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MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

MAY 12 2022

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NAVOTAS INDUSTRIAL G.R. No. 230931
CORPORATION,
Petitioner, Present:

LEONEN, J., Chairperson,
CARANDANG,
ZALAMEDA,
ROSARIO, and
DIMAAMPAO*, JJ.

-versus-

ALBERTO C. GUANZON,
Respondent.

Promulgated:
November 15, 2021

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X-----X

DECISION

LEONEN, J.:

A public officer’s deliberate recommendation for approval for the release of public funds to a person, whom they know or should have known to be unauthorized by their ostensible principal, may constitute a failure to discharge the duties of public office. In such case, the public officer may be held liable for grave misconduct.¹

This resolves a Petition for Review on Certiorari² filed by Navotas Industrial Corporation (Navotas Industrial), seeking the reversal of the Court

* Designated additional Member per Special Order No. 2839.

¹ *In re Castor*, 719 Phil. 96 (2013) [Per Curiam, En Banc].

² *Rollo*, pp. 3–24.

of Appeals Amended Decision³ that exonerated respondent Alberto C. Guanzon (Guanzon) from a charge of grave misconduct. In its original Decision,⁴ the Court of Appeals affirmed the Office of the Ombudsman's Decision,⁵ finding Guanzon guilty as charged.

Navotas Industrial is a domestic corporation duly organized under the laws of the Philippines. Meanwhile, Guanzon is the former chair of the Committee on Contract Expiration on Insurance Capacities of the National Power Corporation.⁶

In 1993, Navotas Industrial entered into an Energy Conversion Agreement⁷ with Ganda Energy and Holdings Inc. (Ganda Energy), covering various dredging and construction projects in preparation for the arrival of a power barge.⁸ Under the Agreement, Ganda Energy undertook to pay Navotas Industrial ₱45,647,472.07 through two post-dated checks.⁹

Upon expiration of the Agreement, Ganda Energy and Navotas Industrial executed a Settlement Agreement¹⁰ concerning an outstanding balance of ₱45,647,472.07. Pursuant to this latter agreement, Ganda Energy agreed to pay a reduced amount of \$600,000.00 or its equivalent to Navotas Industrial through two post-dated checks. The obligation was subject to the condition that if any of the checks were not made good, the obligation would automatically revert to the original amount.¹¹ Unfortunately, these checks were later dishonored.¹²

Apparently, Ganda Energy has receivables from the National Power Corporation. On October 24, 2000, Navotas Industrial wrote to the National Power Corporation and requested its assistance for the recovery of the outstanding receivables from Ganda Energy. Navotas Industrial requested the National Power Corporation to refrain from releasing payment to Ganda Energy and, instead, to release the same to Navotas Industrial.¹³

³ Id. at 31–36. The March 30, 2017 Amended Decision was penned by Associate Justice Francisco P. Acosta (Acting Chairperson), and concurred in by Associate Justices Socorro B. Inting and Eduardo B. Peralta, Jr. of the Special Former Fourth Division, Court of Appeals, Manila.

⁴ Id. at 369–380. The May 17, 2016 Decision was penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Noel G. Tijam, and Eduardo B. Peralta, Jr. of the Fourth Division, Court of Appeals, Manila.

⁵ Id. at 345–367. The January 28, 2011 Decision was penned by Graft Investigation and Prosecution Officer I Lucielo J. Ramirez, Jr., reviewed by Graft Investigation and Prosecution Officer II Mothalib C. Onos, recommended for approval by Acting Assistant Ombudsman Mary Susan S. Guillermo, and approved by Acting Ombudsman Orlando C. Casimiro. Based on the Court of Appeals Decision, petitioner's Motion for Reconsideration of the Ombudsman Decision was denied in an Order dated March 19, 2014.

⁶ Id. at 378. See also id. at 3, 81, 354.

⁷ Id. at 4. See also id. at 369.

⁸ Id. at 37, 60. See also id. at 369.

⁹ Id. at 37. See also id. at 369–370.

¹⁰ Id. at 44. See also id. at 369–370.

¹¹ Id. at 37. See also id. at 369–370.

¹² Id. at 37 and 71. See also id. at 369–370.

¹³ Id. at 371.

Through a letter,¹⁴ the National Power Corporation declined to act on Navotas Industrial's request. It stated that as of November 15, 2000, it was still discussing with Ganda Energy regarding the settlement of some outstanding collectibles arising from their lease contract. Moreover, it claimed that under its policies, it "does not allow release of payments to a third party without express authorization from its contractor, or without a court order" to prevent it "from being involved in the internal affairs of its contractors."¹⁵

Sometime in March 2003, however, purported representatives of Ganda Energy presented a letter of authority, bearing the letterhead of Ganda Energy, and signed by one of Ganda Energy's directors, Mr. Foo Lee Khean. In this letter, Mr. Khean allegedly authorized Mr. Terence Selvarajah and Kay Swee Tuan of and S.T. Kay & Company to settle Ganda Energy's outstanding claims from the National Power Corporation and execute a quitclaim.¹⁶ In turn, Kay Swee Tuan authorized Ms. Nora Go to collect the checks on her behalf.¹⁷ On this basis, Ms. Go, as a purported representative of Ganda Energy, transacted with the National Power Corporation.¹⁸

Accordingly, the National Power Corporation paid Ganda Energy's receivables to Kaw Swee Tuan on March 19 and 20, 2003, amounting to ₱124,436,195.00 and \$2,167,701.16. These payments were done through bank remittances and checks in favor of Kaw Swee Tuan or S.T. Kay & Company, for the account of Ganda Energy.¹⁹ In turn, S.T. Kay & Company issued two receipts in favor of the National Power Corporation.²⁰

The National Power Corporation contended that, as of March 24, 2003, it had already fully paid Ganda Energy its receivables.²¹ Therefore, it no longer had any outstanding payables to Ganda Energy.²²

On July 21, 2003, Navotas Industrial filed a Complaint-Affidavit against Guanzon before the National Bureau of Investigation.²³ It questioned the regularity of the payments made by the National Power Corporation to Kay Swee Tuan of S.T. Kay & Company, which it claimed to be unauthorized parties absent the required authority of the board of directors of Ganda Energy.²⁴

¹⁴ Id. at 62.

¹⁵ Id.

¹⁶ Id. at 72.

¹⁷ Id. at 53.

¹⁸ Id. at 72.

¹⁹ Id. at 56. *See also* id. at 370.

²⁰ Id. at 54-55. *See also* id. at 371.

²¹ Id. at 50.

²² Id.

²³ Id. at 37-66.

²⁴ Id. at 39.

After its investigation, the National Bureau of Investigation found that the authorization letter that served as basis for the release of Ganda Energy's receivables to Kay Swee Tuan was not only unauthenticated but also spurious as Mr. Khean disowned the signature on the authorization letter.²⁵ However, given the memorandum prepared by Guanzon recommending the payment to Ganda Energy through Kay Swee Tuan,²⁶ the National Power Corporation accepted the representation made by purported representatives of Ganda Energy despite their failure to present a board resolution from Ganda Energy's Board of Directors.²⁷

For this, the National Bureau of Investigation recommended that Guanzon, along with other officials of the National Power Corporation, be indicted for "giving unwarranted benefits, advantage, or preference through manifest partiality, evident bad faith, or gross inexcusable negligence to S.T. Kay & Co., Kay Swee Tuan[,] and/or Nora Go."²⁸ In particular, Guanzon was recommended to be charged for "recommending approval of disbursement vouchers and memorandum allowing payment of [Ganda Energy's] entire claim" to Kay Swee Tuan of S.T. Kay despite knowledge that Ganda Energy has other creditors.²⁹

Acting on the National Bureau of Investigation's indorsement, the Office of the Ombudsman proceeded with its own investigation. It later affirmed the findings of the National Bureau of Investigation.³⁰ It found that Guanzon and the other officers of the National Power Corporation ignored Navotas Industrial's communications, informing it of Navotas Industrial's money claims against Ganda Energy. Despite knowledge that other claimants exist, Guanzon, together with the other officers of National Power Corporation, released the entire receivables of Ganda Energy to Kay Swee Tuan of S.T. Kay & Co. and Nora Go.³¹

The Office of the Ombudsman also found that Guanzon and the other officers did not conduct proper verification and merely relied on these documents and Guanzon's memorandum.³² Nonetheless, as Guanzon was no longer connected with the National Power Corporation, the Ombudsman found the imposition of the principal penalty of dismissal from service moot.³³ The dispositive portion of the Ombudsman's Decision reads:

²⁵ Id. at 72.

²⁶ Id. at 76.

²⁷ Id. at 73.

²⁸ Id. at 81.

²⁹ Id.

³⁰ Id. at 363.

³¹ Id. at 353.

³² Id. at 353-354.

³³ Id. at 364.

Wherefore, premises considered, the respondents Rogelio M. Murga and Alberto C. Guanzon are found guilty of grave misconduct and meted with the penalty of dismissal from the service with the corresponding accessory penalties of cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification for reemployment in government service. Let the meted penalty be entered in respondents Rogelio M. Murga and Alberto C. Guanzon's 201 file.

The complaint against public respondents Joseph M. Dechavez and Urbano C. Mendiola is hereby dismissed for want of substantial evidence.

SO ORDERED.³⁴ (Emphasis supplied)

Guanzon thereafter filed a Motion for Reconsideration, which the Office of the Ombudsman denied in an Order.³⁵

Aggrieved, Guanzon appealed before the Court of Appeals. He argued that the "payments to [Ganda Energy] were done in good faith and the necessary procedures for the same were followed."³⁶ He maintained that his duty consisted of evaluating the contract and recommending payment to Ganda Energy. As his function was limited to evaluating and recommending payment of the claims to a creditor, he allegedly had no participation in the determination of persons authorized to receive payment for Ganda Energy.³⁷

The Court of Appeals was not swayed.³⁸ In its Decision³⁹, it upheld the Ombudsman's findings and stated that Guanzon's administrative culpability for grave misconduct on substantial evidence.⁴⁰ It found that Guanzon recommended the approval of disbursement vouchers and the payment of Ganda Energy's entire account to Kay Swee Tuan, who did not have authority to receive said payment.⁴¹ The dispositive portion of the Court of Appeals' Decision states:

WHEREFORE, premises considered, the Petition is DENIED. The Decision of the Office of the Ombudsman dated 28 January 2011 in OMB-C-A-09-0031-C and Order dated 19 March 2014, are hereby AFFIRMED.

SO ORDERED.⁴²

Upon Guanzon's Motion for Reconsideration, however, the Court of Appeals reconsidered its earlier position. Relying on the presumption of

³⁴ Id. at 365–366.

³⁵ Id. at 373.

³⁶ Id. at 376.

³⁷ Id.

³⁸ Id.

³⁹ Id. at 369–379.

⁴⁰ Id. at 376–377.

⁴¹ Id. at 378.

⁴² Id. at 379.

good faith in the performance of duties, the Court of Appeals issued its Amended Decision,⁴³ where it stated that there was no substantial evidence showing how Guanzon acted with willful intent to violate the law, thereby amounting to grave misconduct.⁴⁴

For this Court's resolution is the issue of whether or not there is substantial evidence to hold respondent Alberto C. Guanzon administratively liable for grave misconduct.

The petition is meritorious.

At the outset, this Court is not a trier of facts. The scope of this Court's judicial review through a petition for review on *certiorari* is generally confined to errors of law.⁴⁵ It does not extend to a re-evaluation of the sufficiency of the evidence upon which a tribunal has based its determination.⁴⁶ Nonetheless, this rule is not without exceptions, such as in this case when the findings of fact of the Court of Appeals, while premised on the absence of evidence, are contradicted by the evidence on record.⁴⁷ Therefore, this Court deems it proper to review the factual findings of the lower tribunals.

Under the doctrine of conclusiveness of administrative findings of fact, factual findings of quasi-judicial and administrative bodies, when supported by substantial evidence, are accorded great respect and even finality by the courts.⁴⁸ The rationale behind this doctrine is that administrative bodies are considered as specialists in their respective fields and can thus resolve the cases before them with dispatch.⁴⁹

Absent any clear showing of abuse, arbitrariness, or capriciousness committed on the part of the lower tribunal, its findings of facts are binding

⁴³ Id. at 31–36.

⁴⁴ Id. at 32.

⁴⁵ *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388 (2014) [Per J. Leonen, Second Division].

⁴⁶ Id.

⁴⁷ *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division]. In *Pascual*, this Court has held that it will review the factual findings of the Court of Appeals in any of the following instances: (1) when the factual findings of the Court of Appeals and the trial court are contradictory; (2) when the conclusion is a finding grounded entirely on speculation, surmises, or conjectures; (3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible; (4) when there is a grave abuse of discretion in the appreciation of facts; (5) when the Appellate Court, in making its findings, went beyond the issues of the case and such findings are contrary to the admissions of both appellant and appellee; (6) when the judgment of the Court of Appeals is premised on a misapprehension of facts; (7) when the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion; (8) when the findings of fact are themselves conflicting; (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.

⁴⁸ *Fil-Estate Properties, Inc. v. Reyes*, G.R. Nos. 152797, September 18, 2019. <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65753>> [Per J. Leonen, Third Division].

⁴⁹ Id.

and conclusive upon the courts.⁵⁰

In *Floralde v. Court of Appeals*,⁵¹ this Court explained that:

Well-settled is the rule in our jurisdiction that the findings of fact of an administrative agency must be respected, as long as such findings are supported by substantial evidence, even if such evidence might not be overwhelming or preponderant. *It is not the task of an appellate court to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the administrative agency in respect of sufficiency of evidence.*⁵² (Emphasis supplied)

Substantial evidence is the quantum of evidence required to establish a fact in cases before administrative or quasi-judicial bodies. It has been defined as “such amount of relevant evidence [that] a reasonable mind might accept as adequate to justify a conclusion.”⁵³ This quantum of evidence “is satisfied where there is reasonable ground to believe that [a person] is guilty of the act or omission complained of, even if the evidence might not be overwhelming.”⁵⁴

In rendering its Amended Decision and exonerating respondent, the Court of Appeals stated that it “cannot conclude that [respondent] committed any irregularity or misconduct in evaluating the contract between [Ganda Energy] and [the National Power Corporation] and consequently recommending payment.”⁵⁵ It held that petitioner Navotas Industrial failed to present substantial evidence to establish respondent’s culpability.⁵⁶

We disagree.

Misconduct is defined as “a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior.”⁵⁷ “To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not [trifling].”⁵⁸

“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

⁵⁰ RULES OF COURT, Rule 65, sec. 1.

⁵¹ 392 Phil. 146 (2000) [Per J. Pardo, En Banc].

⁵² Id. at 153.

⁵³ *Castillon v. Magsaysay Mitsui Osk Marine, Inc.*, G.R. No. 234711, March 2, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66406>> [Per J. Leonen, Third Division].

⁵⁴ *Office of the Ombudsman v. Agustino*, 758 Phil. 191, 201 (2015) [Per. J. Mendoza, Second Division].

⁵⁵ *Rollo*, p. 33.

⁵⁶ Id.

⁵⁷ *In re Castor*, 719 Phil. 96, 100 (2013) [Per Curiam, En Banc].

⁵⁸ *Toledo v. Office of the Ombudsman*, G.R. No. 249834, January 19, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67168>> [Per J. Carandang, First Division].

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.”⁵⁹ “The misconduct is grave if it involves any of the additional elements of corruption [and] willful intent to violate the law or to disregard established rules.”⁶⁰

This Court has stated that the following elements must be present for a public officer to be liable for grave misconduct, namely:

(a) a rule of action, standard of behavior, or rule of law; (b) transgression or violation of the rule which must be intentional and not a mere error of judgment; (c) close relation or intimate connection between the misconduct and the public officer's performance of duties and functions; and (d) presence of corruption, clear intent to violate the law or flagrant disregard of established rule.⁶¹

Intent involves a state of mind, which is difficult to decipher. Nonetheless, in *Office of the Deputy Ombudsman for Luzon v. Dionisio*,⁶² this Court held that there is clear intent to violate a rule when the public officers are aware of the existing rules, yet they intentionally choose to disobey them. This flagrant disregard of the rules is demonstrated by a public officer's propensity to ignore the rules as clearly manifested in their actions.⁶³

Section 23 of Batas Pambansa Bilang 68, the Corporation Code in effect at the time of the occurrence of the alleged misconduct, provides:

Unless otherwise provided in this Code, *the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees* to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified.⁶⁴

In *Manila Metal Container Corporation v. Philippine National Bank*,⁶⁵ this Court stated explained that:

⁵⁹ Id.

⁶⁰ *In re Castor*, 719 Phil. 96, 100 (2013) [Per Curiam, En Banc].

⁶¹ *Office of the Ombudsman v. De Guzman*, G.R. No. 214327, May 3, 2021 (Notice), citing *Field Investigation Office of the Office of the Ombudsman v. Castillo*, 794 Phil. 53, 61-62 (2016) [Per J. Perlas-Bernabe, First Division].

⁶² 813 Phil 474 (2017) [Per J. Perlas-Bernabe, First Division].

⁶³ *Imperial, Jr. v. Government Service Insurance System*, 674 Phil. 286 (2011) [Per J. Brion, En Banc].

⁶⁴ Batas Pambansa Bilang 68 (1980), sec. 23.

⁶⁵ 540 Phil. 451 (2006) [Per J. Callejo, Sr., First Division].

Section 23 of the Corporation Code expressly provides that the corporate powers of all corporations shall be exercised by the board of directors. Just as a natural person may authorize another to do certain acts in [their] behalf, so may the board of directors of a corporation validly delegate some of its functions to individual officers or agents appointed by it. Thus, *contracts or acts of a corporation must be made either by the board of directors or by a corporate agent duly authorized by the board. Absent such valid delegation/authorization, the rule is that the declarations of an individual director relating to the affairs of the corporation, but not in the course of, or connected with the performance of authorized duties of such director, are held not binding on the corporation.*

Thus, *a corporation can only execute its powers and transact its business through its Board of Directors and through its officers and agents when authorized by a board resolution or its by-laws.*⁶⁶ (Emphasis supplied)

In this regard, a majority of the number of directors as fixed in the articles of incorporation of a corporation generally constitute a quorum for the transaction of corporate business.⁶⁷ “[E]very decision of at least a majority of the directors or trustees present at a meeting at which there is a quorum shall be valid as a corporate act.”⁶⁸ Otherwise stated, the exercise of corporate power is vested upon the board of directors as a collective body, and not upon the individual members thereof. Thus, a corporation can generally be bound only through the collective act of its board of directors.⁶⁹

Agency is not presumed. Proving its existence, nature, and extent is incumbent upon the person alleging it.⁷⁰

In *Bordador v. Luz*,⁷¹ this Court stated that “a person dealing with an agent is put upon inquiry and must discover upon [their] peril the authority of the agent.”⁷² They must demand a written authority from the principal, lest it would be grossly and inexcusably negligent for such third party to enter into a contract with such agent.⁷³

Thus, a third party must determine the nature and extent of authority of a purported agent to bind a principal. Failure to do so constitutes negligence. Accordingly, they cannot enforce the contract against the ostensible principal.

⁶⁶ Id. at 474.

⁶⁷ Batas Pambansa Bilang 68 (1980), sec. 25.

⁶⁸ Batas Pambansa Bilang 68 (1980), sec. 25.

⁶⁹ *Manila Metal Container Corporation v. Philippine National Bank*, 540 Phil. 451 (2006) [Per J. Callejo, Sr., First Division].

⁷⁰ *Jusayan v. Sombilla*, 751 Phil. 109 (2015) [Per J. Bersamin, First Division].

⁷¹ 347 Phil. 654 (1997) [Per J. Regalado, Second Division].

⁷² Id. at 662.

⁷³ Id.

Determining the nature and scope of authority of a purported agent who collects payment on behalf of a principal is important as the payment of an obligation must be “made to the person in whose favor the obligation has been constituted, or [their] successor in interest, or any person authorized to receive it.”⁷⁴ Payment made to a third person will extinguish an obligation only insofar as it redounded to the benefit of the creditor,⁷⁵ or when payment was made in good faith to said third person, who must be in possession of the credit.⁷⁶

In the case of juridical entities, as in this case, the appointment of authorized representatives made by a corporation’s board of directors is typically embodied in a board resolution or a secretary’s certificate to enter into specified acts or transactions on behalf of the corporation.⁷⁷ Absent any board resolution or secretary’s certificate designating said representative to act on behalf of the corporation, any act performed purportedly on behalf of said corporation will be deemed unenforceable as against the corporation.⁷⁸

It bears noting that the foregoing rules are found in law and jurisprudence. Knowledge of the foregoing laws and judicial decisions is presumed on the part of respondent, and ignorance thereof excuses no one from compliance therewith.⁷⁹

It is undisputed that Kay Swee Tuan was not authorized by the board of directors of Ganda Energy to act on its behalf.⁸⁰ This notwithstanding, respondent recommended the disbursement vouchers and allowed payment of Ganda Energy’s entire account to Kay Swee Tuan, who, it bears reiterating, did not possess authority to receive said payment.⁸¹

Indeed, the records are bereft of any documentary evidence in the form of a board resolution or a secretary’s certificate that the board of directors of Ganda Energy as a collective body appointed Kay Swee Tuan as the corporation’s authorized representative in transacting with the National Power Corporation. Respondent failed to ensure the veracity of authority of Kay Swee Tuan.⁸² He should not have dealt with Kay Swee Tuan,⁸³ much less recommended the release of receivables to her.

⁷⁴ CIVIL CODE, art. 1240.

⁷⁵ CIVIL CODE, art. 1241.

⁷⁶ CIVIL CODE, art. 1242.

⁷⁷ See RULES OF COURT, Rule 7, Sec. 5. In *National Power Corp. v. Tenorio*, G.R. Nos. 223403 and 223460-61 (Notice), February 28, 2018, this Court explained that in case of juridical entities, the person signing a certificate against forum shopping must be vested with authority of the principal party-corporation through a board resolution or secretary’s certificate to sign on behalf of the corporation. Absent any board resolution or secretary’s certificate designating the person to file the petition and sign the certification, the petition is deemed fatally defective and is subject to dismissal.

⁷⁸ CIVIL CODE, art. 1403(1).

⁷⁹ CIVIL CODE, art. 3.

⁸⁰ *Rollo*, p. 349, 377–378.

⁸¹ *Id.* at 378.

⁸² *Id.* at 352–353.

Considering that Kay Swee Tuan did not possess the credit nor was authorized by Ganda Energy, any payment made to her does not extinguish the outstanding obligation of National Power Corporation to Ganda Energy.⁸⁴

Here, both the National Bureau of Investigation and Office of the Ombudsman found that there were glaring irregularities attending the release of petitioner's receivables.

As the Office of the Ombudsman stated:

In a letter of respondents Guanzon and Murga dated December 18, 2003, addressed to Atty. Ricardo A. Diaz of the NBI, they categorically affirmed that [National Power Corporation negotiated with T. Kay and Co., believing in good faith in the representations made by the latter, in view of the absence of objection by [Ganda Energy], which according to them closed its Manila office and ceased to operate sometime in CY 2000. We find the records sorely lacking in any evidentiary support to sustain respondents Guanzon and Murga's claim of good faith.

Clearly, the representation of S[.]T. Kay and Co., was based on spurious documents. Based on the records it appears that [S.]T. Kay and Co., Mr. Selvarajah and Kay Swee Tuan derived their supposed authority, to represent [Ganda Energy] in its transactions with the [National Power Corporation], from a Malaysian national by the name of Mr. Foo Lee Khean. The records however show that Foo utterly lacked the authority to appoint said persons to represent [Ganda Energy] in such transactions. As a matter of fact, records show that Foo was not even connected to [Ganda Energy]. Acting on the flawed authority, Kay Swee Tuan further appointed Mrs. Nora T. Go to collect the check payments in respect [of] the partial Settlement of Claims against [Ganda Energy] before the [National Power Corporation]. Thereafter [National Power Corporation] made yet another payment of its [Ganda Energy] account in favor of Kay Swee Tuan & Co., thru bank transfer. In all, ₱124,436,195.00 [] payments were made by [National Power Corporation] to these persons/entities.

From the records, it cannot be denied that the [National Power Corporation] had full knowledge of the fact that it was dealing with a foreign entity, as such, it was incumbent upon respondents Murga and [Guanzon] to have made the proper verification before dealing with them, and certainly prior to releasing the funds subject of this case. Stringent verification became all the more crucial with their knowledge that [Ganda Energy] had already closed its Manila office and ceased operation since CY 2000.

Another point which establishes the duos' complicity is that, prior to the release of the funds, [National Power Corporation] was already made aware of the [Ganda Energy]'s unpaid account with [Navotas

⁸³ Id. at 361.

⁸⁴ CIVIL CODE, art. 1241.

Industrial]. Despite their knowledge of such claims, respondents Murga and Guanzon's [sic] still released the entire amount of [Ganda Energy]'s collectible to S.T. Kay & Co. / Kay Swee Tuan and/or Nora Go. Knowledge of such claims should have cautioned the duo in releasing the entire collections of [Ganda Energy] to said persons, who, not to mention possessed doubtful authority.

....

A cursory reading of the above cited statements undeniably validates the findings that the supposed representatives utterly lacked the authority to collect [Ganda Energy]'s receivables from [National Power Corporation]. As such, the latter, through respondents Murga and Guanzon, acted beyond the bounds of their public duties when they released the funds to the supposed foreign representatives.⁸⁵ (Emphasis supplied)

From the foregoing, respondent's acts clearly show his culpability for grave misconduct. Under Section 50(A)(3), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service, grave misconduct is a grave offense punishable with dismissal from the service. In turn, Section 57, Rule 10 of these Rules provides that the penalty of dismissal carries with it the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office and from taking the civil service examinations.⁸⁶

Considering, however, that respondent is no longer connected with the National Power Corporation, the imposition of the principal penalty of dismissal is no longer tenable.⁸⁷ Nonetheless, this Court has held that where a respondent is found guilty of a grave offense but the penalty of dismissal is no longer possible, the just and appropriate disciplinary measures and sanctions may still be imposed. Among others, this can be done "by decreeing the forfeiture of all benefits to which [they] may be entitled, except accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the Government, including Government-owned and Government-controlled corporations."⁸⁸

WHEREFORE, the Petition is **GRANTED**. The Amended Decision dated March 30, 2017 of the Court of Appeals in CA-G.R. SP No. 135930 is **REVERSED** and **SET ASIDE**. The Decision dated May 17, 2016 of the Court of Appeals in CA-G.R. SP No. 135930 and the Decision dated January 28, 2011 of the Office of the Ombudsman in OMB-C-A-09-0031-C, insofar as it found respondent Alberto C. Guanzon guilty of grave misconduct is hereby **REINSTATED** with modification.

⁸⁵ *Rollo*, p. 359-363.

⁸⁶ *Civil Service Commission v. Rodriguez*, G.R. No. 248255, August 27, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66494>> [Per J. Lazaro-Javier, First Division].

⁸⁷ *Rollo*, p. 364.

⁸⁸ *In re Austria*, 744 Phil. 526, 536 (2014) [Per J. Bersamin, En Banc].

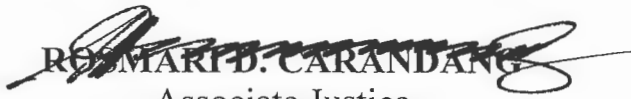
Because respondent Alberto C. Guanzon is guilty of grave misconduct that would have warranted his dismissal from the service had he remained connected with the National Power Corporation, this Court hereby imposes the accessory penalties of: (a) cancellation of eligibility, (b) forfeiture of all benefits, including retirement benefits but excluding accrued leave credits, and (c) perpetual disqualification from holding public office in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution and from taking civil service examinations.


SO ORDERED.

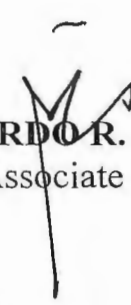


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ROSMARIB D. CARANDANG
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice

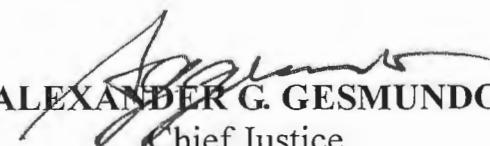
ATTESTATION

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


MARVIC M.V.F. LEONEN
 Associate Justice
 Chairperson

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.


ALEXANDER G. GESMUNDO
 Chief Justice

CERTIFIED TRUE COPY

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ISAEL DOMINGO C. BATTUNG III
 Division Clerk of Court
 Third Division
 MAY 12 2022