 2016. Thus, the Petition should not be given due course.

Section 4, Rule 65 of the Rules of Court provides:

Section 4. When and where petition filed. — The petition shall be filed **not later than sixty (60) days** from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be **counted from notice of the denial of said motion**. (Emphases supplied.)

In the case at bar, the assailed Decision was issued by the Court of Appeals on April 19, 2016. Petitioner received a copy of the Decision on May 3, 2016. On May 26, 2016, petitioner timely filed its Motion for Reconsideration. The Resolution dated August 4, 2016, denying the motion for reconsideration, was received by the petitioner on August 15, 2016.

Pursuant to Section 4, Rule 65 of the Rules of Court, petitioner has 60 days from August 15, 2016 to file a petition for *certiorari*. Hence, the instant Petition was filed within the said period, on October 14, 2016.

An essential requisite for filing a petition for *certiorari* is the allegation that the judicial tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction.³⁹ Grave abuse of discretion has been defined as a "capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law."⁴⁰

The writ of *certiorari* is not issued to correct every error that may have been committed by lower courts and tribunals. It is a remedy specifically to keep lower courts and tribunals within the bounds of their jurisdiction. In our judicial system, the writ is issued to prevent lower courts and tribunals from committing grave abuse of discretion in excess of their jurisdiction. Further, the writ requires that there is no appeal or other plain, speedy, and adequate remedy available to correct the error. Thus, *certiorari* may not be issued if the error can be the subject of an ordinary appeal.⁴¹

We find that petitioner was correct in seeking its remedy under Rule 65 of the Rules of Court.

³⁸ *Id.* at 219-221.

³⁹ See Rules of Court, Rule 65, Section 1.

⁴⁰ *Rodriguez v. Presiding Judge of the RTC of Manila, Branch 17*, 518 Phil. 455, 462 (2006), citing *Spouses Zarate v. Maybank Philippines, Inc.*, 498 Phil. 825, 834 (2005).

⁴¹ *Cruz, et al. v. People*, 812 Phil. 166, 171 (2017).

In *Office of the Ombudsman v. Alano*,⁴² the Court stressed that Section 13(8), Article XI of the 1987 Constitution empowers petitioner to, among others, "promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law." Pursuant to such constitutional authority, Administrative Order No. 07 (otherwise known as the "Rules of Procedure of the Office of the Ombudsman"), dated April 10, 1990, was issued. Section 7, Rule III thereof provides:

SEC. 7. Finality of decision. - Where the respondent is absolved of the charge and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one (1) month, or a fine equivalent to one (1) month salary, the decision shall be final and unappealable. In all other cases, the decision shall become final after the expiration of ten (10) days from receipt thereof by the respondent, unless a motion for reconsideration or petition for certiorari shall have been filed by him as prescribed in Section 27 of RA 6770.

The Court, in interpreting the above constitutional and statutory provisions, recognizes only two instances where a decision of the Ombudsman is considered as **final and unappealable** and, thus, immediately executory. The first is when the respondent is **absolved of the charge**; and the second is, in case of conviction, where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary.⁴³

In this case, respondent was absolved by the Court of Appeals when it issued the assailed Decision and Resolution. Accordingly, the assailed Decision and Resolution are final, unappealable and immediately executory. Likewise, petitioner does not have a plain, speedy, and adequate remedy in the ordinary course of law. Thus, the remedy under Rule 65 is availing.

Anent substantive issues, we shall discuss these jointly.

In its Decision, the Court of Appeals held that there is no substantial evidence to hold respondent guilty on the ground that the totality of the evidence adduced showed that, aside from respondent's role as Chairman of both the TWG and FEO-CSAB, there is nothing on record showing his actual or direct participation in the purported plan to solely accredit WERFAST.

It held that petitioner failed to point out the particular acts committed by respondent as chairman of the TWG that would indicate that he acted in unison with other PNP officials to solely accredit WERFAST as provider of courier service. It found that despite pressure and coercion from Purisima,

⁴² 544 Phil. 709, 713 (2007).

⁴³ *Almario-Templonuevo v. Office of the Ombudsman, et al.*, 811 Phil. 686, 697 (2017).

respondent and the other members of FEO-CSAB actually ruled against the exclusive and mandatory nature of the courier service provider.

The Court of Appeals likewise held that WERFAST was qualified as a courier service provider because it substantially complied with the requirements under Section 5 of the Policy on Accreditation. Moreover, the accreditation granted to WERFAST was only interim since only a one-year period was given, instead of two years as provided under the Procedure for Accreditation. Thus, it was erroneous on the part of petitioner to conclude that the accreditation of WERFAST was unqualified and not interim.

The Court of Appeals also held that the absence of a public bidding does not prove that respondent had a conscious and malicious design to conspire and give unwarranted benefit to WERFAST. It ratiocinated that since WERFAST does not claim for exclusivity and provided that it undergoes the process of accreditation, public bidding is not required.

We disagree.

It is well-settled that findings of fact by petitioner are conclusive when supported by substantial evidence.⁴⁴ Its factual findings are generally accorded great weight and respect, if not finality by the courts, by reason of its special knowledge and expertise over matters falling under its jurisdiction.

This rule was reiterated in *Cabalit v. Commission on Audit-Region VII*,⁴⁵ where we held that when the findings of fact of petitioner are supported by substantial evidence, they should be considered as conclusive. This Court recognizes the expertise and independence of petitioner and will avoid interfering with its findings absent a finding of grave abuse of discretion.

This rule on conclusiveness of factual findings, however, is not an absolute one. Despite the respect given to administrative findings of fact, the Court of Appeals may resolve factual issues, review and re-evaluate the evidence on record, and reverse the administrative agency's findings if not supported by substantial evidence. Thus, when the findings of fact by the administrative or quasi-judicial agencies (like petitioner/Deputy Ombudsman) are not adequately supported by substantial evidence, they shall not be binding upon the courts.⁴⁶

In administrative cases, substantial evidence is required to support any findings. Substantial evidence is such relevant evidence as a reasonable mind

⁴⁴ Section 27 of Republic Act No. 6770, otherwise known as "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for Other Purposes."

⁴⁵ 679 Phil. 138, 157-158 (2012).

⁴⁶ *Hon. Ombudsman Marcelo v. Bungbung, et al.*, 575 Phil. 538, 557 (2008).



may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the petitioner is guilty of the act or omission complained of, even if the evidence might not be overwhelming.⁴⁷

In the present case, the factual findings of petitioner were supported by substantial evidence. Our examination of the records tells us that petitioner's findings and appreciation of the presented evidence are more in accord with reason and common experience so that it successfully proved, by the required quantum of evidence, respondent's liability.

Conspiracy is said to exist where two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The essence of conspiracy is the unity of action and purpose. Its elements, like the physical acts constituting the crime itself, must be proved beyond reasonable doubt.⁴⁸

Direct proof is not essential to prove conspiracy for it may be deduced from the acts of the accused before, during and after the commission of the crime charged, from which it may be indicated that there is a common purpose to commit the crime.⁴⁹

To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.⁵⁰

Here, as aptly ruled by petitioner, respondent cooperated by signing the TWG Memorandum dated June 30, 2011 and FEO-CSAB Resolution No. 2013-027. In signing these documents, he paved the way for the accreditation of WERFAST and, eventually, as the sole courier service provider of firearms licenses.

As chairman of the TWG, respondent favorably recommended the proposal of WERFAST despite its lack of juridical personality and the absence of the requisite public bidding. On the other hand, as chairman of FEO-CSAB, respondent accredited WERFAST despite the latter's non-

⁴⁷ *Orbase v. Office of the Ombudsman, et al.*, 623 Phil. 764, 779 (2009), citing *Office of the Ombudsman v. Beltran*, 606 Phil. 573, 590 (2009).

⁴⁸ *Quidet v. People*, 632 Phil. 1, 11 (2010).

⁴⁹ *People v. Campos, et al.*, 668 Phil. 315, 330 (2011).

⁵⁰ *People v. Dollendo, et al.*, 679 Phil. 338, 349 (2012), citing *People v. De Jesus*, 473 Phil. 405, 429 (2004).

submission of the other documents required under the PNP's Policy on Accreditation.

Contrary to the findings of the Court of Appeals, it is evident that WERFAST did not substantially comply with the requirements under Section 5 of the Policy on Accreditation.

First, there is no showing that WERFAST submitted any reportorial requirement to the SEC.

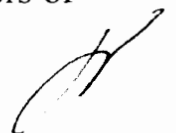
Second, the local government unit permit that was submitted by WERFAST indicates that its principal office is located in Quezon City. However, the DTI Certificate of Business Registration dated December 6, 2010, MOA No. 05-2011, and its letter dated September 14, 2012 indicate that WERFAST's principal office is located at Room 312, Burke Bldg., Burke St., Escolta, Manila.

Third, the BIR clearance that was submitted by WERFAST only pertains to a Certificate of Registration. This only certifies that it is a company registered with the BIR. Nowhere in the said Certificate will show that WERFAST has paid all its income taxes for the year. Further, the same Certificate shows that WERFAST's primary purpose is business consultancy. Nowhere in said Certificate states that WERFAST is engaged in the business of courier service.

Fourth, the company profile that was submitted by WERFAST refers to Philrem, another corporation having a separate and distinct juridical personality from WERFAST. In fact, it was later on discovered that during the implementation of MOA No. 05-2011, WERFAST turned to LBC, and not to Philrem, to fulfill its obligation. This is contrary to the claim of WERFAST that it is a subsidiary of Philrem which has an extensive experience in the delivery of foreign and local currencies (remittances) to a nationwide clientele.

It was noteworthy that WERFAST had no corporate existence at the time the TWG issued the Memorandum dated June 30, 2011, favorably recommending the proposal of WERFAST; its Certificate of Registration having been issued only on August 10, 2011.

Lastly, it was not shown that when Valerio submitted his September 14, 2012 application letter, he was duly authorized by the Board of Directors of WERFAST.



These discrepancies should have immediately raised doubts on the part of the TWG and FEO-CSAB, and caused them to further verify the veracity of these documents. Thus, WERFAST cannot be said to have substantially complied with the requirements under Section 5 of the Policy on Accreditation.

Moreover, had respondent heeded and followed the requirements under Section 5 of the Policy on Accreditation issued by Meneses, respondent would not have found himself in this administrative predicament. Having disregarded the said policy, respondent cannot now invoke the presumption of regularity in the performance of official duty because this presumption can only apply where the one claiming it had regularly performed his duty. By disregarding the said policy, respondent could not be said to have performed his duties in a regular manner.

The Court of Appeals likewise committed grave abuse of discretion when it held that the accreditation granted to WERFAST was only interim.

While Section 6.4 of the Policy on Accreditation allows the grant of interim accreditation when the applicant lacks requirements provided under Section 5 thereof – and only in exceptional cases – there is nothing in Resolution No. 2013-027 that grants WERFAST an “interim accreditation.” Neither was there a statement that WERFAST lacks any of the requirements under Section 5 of the Policy on Accreditation. Hence, the accreditation of WERFAST was unqualified.

We cannot likewise fathom the pronouncement of the Court of Appeals that public bidding is not required since WERFAST does not claim for exclusivity and provided that it undergoes the process of accreditation. This has no basis in law and jurisprudence.

Republic Act No. 9184 or the Government Procurement Reform Act explicitly provides that, as a rule, all procurement shall be done through competitive bidding, except as provided for in Article XVI.⁵¹

Sections 4 and 10 of Republic Act No. 9184 read:

Section 4. *Scope and Application.*- This act shall apply to the Procurement of Infrastructure Projects, Goods and Consulting Services, regardless of source of funds, whether local [or] foreign, by **all** branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or-controlled corporations and local government units, subject to the provisions of Commonwealth Act No. 138. Any treaty or international or executive agreement affecting the subject

⁵¹ Section 10, Republic Act No. 9184.



matter of this Act to which the Philippine government is signatory shall be observed.

Section 10. Competitive Bidding.- All Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act. (Emphases supplied.)

One of the primary and basic rules in statutory construction is that where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.⁵²

It is clear from the provisions of Republic Act No. 9184 that ALL procurement by ALL branches and instrumentalities of government, their departments, offices and agencies, including government-owned and/or controlled corporations and local government units shall be done through competitive bidding, except as provided for in Article XVI. The procurement by the PNP of the courier service for the firearms licenses is not among those provided under Article XVI. Thus, public bidding is required.

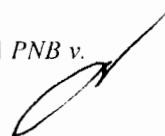
The fact that WERFAST does not claim for exclusivity and will undergo the accreditation process is of no moment. There is nothing on record that would justify the exemption of the subject procurement from the general rule on public bidding.

Finally, there is no factual basis for the Court of Appeals to conclude that respondent was pressured and/or coerced by Purisima in signing Resolution No. 2013-027, accrediting WERFAST. In his Counter-Affidavit dated December 10, 2014, respondent never raised as a defense that he was pressured and/or coerced by Purisima in signing Resolution No. 2013-027. On the contrary, respondent asserts that WERFAST had substantially complied with the requirements under the Policy on Accreditation.

Clearly, respondent's act of signing the subject Resolution was of his own free and voluntary will. He was neither forced nor influenced by any other person signing it. Without a doubt, respondent's position as chairman of both the TWG and FEO-CSAB played an important part in the conspiracy, among them, by giving WERFAST an unwarranted benefit, advantage, or preference.

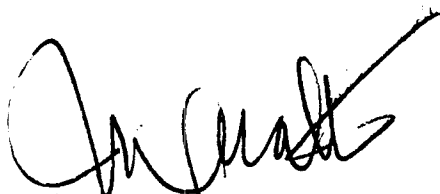
WHEREFORE, premises considered, the petition for *certiorari* is hereby **GRANTED**. The Decision and the Resolution of the Court of Appeals dated April 19, 2016 and August 4, 2016, respectively, in CA-G.R. SP No. 141070 are hereby **REVERSED** and **SET ASIDE**. The Consolidated Decision dated June 25, 2015 of the Office of the Ombudsman in OMB-P-A-

⁵² *National Food Authority v. Masarla Security Agency, Inc.*, 493 Phil. 241, 250 (2005); and *PNB v. Garcia, Jr.*, 437 Phil. 289, 295 (2002).



14-0333 and OMB-P-A-14-0659, finding respondent PCSupt. Raul D. Petrasanta guilty of *Grave Abuse of Authority, Grave Misconduct, and Serious Dishonesty*, is hereby **REINSTATED**.

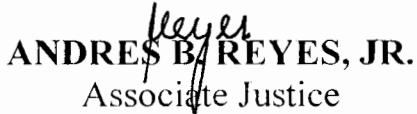
SO ORDERED.

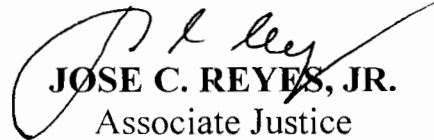


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

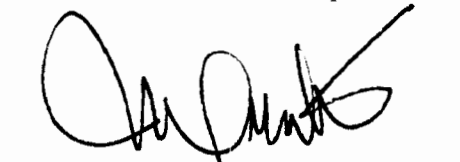

ANDRES B. REYES, JR.
Associate Justice


JOSE C. REYES, JR.
Associate Justice

on wellness leave
RAMON PAUL L. HERNANDO
Associate Justice

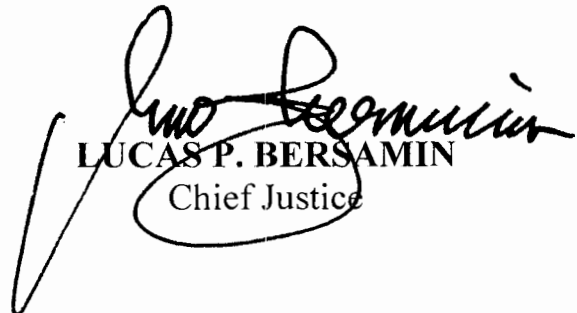
ATTESTATION

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.


DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice