



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 May 2021** which reads as follows:*

“G.R. No. 214327 (Office of The Ombudsman v. Evelyn De Guzman).
— Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, seeking to reverse and set aside the Court of Appeals’ (CA) March 6, 2014 Decision² and September 4, 2014 Resolution³ in CA-G.R. SP No. 131592 exonerating City Treasurer Evelyn De Guzman (De Guzman) of the charge of Grave Misconduct.

ANTECEDENTS

The case stemmed from a complaint filed before the Office of the Ombudsman (OMB) alleging that De Guzman, Valenzuela City Mayor Jose Emmanuel Carlos (Mayor Carlos), Schools Division Superintendent Dr. Victoria Q. Fuentes (Fuentes), Buyer III Manuel Escobia (Escobia), Management Audit Analyst III Virginia Ong (Ong), and Employee Rodolfo Pilien⁴ were involved in several anomalies in the procurement of textbooks, teacher’s manuals, steel piles, computers, armchairs, gift checks, and motor vehicles to the detriment of the City of Valenzuela. In so far as De Guzman is concerned, she was the signatory of Purchase Request (PR) Nos. 2001-070 and 036, and Purchase Order (PO) Nos. 04475, 011139, and 01520 on the following:

First, PR No. 2001-070 and PO No. 04475 cover the purchase of textbooks from IFS Trading. The complainants claimed that the publisher did

¹ *Rollo*, pp. 12-30.

² *Id.* at 37-51; penned by Associate Justice Norrmandie B. Pizarro, with the concurrence of Presiding Justice Andres B. Reyes, Jr. (retired Member of this Court) and Associate Justice Manuel M. Barrios.

³ *Id.* at 53-54.

⁴ *Id.* at 68-69.

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not authorize IFS Trading to sell to Valenzuela City, and the textbooks were overpriced. The ₱180.00-unit price is not only beyond the ceiling price provided under Department of Education, Culture and Sports (DECS) Order No. 35, s. 2000 but also based on a falsified National Printing Office (NPO) letter purportedly including the textbooks on the list.

Second, PR No. 036 and PO No. 011139 cover the purchase of textbooks from Caryl General Merchandise. According to complainants, PR No. 036 was tampered with to increase the estimated cost of the textbooks. The DECS Office Order No. 8, series of 1999 attached to the disbursement voucher was falsified, and there were erasures in the description and unit cost of certain items.

Third, PO No. 01520 covers one 1999 Brand New Asia Combi (Kia Combi) bought from Auto Centrum, Inc. (Auto Centrum). The complainants alleged that the Certificate of Distributorship was falsified to show that Auto Centrum is the exclusive distributor of Kia Combis in the Philippines. Further, the Kia Combi was bought without public bidding despite quotations from other suppliers.

As a defense, De Guzman enumerated her functions as a Treasurer under the Local Government Code (LGC) and argued that her duties are limited to cashiering functions. She is not responsible for procurement, and her act of signing the POs is procedural and ministerial.⁵

In a Decision dated April 9, 2008,⁶ the OMB found De Guzman, together with Escobia and Ong, guilty of Grave Misconduct and imposed upon them the penalty of dismissal. The OMB ruled that the act of awarding the contract to IFS Trading even though it was not authorized to sell the textbooks constituted grave misconduct. The OMB observed that PO No. 036 issued in favor of Caryl General Merchandise contained material erasures, which should have raised De Guzman's suspicion before signing. Regarding the purchase of Kia Combi, the OMB noted that two suppliers offered the

⁵ *Id.* at 106.

⁶ *Id.* at 68-144. The dispositive portion of the Decision, reads:

WHEREFORE, FOREGOING PREMISES CONSIDERED, respondents EVELYN DE GUZMAN, MANUEL ESCOBIA and VIRGINIA ONG, are found Guilty of Grave Misconduct for which the penalty of Dismissal from the Service, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification for re-employment in the government service, is hereby recommended pursuant to Sections 53 and 58, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.

The above-entitled complaint, as against respondents JOSE EMMANUEL CARLOS and RODOLFO PILIEN, and as against VICTORIA FUENTES is hereby DISMISSED for being moot and academic and for insufficiency of evidence, respectively.

Pursuant to Section 7, Administrative Order 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, Series of 2006, the Honorable Sherwin T. Gatchalian, Mayor, City of Valenzuela, and the Honorable Margarito Teves, Secretary, Department of Finance, are hereby directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number, to this Office, thru the Central Records Division, 2nd Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128 Quezon City.

Compliance is respectfully enjoined consistent with Sec. 3(e) of RA 3019 (Anti-Graft and Corrupt Practices Act) and Section 15(3) of RA 6770 (Ombudsman Act of 1989).

same vehicle at substantially the same price; hence, there was no valid reason to do away with the requirement of public bidding.

De Guzman sought reconsideration, but was denied.⁷ She appealed to the CA. On March 6, 2014, the CA issued its Decision⁸ dismissing the administrative complaint for grave misconduct against De Guzman based on two grounds. *First*, the OMB failed to prove her participation in the falsification of the questioned POs. The CA pointed out that the Commission on Audit (COA) did not find evidence against De Guzman and did not recommend filing charges against her.⁹ *Second*, there is no independent substantial evidence to hold De Guzman liable for grave misconduct. Therefore, the OMB committed a grievous error in recommending her dismissal.¹⁰ The decretal portion of the Decision, reads:

WHEREFORE, the instant petition is **GRANTED**. The assailed dispositions are **REVERSED** and **SET ASIDE**. Accordingly, the complaint in OMB-C-A-06-0368-G, in so far as Evelyn De Guzman is concerned, is **DISMISSED**.

SO ORDERED.¹¹

The CA denied the OMB's motion for reconsideration;¹² hence, this recourse.

The OMB stresses that De Guzman was not charged for her participation in the falsification of the supporting documents but for her failure to avert the illegal purchase of the supplies and equipment. De Guzman failed to exercise her functions as the City Treasurer, Acting General Services Officer (GSO), and Member of the City School Board.

On the other hand, De Guzman argues that the petition raises questions of fact and involves a change in theory. The OMB previously charged her for her participation in the falsification, and this is the first time she is being blamed for her failure to avert the illegal purchase of the supplies and equipment. At any rate, she cannot be held liable for grave misconduct, absent a clear showing that she knowingly, personally, and deliberately participated in the falsification of the documents supporting the procurements. De Guzman avers that procurement is not part of her duties as the treasurer. She only temporarily took over the City GSO position to continue the processing of the purchasing requirement. As a result, she had to rely on the regularity in the performance of duty of other accountable public officers who were tasked to validate the supporting documents. Lastly, this is the first time that she is administratively charged in her 34 years of government service.

⁷ *Id.* at 145-156.

⁸ *Id.* at 37-51.

⁹ *Id.* at 45-46.

¹⁰ *Id.* at 50.

¹¹ *Id.* at 51.

¹² *Id.* at 53-54.

RULING

The petition is unmeritorious.

On the procedural aspect, the Court finds that the petition raises a question of law and not of fact. There is a question of law when the issue pertains to what the law is on certain facts or circumstances. Meanwhile, there is a question of fact when the issue relates to the truth or falsity of the set of facts.¹³ The parties do not dispute that De Guzman signed the POs, and the subject transactions were approved based on falsified supporting documents. Therefore, the remaining issue to be resolved is De Guzman's liability in recommending the approval of the subject transactions, which is a question of law.

The OMB did not change its theory on appeal. In its Order¹⁴ resolving De Guzman's motion for reconsideration, the OMB clarified that De Guzman's liability is based on her indispensable participation in the disbursements of public funds and not her mere act of signing the POs. Further, the CA gave credence to De Guzman's position that she was temporarily recommending the approval of the POs since the City GSO position was vacant and she had to rely on the regularity of the performance of duties of other public officers. Verily, there is no change of theory that could have prejudiced De Guzman's rights in this case.

The Court shall now delve into the issue of whether De Guzman is liable for grave misconduct.

Misconduct is defined as an intentional wrongdoing or deliberate violation or transgression of a rule of law or standard of behavior or action. It implies a wrongful intention and not a mere error of judgment.¹⁵ In *Field Investigation Office of the Office of the Ombudsman v. Castillo*,¹⁶ we enumerated the elements that must be present for a public officer to be liable for grave misconduct: (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.

¹³ *Bases Conversion Dev't. Authority v. Reyes*, 711 Phil. 631, 638 (2013).

¹⁴ *Supra* note 7. Relevant portion of the Order, reads:

Thus, at this point, it would be opportune to clarify that the finding against De Guzman as administratively liable for Grave Misconduct did not solely spring from her signatures on the above[-]mentioned P.O.s but rather her indispensable participation in the entire procedure of public fund disbursements which turned out to be illegal. *Supra* at 152.

¹⁵ See *In re: Impeachment of Horrilleno*, 43 Phil 212 (1922); *Office of the Ombudsman v. Miedes, Sr.*, 570 Phil. 464 (2008); *Ganzon v. Arlos*, 720 Phil. 104, 113 (2013).

¹⁶ 794 Phil. 53, 61-62 (2016).

After a judicious review, the Court is convinced that De Guzman is not liable for grave misconduct. The OMB failed to establish De Guzman's corrupt motive or clear intent to violate or disregard the procurement laws.

Intentions involve a state of mind, which is difficult to decipher. Nevertheless, the true intent of the offender may be ascertained through his/her subsequent and contemporaneous acts, together with the evidentiary facts.¹⁷ In cases involving administrative liability for grave misconduct, the Court ruled in *GSIS v. Mayordomo*¹⁸ that the element of corruption is present when the public officer unlawfully or wrongfully uses his or her position to procure some benefit at the expense of another. In *Office of the Deputy Ombudsman for Luzon v. Dionisio*,¹⁹ we held that there is clear intent to violate the rules when the public officers are aware of the existing rules, yet they intentionally chose to disobey them. In *Imperial Jr. v. GSIS*,²⁰ the Court required establishing the public officer's propensity to ignore the rules as clearly manifested in his or her actions to constitute flagrant disregard of the rules.

We have emphasized in *Moreno v. Court of Appeals*,²¹ the importance of proving intent in grave misconduct, viz.:

Grave misconduct, with which Moreno stands charged, is **define[d] as wrongful, improper, or unlawful conduct committed in connection with the performance of official functions, motivated by a premeditated, obstinate or intentional purpose, and coupled with the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule.** It is an odious offense that has always been and will continue to be anathema in the civil service.²² x x x. (Emphases supplied; citations omitted.)

Here, the CA and OMB uniformly found that De Guzman was not aware of the falsification when she signed the POs to recommend their approval to Mayor Carlos. It reasonably follows that she was also not aware that the suppliers were unqualified. Her mere act of signing and recommending the POs for approval, which turned out to be falsified and not adequately supported by authentic documents, does not equate to a clear and flagrant intent to violate or disregard the procurement laws absent any knowledge on her part that the papers were indeed falsified. There is also dearth of evidence to show that De Guzman used her position to procure some benefit from the purchase orders. The CA aptly held that "the COA itself found no evidence linking [De Guzman] to the anomalies and did not, in fact, recommend the filing of charges against her."²³ We also note the CA's observation that it was Fuentes who was the Head of the office requesting the

¹⁷ *Multi-Ventures Capital and Management Corp. v. Stalwart Management Services Corp.*, 553 Phil. 385, 391 (2007).

¹⁸ 665 Phil. 131, 148 (2011).

¹⁹ 813 Phil. 474 (2017).

²⁰ 674 Phil. 286, 297 (2011).

²¹ G.R. No. 238566, February 20, 2019.

²² *Moreno v. Court of Appeals*, *id.*

²³ *Rollo*, p. 46.

textbooks and Kia Combi, and had to check and certify the validity, propriety, and legality of documents supporting the requests. Yet, the OMB exonerated Fuentes from any liability on the basis that she had to assume that her subordinates regularly performed their duties. On the other hand, De Guzman, who signed the POs in an acting capacity because the City GSO position was vacant at that time, appeared to be singled out when she had to rely also on the regularity of performance of official duties of Fuentes and other equally accountable public officers. The relevant portion of the CA's Decision reads:

Of note that the OMB applied the presumption of regularity in the performance of duties to exonerate Fuentes and stated that she had to assume that her subordinates performed their functions with regularity. Such a pronouncement could very well be applied to [De Guzman] considering that she also merely relied on the regularity of performance of Fuentes, given the fact that the latter is not a mere rank and file employee. To put it bluntly, if the presumption of regularity in the performance of duties is applicable to Fuentes —the frontrunner in ensuring the genuineness of the documents, [—] it is more so upon [De Guzman] as she merely relied on the certification of the former.²⁴ x x x:

Considering the foregoing circumstances, we hold that De Guzman committed nothing more than a mere error of judgment. The OMB failed to discharge its burden of proving De Guzman's wrongful and corrupt intention. Considering De Guzman's unblemished record in her 34 years of service in the government and the peculiar facts attendant to the instant case, we affirm the CA in exonerating De Guzman from administrative liability.


FOR THESE REASONS, the petition is DENIED.

SO ORDERED." (Lopez, J. Y., J., designated additional Member *per* Special Order No. 2822 dated April 7, 2021).

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:


MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *h* 7/6
07 JUL 2021

²⁴ *Id.* at 47-48.

OFFICE OF LEGAL AFFAIRS (reg)
Office of the Ombudsman
5th Floor, Annex Ombudsman Building
Agham Road, Diliman, Quezon City

ATTY. CARLOS CARINGAL (reg)
Counsel for Respondent
No. 5B Nepal St., Better Living Subd. 3
Brgy. Don Bosco, 1700 Parañaque City

OFFICE OF THE OMBUDSMAN (reg)
4th Floor, Ombudsman Building
Agham Road, Diliman, Quezon City
(OMB-C-A-06-0368-G)

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Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 131592

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