



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

MA. LUISA R. LOREÑO,  
*Petitioner,*

G.R. No. 242901

Present:

- versus -

PERLAS-BERNABE, *J.*,  
Chairperson,  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
BALTAZAR-PADILLA,\* *JJ.*

OFFICE OF THE OMBUDSMAN,  
*Respondent.*

Promulgated:

14 SEP 2020

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DECISION

DELOS SANTOS, *J.*:

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> seeking to annul the Resolutions dated 11 January 2018<sup>2</sup> and 18 October 2018<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 149987, which affirmed the Decision<sup>4</sup> dated 28 June 2016 of the Office of the Ombudsman (Ombudsman) in OMB-C-A-15-0318, finding Ma. Luisa R. Loreño (Loreño) guilty of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and thereby imposed upon her the penalty of dismissal from service, and cancellation of her civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification to hold public office.

\* On leave.

<sup>1</sup> *Rollo*, pp. 3-15.

<sup>2</sup> Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Ramon A. Cruz and Pablito A. Perez, concurring; *id.* at 21-24.

<sup>3</sup> Penned by Associate Justice Ramon A. Cruz, with Associate Justices Mario V. Lopez (now a Member of the Court) and Pablito A. Perez, concurring; *id.* at 26.

<sup>4</sup> Penned by Graft Investigation and Prosecution Officer III Bonifacio G. Mandrilla, *id.* at 61-70.

## FACTS

This case stemmed from a Complaint<sup>5</sup> filed by the Field Investigation Office I (FIO I) of the Ombudsman charging Loreño with violation of Article 217 of the Revised Penal Code (RPC) and Section 3 (e) of Republic Act No. (RA) 3019,<sup>6</sup> Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service. It was alleged that Loreño was a Teacher I assigned at Andres Bonifacio Integrated School (ABIS) in Mandaluyong City. On 12 January 2009, a team from the Commission on Audit (COA) of City Schools of Mandaluyong City submitted an Audit Observation Memorandum on the audit of cash accounts of ABIS covering the period from March 2006 to June 2008. The team's initial audit finding was that the cash accounts of ABIS showed a shortage of ₱263,515.96. Thus, a demand letter, addressed to Loreño and Juanita P. Valle (Valle), former Elementary School Principal III of ABIS, was issued, demanding them to produce the above-mentioned amount immediately. Upon receipt of the letter, both Loreño and Valle denied the cash shortage and requested for a bill of particulars.<sup>7</sup>

On 13 March 2009, the COA constituted a team of auditors to conduct a complete examination of the cash accounts of Loreño, Valle, Evangeline A. Diaz, the incumbent principal, and Bernardita G. Tan, the acting collecting officer. The audit resulted in Loreño's cash shortage amounting to ₱171,240.01, representing the balance of collections from authorized school contributions/fees and school operating funds. Thus, another demand letter was sent to Loreño for the immediate production of the said amount. However, Loreño failed to produce the missing funds despite demand.<sup>8</sup> Hence, this complaint.

In her Position Paper,<sup>9</sup> Loreño denied that she was an accountable officer and that she was assigned as an Acting Collecting Officer of ABIS during the period of March 2006 to June 2008. She raised the defense that Valle merely asked for her help in counting the money received from teachers authorized to collect money, representing payment of students' identification cards (IDs), and not in any official capacity. She further alleged that the manner the COA auditors conducted the audit was very doubtful when they hauled all the records from ABIS to the COA office at the City School Division in Mandaluyong City and that she was not given an

<sup>5</sup> Id. at 35-39.

<sup>6</sup> Section 3. *Corrupt practices of public officers.* – x x x

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

<sup>7</sup> *Rollo*, pp. 35-36.

<sup>8</sup> Id. at 36-37.

<sup>9</sup> Id. at 44-51.

opportunity to refute their findings prior to the submission of the final audit report. Loreño maintained that as a teacher, she does not hold cash on a daily basis and was never designated to carry the responsibility of accounting money, nor was she involved in the disbursement of the Maintenance and Other Operating Expenses (MOOE). Thus, she prayed that the instant administrative complaint against her be dismissed.<sup>10</sup>

### **RULING OF THE OFFICE OF THE OMBUDSMAN**

In a Decision<sup>11</sup> dated 28 June 2016, the Ombudsman found Loreño guilty of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and imposed the ultimate penalty of dismissal from service with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification to hold public office.<sup>12</sup> It ruled that Loreño was an accountable officer, because she was designated as Acting Collecting Officer of ABIS, tasked to receive money from school collections.<sup>13</sup> That according to the COA auditors, Loreño failed to deposit all her collections during the period of April 2007 to May 2008, in violation of Sections 69,<sup>14</sup> 111,<sup>15</sup> and 112<sup>16</sup> of Presidential Decree No. (PD) 1445.<sup>17</sup> Loreño's Motion for Reconsideration<sup>18</sup> was denied in an Order<sup>19</sup> dated 16 January 2017.

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<sup>10</sup> Id. at 45-50.

<sup>11</sup> Id. at 61-70.

<sup>12</sup> Id. at 69.

<sup>13</sup> Id. at 65-66.

<sup>14</sup> Section 69. *Deposit of Moneys in the Treasury.*

- (1) Public officers authorized to receive and collect moneys arising from taxes, revenues, or receipts of any kind shall remit or deposit intact the full amounts so received and collected by them to the treasury of the agency concerned and credited to the particular accounts to which the said moneys belong. The amount of the collections ultimately payable to other agencies of the government shall thereafter be remitted to the respective treasuries of these agencies, under regulations which the Commission and the Department (Ministry) of Finance shall prescribe.
- (2) When the exigencies of the service so require, under such rules and regulations as the Commission and the Department (Ministry) of Finance may prescribe, postmasters may be authorized to use their collections to pay money orders, telegraphic transfers and withdrawals from the proper depository bank whenever their cash advance funds for the purpose have been exhausted. The amount of collections so used shall be restored upon receipt by the postmaster of the replenishment of his cash advance.
- (3) Pending remittance to the proper treasury, collecting officers may temporarily deposit collections received by them with any treasury, subject to regulations of the Commission.
- (4) The respective treasuries of these agencies shall in turn deposit with the proper government depository the full amount of the collections not later than the following banking day.

<sup>15</sup> Section 111. *Keeping of Accounts.*

- (1) The accounts of an agency shall be kept in such detail as is necessary to meet the needs of the agency and at the same time be adequate to furnish the information needed by fiscal or control agencies of the government.
- (2) The highest standards of honesty, objectivity and consistency shall be observed in the keeping of accounts to safeguard against inaccurate or misleading information.

<sup>16</sup> Section 112. *Recording of Financial Transactions.* Each government agency shall record its financial transactions and operations conformably with generally accepted accounting principles and in accordance with pertinent laws and regulations.

<sup>17</sup> Government Auditing Code of the Philippines.

<sup>18</sup> *Rollo*, pp. 72-77.

<sup>19</sup> Penned by Graft Investigation and Prosecution Officer III Bonifacio G. Mandrilla, id. at 78-81.

Aggrieved, Loreño filed a Petition for Review with Application for Temporary Restraining Order and/or Writ of Preliminary Injunction<sup>20</sup> before the CA and argued that the Ombudsman erred in ruling that she was an accountable officer under the law and that the alleged shortage of money was not supported by substantial evidence.

### **RULING OF THE CA**

In a Resolution<sup>21</sup> dated 11 January 2018, the CA denied the petition and affirmed the assailed Decision of the Ombudsman. It held that Loreño falls within the definition of an accountable officer under PD 1445, as she was the Acting Collecting Officer of ABIS in charge of collecting, among others, identification and graduation fees. In addition, Loreño was bonded in accordance with PD 1445, which is only required for accountable officers. Therefore, her failure to deposit her collections and submit the required reports are in contravention of the established rules and regulations in keeping of accounts and recording of transactions. Loreño's failure or inability to produce the alleged shortage constituted a *prima facie* evidence that she used the missing funds for her personal gain.<sup>22</sup>

Loreño moved for reconsideration<sup>23</sup> but was denied in a Resolution<sup>24</sup> dated 18 October 2018. Hence, this petition.

### **ISSUES**

(1) Whether or not the CA erred in finding Loreño as an accountable officer as defined under the law.

(2) Whether or not the CA erred in finding Loreño guilty of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service.

### **ARGUMENTS OF THE PETITIONER**

In support of her petition, Loreño reiterated that she is not an accountable officer, as erroneously found by both the Ombudsman and the CA. Her official designation in ABIS was Teacher I, thus, her duties does not include possession or custody of government funds or property. However, she admitted that as an additional duty, she was tasked by Valle, the school principal, to collect payments mainly for the cost of the school IDs from the students. Loreño also maintained that her duty was merely to

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<sup>20</sup> Id. at 82-93.

<sup>21</sup> Id. at 21-24.

<sup>22</sup> Id. at 22-23.

<sup>23</sup> Id. at 27-30.

<sup>24</sup> Id. at 26.

collect the said funds, count them, and turn it over to Valle, who was primarily responsible for the safekeeping and custody of the collected funds.<sup>25</sup>

Further, Loreño insisted that there was no substantial evidence to prove that she incurred the shortage of ₱171,240.01. According to her, the alleged shortage was based on assumption, conjectures and utterly devoid of factual or legal basis.<sup>26</sup> The circumstances surrounding the audit was highly irregular as there was no actual cash count conducted by the auditors and there was no face-to-face discussion between her and the said auditors. She also claimed that the records pertaining to the subject audit were brought outside of ABIS and the COA auditors did not issue any acknowledgment receipt.<sup>27</sup> She likewise denied receiving the amount of ₱5,587,297.65, as stated in the demand letter. The said amount does not represent actual cash received by her, but “DO Downloaded Funds”.<sup>28</sup>

Lastly, Loreño denied that she committed serious dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service. The basis of the administrative complaint against her was anchored on the premise that she was an accountable officer and that she incurred a shortage during the COA audit. Unfortunately, the Ombudsman failed to prove by substantial evidence such claims.<sup>29</sup> Thus, she prayed that the Resolutions of the CA be set aside and that the instant complaint be dismissed.

### ARGUMENTS OF THE RESPONDENT

In its Comment<sup>30</sup> to the instant petition, the Ombudsman stressed that there was substantial evidence to hold Loreño liable for serious dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service. Contrary to Loreño’s claim that there was no factual or substantial basis to hold her liable for the alleged shortage of ₱171,240.01, the records reveal otherwise.<sup>31</sup> As found by the COA auditors, as the Acting Collecting Officer, Loreño was mandated to faithfully comply with the provisions of PD 1445 with regard to the keeping of accounts, recording of transactions, and depositing all her collections.<sup>32</sup>

Also, Loreño’s claim that the COA audit was irregular and seriously flawed has no basis, as she failed to specify her legal basis. Hence, the COA findings remain lawful, regular, and conclusive as to their contents.<sup>33</sup>

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<sup>25</sup> Id. at 10-11.

<sup>26</sup> Id. at 9.

<sup>27</sup> Id. at 12.

<sup>28</sup> Id. at 9-10.

<sup>29</sup> Id. at 12-13.

<sup>30</sup> Id. at 111-125.

<sup>31</sup> Id. at 119.

<sup>32</sup> Id. at 121-122.

<sup>33</sup> Id. at 119-120.

Therefore, her failure to account for the shortage and to produce it upon demand, and her understating the amounts she collected for the IDs in the official receipts are all indicative of a lack of honesty, integrity and probity as an accountable officer.<sup>34</sup>

### RULING OF THE COURT

The petition is bereft of merit.

It must be noted at the outset that the jurisdiction of the Court in a petition for review under Rule 45 of the Revised Rules of Court is limited only to reviewing errors of law, not of fact. A question of law arises when there is doubt as to what the law is on a certain set of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must solely rely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.<sup>35</sup> In this case, the issues raised by Loreño are substantially factual, as it requires a re-examination of the evidence presented.

In the case at the bar, the Ombudsman found Loreño guilty of Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, which was affirmed by the CA.

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.<sup>36</sup> Dishonesty becomes serious when it is qualified by any of the circumstances under Section 3 of the Civil Service Commission Resolution No. 06-0538,<sup>37</sup> to wit:

Section 3. Serious Dishonesty. The presence of any of one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Serious Dishonesty:

- a. The dishonest act causes 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,**

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<sup>34</sup> Id. at 121.

<sup>35</sup> See *Javelosa v. Tapus*, G.R. No. 204361, 4 July 2018.

<sup>36</sup> See *Office of the Ombudsman v. Saligumba*, G.R. No. 212293, 15 June 2020.

<sup>37</sup> Issued on 4 April 2006.

**graft and corruption.**

- d. The dishonest act exhibits moral depravity on the part of the 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.
- h. Other analogous circumstances. (Emphasis ours)

Meanwhile, Grave Misconduct is defined as the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer coupled with the elements of corruption, willful intent to violate the law or disregard established rules.<sup>38</sup>

Lastly, Conduct Prejudicial to the Best Interest of the Service deals with a demeanor of a public officer which “tarnished the image and integrity of his/her public office.”<sup>39</sup>

Under Section 46 (A) of the Revised Rules on Administrative Cases in the Civil Service, the penalty for the grave offenses of Serious Dishonesty and Grave Misconduct is dismissal for the first offense. While under Section 46 (B) of the same Rules, the penalty for conduct prejudicial to the best interest of the service is suspension for six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense.

After a careful review of the records of the case, the Court finds that the offenses charged against Loreño have been substantially proven. Substantial evidence is such relevant evidence which a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine differently.<sup>40</sup>

An accountable officer under Article 217 of the RPC must receive money or property of the government which he is bound to account for. It is the nature of the duties of, not the nomenclature used for, or the relative significance of the title to, the position, which controls in that determination.<sup>41</sup> Furthermore, there is a requirement for an accountable officer to be bonded, pursuant to Section 101 of PD 1445, to wit:

<sup>38</sup> See *First Great Ventures Loans, Inc. v. Mercado*, A.M. No. P-17-3773, 1 October 2019.

<sup>39</sup> See *Fajardo v. Corral*, 813 Phil. 149 (2017).

<sup>40</sup> *Id.* at 156.

<sup>41</sup> *Rueda, Jr. v. Honorable Sandiganbayan*, 400 Phil. 142 (2000), citing *Tanggote v. Sandiganbayan*, 306 Phil. 302 (1994).

Section 101. *Accountable Officers; Bond Requirement.*

1. Every officer of any government agency whose duties permit or require the possession or custody of government funds or property shall be accountable therefor and for the safekeeping thereof in conformity with law.

2. Every accountable officer shall be properly bonded in accordance with law.

In the case at bar, the COA auditors have sufficiently established that Loreño was an accountable officer within the contemplation of the law, as she was designated as Acting Collecting Officer of ABIS and was bonded in the amount of ₱45,000.00 under Risk No. DIIC-07-08-288 dated 30 August 2007 effective 24 July 2007 to 23 July 2008.<sup>42</sup> To absolve herself from liability, Loreño denied the allegation that she was an accountable officer. However, in her petition, Loreño admitted that as an additional duty, the school principal tasked her to collect payments for the costs of school IDs from the students. She would like this Court to believe that the only purpose of such designation was to count the monies collected and turn it over to the school principal, who was primarily responsible for the safekeeping and custody of the funds. Unfortunately, the records reveal otherwise. Denial is inherently a weak defense.<sup>43</sup>

As found by the Ombudsman, the Report of Cash Examination shows that the Balance per Financial Report for the School Year (SY) 2006-2007 is ₱9,958.99. Under Statement of Accountability of the same cash examination, during the period of 16 April 2007 to 30 May 2008, Loreño collected a total of ₱9,803,353.80. Deducting the credits of accountability of ₱8,830,801.02 and cash in bank of ₱811,271.76, Loreño incurred a shortage of ₱171,240.01. Her failure to account the discrepancy in her collections and her inability to return the said amount upon demand from the COA auditors, constitute a *prima facie* evidence that she appropriated the money to herself. Loreño also violated the rules in keeping of accounts and recording of transactions when she failed to submit the reports as required by law.<sup>44</sup> Therefore, the Court finds that the evidence presented was sufficient to prove that Loreño was guilty of the offenses charged against her.

On a final note, it must be stressed that serious offenses, such as Grave Misconduct and Serious Dishonesty, have always been and should remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee, but the improvement of public service and the preservation of the

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<sup>42</sup> Rollo, p. 65.

<sup>43</sup> *Executive Judge Eduarte v. Ibay*, 721 Phil. 2 (2013).

<sup>44</sup> Rollo, pp. 66-69.

public's faith and confidence in the government. Indeed, public office is a public trust.<sup>45</sup>

**WHEREFORE**, the instant petition is **DENIED**. The Resolutions dated 11 January 2018 and 18 October 2018 of the Court of Appeals in CA-G.R. SP No. 149987, which upheld the Decision dated 28 June 2016 of the Office of the Ombudsman in OMB-C-A-15-0318, are hereby **AFFIRMED**. Petitioner Ma. Luisa R. Loreño is **DISMISSED** from service for Serious Dishonesty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, with cancellation of her civil service eligibility; forfeiture of retirement and other benefits, except accrued leave credits, if any; perpetual disqualification from re-employment in any government agency or instrumentality, including government-owned and controlled corporation or government financial institution; and barred from taking civil service examinations.

**SO ORDERED.**

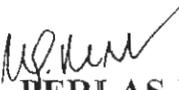


**EDGARDO L. DELOS SANTOS**  
Associate Justice

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<sup>45</sup> *Office of the Ombudsman-Mindanao v. Martel and Guiñares*, 806 Phil. 649, 666 (2017), citing *Medina v. Commission on Audit*, 567 Phil. 649, 665 (2008).

**WE CONCUR:**

  
**ESTELA M. PERLAS-BERNABE**  
 Senior Associate Justice  
 Chairperson

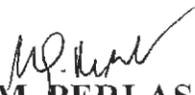
  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

(On Leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
 Associate Justice

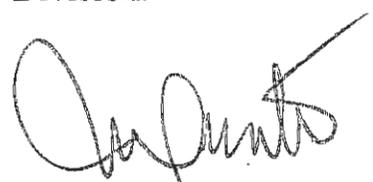
**ATTESTATION**

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.

  
**ESTELA M. PERLAS-BERNABE**  
 Senior Associate Justice  
 Chairperson, Second 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.

  
**DIOSDADO M. PERALTA**  
 Chief Justice