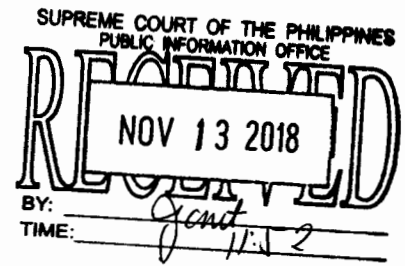




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 17, 2018** which reads as follows:*

**“G.R. No. 240766- Arthur C. Castro, Petitioner, v. Task Force Abono-Field Investigation Office (TFA-FIO), Office of the Ombudsman, Respondent.**

This Court resolves to **GRANT** petitioner’s Motion for Extension of Time to File Petition for Review on *Certiorari* seeking an additional period of thirty (30) days from the expiration of the reglementary period on August 8, 2018 within which to file his Petition for Review on *Certiorari*.

This Court has carefully reviewed the allegations, issues, and arguments adduced in the instant Petition for Review on *Certiorari*, and accordingly resolves to **DENY** the same for: (1) raising factual issues; and (2) failure to show that the Court of Appeals (CA) committed any reversible error in its May 18, 2017 Decision and July 12, 2018 Resolution in CA-G.R. SP No. 143478.

It is worth stressing that a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited only to the review of pure questions of law. Factual questions are not the proper subjects of such petition. In this case, petitioner assigns as error the CA’s affirmance of his dismissal from public office on the grounds of Grave Misconduct, Dishonesty, and Conduct Prejudicial to the Best Interest of the Service. Petitioner claims that he should not be held guilty of violating Republic Act No. (RA) 9184, the Government Procurement Reform Act, which prohibits the making of reference to brand names, as it was his ministerial duty to sign the Abstract of Proposal for Furnishing and Delivery Supplies and Materials. In other words, petitioner directly raises as argument the alleged error of the

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CA in overlooking a fact that, if properly considered, would justify a different conclusion. It is therefore clear that the resolution of the argument requires a review of the factual findings which, to reiterate, is not a function of this Court in a Rule 45 petition. It is not the duty of this Court to analyze or weigh all over again evidence already considered in the proceedings below.<sup>1</sup> This Court therefore finds no reason to disturb the factual findings of the Office of the Ombudsman which were affirmed by the CA.

Besides, a re-examination by this Court of the merits of the case will not result in a different outcome. The CA did not err in ruling that petitioner was guilty of grave misconduct, which has the following elements: (1) an established and definite rule of action; (2) a violation of said rule of action; (3) corruption, clear intent to violate the law, or flagrant disregard of the established rule. When petitioner signed the Abstract of Proposal for Furnishing and Delivering Supplies and Materials, he allowed the pre-determination of the brand name of the fertilizer to be purchased and the direct award of the procurement contract to Freshan Philippines, Inc. (Freshan). These violated Sections 18<sup>2</sup> and 21<sup>3</sup> of RA 9184 which prohibit the making of reference to brand names and require the public disclosure of the procurement through competitive public bidding, respectively. Moreover, since 3,333 bottles of Bio Nature Liquid Organic Fertilizer had already been delivered prior to the alleged canvass of prices by the Bids and Awards Committee (BAC), it is indubitably clear that petitioner tried to conceal the irregularities in the procurement of said fertilizer by signing said Abstract of Proposal.

The CA did not also err in finding petitioner guilty of dishonesty. Dishonesty refers to the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.<sup>4</sup> Here, petitioner attempted to make it appear that there was no irregularity in the procurement of the Bio Nature fertilizer. However, the established facts reveal that there was no public bidding that actually took place

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<sup>1</sup>*Conde v. IAC*, 228 Phil. 145, 149 (1986).

<sup>2</sup>Section 18. Reference to Brand Names. – Specifications for the Procurement of Goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

<sup>3</sup>Section 21. Advertising and Contents of the Invitation to Bid. - In line with the principle of transparency and competitiveness, all Invitations to Bid contracts under competitive bidding shall be advertised by the Procuring Entity in such manner and for such length of time as may be necessary under the circumstances, in order to ensure the widest possible dissemination thereof, such as, but not limited to, posting in the Procuring Entity's premises, in newspapers of general circulation, the G-EPS and the website of the Procuring Entity, if available.

<sup>4</sup>*Committee on Security and Safety, Court of Appeals v. Dianco*, 760 Phil. 169, 188 (2015).

and the Abstract of Proposal was signed by petitioner only after the delivery of said fertilizer. Petitioner's deceitful act, therefore, constitutes dishonesty.

The CA likewise ruled correctly that petitioner's blatant disregard of laws and failure to discharge his duty properly tarnished the image and integrity of the office he holds. Thus, there was no error in finding petitioner guilty of conduct prejudicial to the best interest of the service. Prejudice to the service is not only through wrongful disbursement of public funds or loss of public property. Greater damage comes with the public's perception of corruption and incompetence in the government.<sup>5</sup>

Lastly, this Court is not convinced the petitioner was deprived of his right to speedy trial from the inordinate delay by the Ombudsman in resolving this case. The complaint against him and several other public officials in the local government of Butuan City was filed on April 11, 2011. The Ombudsman rendered its Decision on September 3, 2013. The length of time it took to resolve the Complaint was understandable considering that the varying modes of participation by petitioner and seven of his co-respondents and their respective responsibilities had to be established. During the preliminary investigation stage conducted by the Ombudsman, the petitioner and his co-respondents filed their Counter Affidavits with supporting documents. Six of them then filed their respective position papers while one filed a Manifestation adopting his counter-affidavit as his position paper. The period of 2 years and 5 months to decide the case is not difficult to comprehend due to the documents and pleadings on record that had to be reviewed. Thus, this Court finds that petitioner's right to a speedy disposition of the case was not infringed upon.

Petitioner's insistence that there was a conspiracy and that he did not participate in the same is unfounded. There was no ruling by the CA and the Ombudsman that petitioner conspired with his co-respondents for the transaction with Freshan to prosper. The Ombudsman found, and the CA affirmed, that there was substantial evidence to hold petitioner and his co-respondents liable for grave misconduct, dishonesty, and conduct prejudicial to the best interest of the service in the discharge of their functions relating to the procurement of Bio Nature fertilizer from Freshan.

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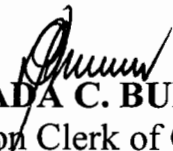
<sup>5</sup>*Japson v. Civil Service Commission*, G.R. No. 19479, April 12, 2011.

All told, the finding that petitioner is guilty of Grave Misconduct is sufficient to warrant his dismissal from the service. However, petitioner's assertion in his Petition for Review on *Certiorari* of an unblemished record in the public service since 1975 and his commission of the offense for the first time should be considered and appreciated as mitigating circumstances in his favor. The penalty of one (1) year suspension without pay is therefore imposed on petitioner pursuant to prevailing jurisprudence.<sup>6</sup>

**WHEREFORE**, this Court resolves to **DENY** the Petition for Review on *Certiorari* and **AFFIRM** the assailed May 18, 2017 Decision and July 12, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 143478 with **MODIFICATION** of the penalty imposed on petitioner Arthur C. Castro to suspension of one (1) year without pay.

**SO ORDERED.**” *Bersamin, J., designated as Acting Chairperson of the First Division per S.O. No. 2606 dated October 10, 2018; Jardeleza, J., took no part; Carpio, J., designated Additional Member per Raffle dated October 10, 2018; Gesmundo, J., designated as Additional Member of the First Division per S.O. No. 2607 dated October 10, 2018.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court <sup>sk/16</sup>

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<sup>6</sup>*Committee on Security and Safety, CA v. Dianco*, 777 Phil. 16, 27 (2016).

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