



Republic of the Philippines
Supreme Court

Manila

THIRD DIVISION

**EDITA S. BUENO and
MILAGROS E. QUINAJON,**
Petitioners,

G.R. No. 191712

Present:

- versus -

**VELASCO, JR., J., Chairperson,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.**

**OFFICE OF THE OMBUDSMAN,
NAPOLEON S. RONQUILLO,
JR., EDNA G. RAÑA and ROMEO
G. REFRUTO**

Promulgated:

September 17, 2014

Respondents.

X-----X

DECISION

VILLARAMA, JR., J.:

Before the Court is a petition for review under Rule 45 seeking to reverse and set aside the Decision¹ dated November 4, 2009 and Resolution² dated March 18, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 105925. The CA affirmed the Decision³ dated January 22, 2007 of the Office of the Ombudsman (OMB) in OMB-C-A-05-0065-B finding the petitioners Edita S. Bueno (National Electrification Administration [NEA] Administrator) and Milagros E. Quinajon (Director of NEA's Institutional Development Department) guilty of violation of Section 5 (a) of Republic Act No. (RA) 6713 otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees."

Factual Antecedents

On February 13, 1998, former Administrator Teodorico P. Sanchez of

¹ *Rollo*, pp. 31-49. Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Ricardo R. Rosario.

² *Id.* at 55-56.

³ *Id.* at 68-98.

the NEA issued a memorandum “Re: Consolidated Guidelines on the Candidacy of Coop Officials and Employees in Local, National and Barangay Elections and Related Matters.” Said memorandum provided, among others, that: (1) all board members, general managers and employees of electric cooperatives shall be considered automatically resigned from their respective positions effective upon filing of their Certificates of Candidacy; (2) directors who ran and lost in the national and local elections shall not be eligible for re-appointment; and (3) in the event that the spouse of an incumbent director runs and wins in these elections, the director shall be considered automatically resigned when the spouse takes his/her oath of office.⁴

On the basis of the aforementioned memorandum of Administrator Teodorico P. Sanchez, petitioner Edita S. Bueno who was then NEA Deputy Administrator for Cooperatives Development, issued on February 9, 2001 a memorandum addressed to all regional electrification directors on the subject “Candidacy of Electric Coop Officials and Employees in the May 14, 2001 National and Local Elections” stating, among others, that “[A]ll board members, general managers and employees of ECs shall be considered automatically resigned from their respective positions effective upon filing of their Certificates of Candidacy.”⁵

On June 25, 2001, in reply to NEA Administrator Manuel Luis Sanchez’s letters, the Office of the Government Corporate Counsel (OGCC) issued Opinion No. 115⁶ stating that the subject memoranda are not valid rules and regulations, and hence have no force and effect on electric cooperatives for the following reasons: (1) they have not been formulated, adopted and approved by the NEA Board of Administrators which is the body vested by law with the power to promulgate rules and regulations; and (2) they have not been filed with the University of the Philippines (UP) Law Center as required by Chapter 2, Book VII of the Administrative Code of 1987. In the same opinion, NEA was advised to have the subject memoranda approved by the NEA Board of Administrators and filed with the UP Law Center.

Under Resolution No. 56 issued on May 27, 2004, the NEA Board of Administrators approved the subject memorandum issued by former NEA Administrator Teodorico P. Sanchez. The said memorandum was likewise published in the Official Gazette on March 21, 2005.⁷

On December 7, 2004, private respondents Napoleon S. Ronquillo, Jr., Edna G. Raña and Romeo G. Refruto filed criminal and administrative complaints before the OMB charging petitioner Bueno (now the NEA Administrator) with “Gross Neglect of Duty and violations of the pertinent provisions of RA 6713. Private respondents alleged:

⁴ Id. at 32-33.

⁵ Id. at 201.

⁶ Id. at 195-200.

⁷ Records, pp. 182-184.

3. That notwithstanding said advise from NEA's statutory counsel respondent BUENO who was fully aware of its existence being then the Deputy Administrator for Cooperatives Development and thereafter as Chief Operating Officer of NEA and eventually as its Administrator continued its implementation to the damage and prejudice of the 119 electric cooperatives nationwide;

4. That its unlawful implementation specifically by respondents BUENO and QUINAJON had caused and is still causing irreparable damage and injury to officers and employees of electric cooperatives who happens to be victims of this null and void NEA Rules and Regulations, the latest of which was the case of ALEJANDRO RANCHEZ, JR. of the Ilocos Norte Electric Cooperative, Inc. (INEC) who was unceremoniously and unlawfully removed as director of said electric cooperative by respondents BUENO and QUINAJON using aforesaid memoranda as basis, copies of the letter directives issued by them are hereto attached and marked as ANNEX "D" and ANNEX "D-1" for ready reference and made integral parts hereof;

5. Respondent members of the NEA Board of Administrators chaired by DOE Secretary VINCENT PEREZ are being joined and included in this complaint by virtue of their tolerance and inaction in relation to the implementation of said null and void Rules and Regulations notwithstanding their acquiescence of its infirmities.

WHEREFORE, in the light of the foregoing considerations, complainants pray that:

- a) Pending hearing/investigation on the merits of this case respondents EDITA S. BUENO and MILAGROS E. QUINAJON be placed under PREVENTIVE SUSPENSION there being sufficient grounds to warrant its issuance pursuant to the Ombudsman Act and pertinent laws herein applicable;
- b) That in aid of investigation that a subpoena duces tecum be issued to:
 1. EDITA S. BUENO and MILAGROS E. QUINAJON for them to produce the original copy of the advertive [*sic*] OGCC Opinion and the entire records of ALEJANDRO RANCHEZ, JR. of INEC including the latest recommendation of the NEA Legal Services Office issued a few days before the NEA Board meeting on November 24, 2004 making a pronouncement as to the impropriety/illegality of aforesaid memorandum;
 2. NOLLIE B. ALAMILLO for him to produce copy of the Petition for Review filed by ALEJANDRO RANCHEZ, JR. with the NEA Board of Administrators together with the action/s taken by him and the NEA Board of Administrators specifically its board meeting dated November 24, 2004.
- c) That after the determination of the existence of a PRIMA FACIE CASE against all the respondents, that the

corresponding INFORMATIONs be filed with the SANDIGANBAYAN considering that they are holding positions from SALARY GRADE 26 and above;

- d) That respondents be dealt with administratively by DISMISSING them from the service.⁸

The administrative aspect of the above complaint was subsequently docketed as OMB-C-A-05-0065-B for “Gross Neglect of Duty, RA 6713”, while the criminal aspect was docketed as OMB-C-A-05-0062-B.

Alejandro Sanchez, Jr. (Sanchez), who was mentioned in the complaint, was a duly elected Director of the Ilocos Norte Electric Cooperative, Inc. (INEC) whose wife, Ms. Genaline Judith R. Sanchez, was elected and sworn into office as a *Sangguniang Bayan* Member of Bacarra, Ilocos Norte. As per the letter dated July 20, 2004 of Quinajon, Sanchez was considered automatically resigned as Director of INEC. Sanchez sought reconsideration but NEA Administrator Bueno, in her letter dated September 27, 2004, denied his request and asserted that the subject memoranda shall be fully implemented unless and until declared illegal or unconstitutional by a competent court.⁹

In his letter dated November 18, 2004 Sanchez had requested from Quinajon for a copy of the memorandum of the NEA Legal Office dated November 18, 2004 addressed to Quinajon. In another letter dated November 3, 2004 addressed to Bueno, Sanchez sought deferment of implementation by the Board of Directors of INEC of NEA’s decision on his disqualification as Director pending resolution of his petition for review filed before the NEA Board of Administrators.

On May 19, 2005, the OMB denied private respondents’ prayer for the preventive suspension of petitioners.¹⁰

In their position paper, petitioners denied having committed any neglect of duty in connection with the implementation of the subject memoranda. They explained that the February 13, 1998 memorandum of Administrator Teodorico P. Sanchez, the basis of Bueno’s February 9, 2001 memorandum have been duly ratified by the NEA Board of Administrators on May 27, 2004 under Resolution No. 56. They also argued that the private respondents have no sufficient interest in the controversy and filed the complaint in bad faith since private respondent Ronquillo who is the Division Manager of NEA’s Legal Department should have advised the private respondents on the proper remedies.¹¹

Private respondents in their position paper again discussed the case of

⁸ Id. at 3-4.

⁹ Id. at 18, 20-21.

¹⁰ Id. at 32-38.

¹¹ Id. at 160-170.

Mr. Sanchez which they said belied petitioners' averments in their counter-affidavit that they were not negligent in the implementation of the subject memoranda declared as null and void by the OGCC. Attached to the position paper is the affidavit executed by Sanchez, which reads:

X X X X

4. That sometime on the first week of October, 2004, I was accompanied by then INEC Director Parado to the National Electrification Administration (NEA) and inquired from the NEA Corporate Secretary if the Memorandum dated February 9, 2001 and the ELECTION GUIDELINES which was made by NEA Administrator Bueno in removing me as a duly elected Director of INEC had already been approved by the NEA Board of Administrators and eventually submitted to the UP Law Center as required by the Administrative Code. The NEA Corporate Secretary informed me that there was no approval yet as of that date and hence it had not yet been submitted to the UP Law Center;

5. That relying on the pronouncement made by the NEA Corporate Secretary, I filed a Motion [f]or Reconsideration with NEA on October 22, 2004 addressed to the NEA Board [o]f Administrators inviting their attention on the legal infirmities caused by said Memorandum of NEA Administrator Bueno, copy furnished the NEA Legal Department;

6. That on October 29, 2004, the NEA Corporate Secretary Mr. Nollie Alamillo sent to me a letter with the information that my request will be taken up in the next regular meeting of the NEA Board of Administrators;

7. That thereafter and when I made follow ups with the Office of the Corporate Secretary, Mr. Alamillo informed me that upon instructions made by NEA Administrator Bueno, said request for reconsideration was not included in the agenda for the Board Meeting and other meetings of the Board that transpired;

8. That on November 2004 I again prepared another letter communication addressed to Administrator Bueno with the request that I be allowed to sit as Director pending resolution and determination by the NEA Board of Administrators of my Motion [f]or Reconsideration;

9. That I made several follow ups with NEA but I was only referred to its different Offices one of which was the NEA Legal Office whom per information relayed by the Office of Administrator Bueno was tasked to attend to my case;

10. That the Legal Department made a favorable recommendation on my case and I was instructed to follow up their recommendation with the Office of Director Milagros Quinajon;

11. That at the Office of Director whereby I was made to wait until 7:30 in the evening, I again reiterated the issue on the legal infirmities of the aforesaid Memorandum and they had even a telephone conversation with our local officials but Director Quinajon just told me to come back the following day;

12. That when I came back the following day, I was informed by her staff that she (Quinajon) was on travel in the Province;

13. That despite follow ups made, all efforts I had exerted resulted in futility because of the uncalled for acts unbecoming of public servants demonstrated by Administrator Bueno and her staff MILAGROS QUINAJON;

14. That I ventilated this matter with the Office of the President thru the Malacañang Legal Staff whereby my case had [already been] submitted for decision;

x x x x¹²

Ruling of the Ombudsman

The Ombudsman dismissed the administrative case against respondent officials except petitioners, thus:

WHEREFORE, in light of the foregoing ratiocination, this Office finds, as follows:

1. The complaint filed against former Secretary of the Department of Energy, VINCENT S. PEREZ; and PABLO M. PAN III, WILFRED L. BILLENA and JOSEPH D. KHONG HUN, all members of the Board of Administrators, NEA, is hereby DISMISSED for lack of substantial evidence; and
2. EDITA S. BUENO and MILAGROS E. QUINAJON, Administrator and Director, respectively, National Electrification Administration (NEA) are hereby found guilty of Violation of Section 5(a) of Republic Act No. 6713 in relation with Section 3(a)(2), Rule VI of the Rules Implementing Republic Act No. 6713. Absent any showing of intent or bad faith on their part, they are accordingly meted the penalty of REPRIMAND pursuant to Section 10(a), Rule III of Administrative Order No. 7. Further, the charge of Gross Neglect of Duty against them is hereby dismissed for lack of substantial evidence.

Let a copy of this Decision be furnished the Honorable Secretary of the Department of Energy for his information and the proper implementation of the same, with the directive that he should submit a compliance report to this Office within five (5) days from the implementation of this Decision.

SO DECIDED.¹³

According to the Ombudsman, since the NEA Board of Administrators already passed its resolution approving the subject memoranda as early as May 27, 2004, it cannot be said that Secretary Perez and Board of Administrators members Pan, Billena and Khong Hun are remiss in their duties or tolerated the problem. It was found that said officials resolved to put an end to the controversy after much deliberation and taking into

¹² Id. at 247-248.

¹³ *Rollo*, p. 96.

consideration the advice given by the NEA Legal Division through Atty. Hernandez.

However, as to petitioners, the Ombudsman found sufficient evidence for violation of Section 5(a) of RA 6713, *viz*:

Records would show that the letter dated November 3, 2004 of Alejandro E. Ranchez was received by the NEA Records Section on November 4, 2004 x x x. It would appear however, that on May 27, 2004 or almost six (6) months before the said letter of Ranchez, the NEA Board of Administrator[s] had already passed Resolution No. 56. Nonetheless, there is nothing in the records that would show that the NEA administration exerted efforts to enlighten Ranchez of the effect of Resolution No. 56 to his petition for review or reconsideration nor put an end to the issues brought about by his petition for review or reconsideration.

Although it may be argued that the subject Resolution itself would be enough to answer the query posited by Ranchez, the above-quoted provision is clear that there is a need for the agency to give a definite answer on the said letter/s of Ranchez.¹⁴

Petitioners filed a motion for reconsideration arguing that they cannot be found guilty of an offense which was not even charged in the complaint. They claimed that they attended to all the queries of Ranchez through the letters dated November 18, 2004 and November 19, 2004 sent by Quinajon, attaching copies thereof to the motion.¹⁵

In denying petitioners' motion for reconsideration, the Ombudsman pointed out that in all the directives sent to petitioners, it is very clear that the charge of violation of RA 6713 was always indicated. In addition, the complaint couched their charge in general terms: "xxx for GROSS NEGLIGENCE OF DUTY and violations of pertinent provisions of the Code of Ethical Standards for Government Officials and Employees (R.A. 6713)." Further, it was explained that even if the charge does not appear or is not explicitly written in the complaint, the Ombudsman is not precluded from charging and finding the respondents guilty of RA 6713 based on (a) the allegations of the complaint itself and the facts appearing in the records of the case; and (b) the administrative charge of Neglect of Duty as defined, means a failure on the part of a public officer to do and perform some of the duties of this office, and hence Section 5(a) would fall under this category.¹⁶

As to the alleged letters sent to Ranchez by Quinajon, the Ombudsman found that there was no proof presented that Ranchez indeed was furnished copy of the said documents and the same were never submitted in evidence or attached to their counter-affidavits or position papers.¹⁷

¹⁴ Id. at 94-95.

¹⁵ Records, pp. 311-323.

¹⁶ Id. at 329-330, 333.

¹⁷ Id. at 331-332.

Ruling of the CA

The CA affirmed the Ombudsman in holding that the petitioners were properly informed of the charge against them and that they were guilty of violation of Section 5(a) of RA 6713, thus:

As aptly pointed out by the Ombudsman, there is no proof that Ranchez received the November 19, 2004 letter. Furthermore, even if such letter was indeed received by Ranchez, under the circumstances, such letter fails to address the situation. It bears repeating that, at the time the alleged November 19, 2004 letter was made, the Board of Administrators of NEA had already approved the questioned memorandum. Thus, the Petitioners should have, at the very least, notified Ranchez of such a fact instead of merely stating that [they] *are evaluating [his] position in coordination with the NEA Legal Department*. While this Court will not characterize the acts of the Petitioners as deliberately misleading, they have certainly withheld crucial information which would have answered the query of Mr. Ranchez once and for all.¹⁸

In their motion for reconsideration,¹⁹ petitioners stressed that Ranchez is not the complainant in the case before the OMB but only private respondents; hence, it is incorrect for the OMB to have found petitioners administratively liable. They also contended that it is legally presumed that Ranchez received the November 19, 2004 letter of NEA addressing his queries. The CA denied the said motion.

Petitioners' Argument

Petitioners aver that the CA failed to consider the fact that the Ombudsman erroneously found them administratively liable notwithstanding that Ranchez, who was the subject of the purported nonfeasance, was not even a complainant in the case before the Ombudsman. Citing Section 20, paragraph 4 of RA 6670 (Ombudsman Act), petitioners argue that private respondents have no sufficient personal interest in the violation which have been committed.

It was also asserted that the dispositive portion of the Ombudsman's decision stating the absence of proof that petitioners' act was intentional or tainted with bad faith, even validates such lack of substantial evidence of violation of Section 5(a) of RA 6713. Thus, the penalty of reprimand imposed on petitioners is not justified.

Our Ruling

The petition has no merit.

¹⁸ *Rollo*, p. 42.

¹⁹ *Id.* at 50-53.

The authority of the Ombudsman to investigate and prosecute illegal and unjust acts of those who are in the public service emanates from no less than the 1987 Constitution. Section 12 of Article XI states:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

As mandated by the 1987 Constitution, The Ombudsman Act was enacted in line with the state's policy of maintaining honesty and integrity in the public service and take effective measures against graft and corruption.²⁰ Section 15 (1) of said Act provides:

SEC. 15. *Powers, Functions and Duties.* – The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute **on its own or on complaint by any person**, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

X X X X

There is clearly no question on the legal standing of private respondents to file the administrative complaint against petitioners before the Ombudsman. Indeed, the Office of the Ombudsman is mandated to “investigate and prosecute on its own or **on complaint by any person**, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.” The Ombudsman can act on anonymous complaints and *motu proprio* inquire into alleged improper official acts or omissions from whatever source, e.g., a newspaper. Thus, any complainant may be entertained by the Ombudsman for the latter to initiate an inquiry and investigation for alleged irregularities.²¹

It must also be mentioned that while Sanchez was not joined as complainants before the Ombudsman, he executed an affidavit attesting to the truth of the allegations in the complaint that petitioners failed to respond to his letters in connection with his pending motion for reconsideration with the NEA Board of Administrators and inform him of the status of the subject memoranda. This affidavit was submitted by the private respondents before the Ombudsman in support of their charge of gross neglect of duty and violations of RA 6713 against the petitioners.

²⁰ Sec. 2, RA 6770; *Office of the Ombudsman v. Galicia*, 589 Phil. 314, 327 (2008).

²¹ *Baltazar v. Hon. Ombudsman*, 539 Phil. 131, 139-140 (2006), citing Sections 15(1) and 26 of RA 6670.

Petitioners argue that the Ombudsman erred in not dismissing the administrative complaint as there was no showing of sufficient personal interest on the part of private respondents, pursuant to Section 20(4) of RA 6770 and this Court's ruling in *Baltazar v. Hon. Ombudsman*²² where an administrative complaint was dismissed due to want of personal interest in the subject matter. They point out that as admitted by them in their sworn complaints, private respondents were former employees who were replaced upon the reorganization of NEA and have not been candidates to any elective position in any electric cooperative in the Philippines. Private respondents thus do not even stand to be affected by the subject memoranda which were declared null and void by the OGCC.

We disagree.

Section 20 of RA 6770 provides:

SEC. 20. *Exceptions.* – The Office of the Ombudsman **may not** conduct the necessary investigation of any administrative act or omission complained of if it believes that:

(1) The complainant has adequate remedy in another judicial or quasi-judicial body;

(2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;

(3) The complaint is trivial, frivolous, vexatious or made in bad faith;

(4) **The complaint has no sufficient personal interest in the subject matter of the grievance;** or

(5) The complaint was filed after one year from the occurrence of the act or omission complained of. (Emphasis supplied.)

In *Filipino v. Macabuhay*,²³ the Court interpreted the fifth exception under the above provision, as follows:

The use of the word “may” clearly shows that it is directory in nature and not mandatory as petitioner contends. When used in a statute, it is permissive only and operates to confer discretion; while the word “shall” is imperative, operating to impose a duty which may be enforced. Applying Section 20(5), therefore, **it is discretionary upon the Ombudsman whether or not to conduct an investigation on a complaint even if it was filed after one year from the occurrence of the act or omission complained of. In fine, the complaint is not barred by prescription.**²⁴ (Emphasis supplied.)

According to petitioners, the foregoing ruling is not applicable because it pertains to Section 20(5) and the issue therein was prescription of

²² Id.

²³ 537 Phil. 858 (2006).

²⁴ Id. at 867.

the administrative offense, whereas the present petition concerns the legal standing of complainants under the Section 20(4).

Petitioners are mistaken in asserting that Section 20(4) is a bar to the Ombudsman's investigation into their acts or omissions in the case of Ranchez based on the supposed lack of personal interest on the part of private respondents who are the complainants in OMB-C-A-0065-B.

In *Office of the Ombudsman v. Court of Appeals*,²⁵ the Court noted that Section 20 of RA 6770 has been clarified by Administrative Order No. 17²⁶ (AO 17), which amended Administrative Order No. 07 (AO 07), otherwise known as the Rules of Procedure of the Office of the Ombudsman. Section 4, Rule III²⁷ of the amended Rules of Procedure of the Office of the Ombudsman, reads:

Section 4. Evaluation. – Upon receipt of the **complaint**, the same shall be evaluated to determine whether the same **may be**:

a) dismissed outright for any grounds stated under Section 20 of Republic Act No. 6770, provided, however, that the dismissal thereof is not mandatory and shall be discretionary on the part of the Ombudsman or the Deputy Ombudsman concerned;

b) treated as a grievance/request for assistance which may be referred to the Public Assistance Bureau, this Office, for appropriate action under Section 2 , Rule IV of this Rules;

c) referred to other disciplinary authorities under paragraph 2, Section 23, R.A. 6770 for the taking of appropriate administrative proceedings;

d) referred to the appropriate office/agency or official for the conduct of further fact-finding investigation; or

e) docketed as an administrative case for the purpose of administrative adjudication by the Office of the Ombudsman. (Emphasis in the original; underscoring supplied.)

Thus, even if the ground raised is the supposed lack of sufficient personal interest of complainants in the subject matter of the grievance under Section 20(4), the dismissal on that ground is *not* mandatory and is discretionary on the part of the Ombudsman or Deputy Ombudsman evaluating the administrative complaint.

In this case, the Ombudsman proceeded to investigate and decide the complaint filed by private respondents, and even assuming the latter may have no sufficient personal interest in Ranchez's grievance mentioned in their complaint, such was deemed irrelevant and not enough basis for

²⁵ 576 Phil. 784, 796 (2008).

²⁶ Entitled "Amendment of Rule III, Administrative Order No. 07," and signed by Ombudsman Simeon V. Marcelo on September 15, 2003.

²⁷ Procedure in Administrative Cases.

outright dismissal of the complaint. The Ombudsman in this case cannot be faulted for exercising its discretion under Section 20 of RA 6670, which allows the Ombudsman to decide not to conduct the necessary investigation of any administrative act or omission complained of, if it believes that the complainant has no sufficient personal interest in the subject matter of the grievance.

Petitioners' reliance on the ruling in *Baltazar v. Hon. Ombudsman*²⁸ is likewise misplaced. The Court therein clarified at the outset that there was no question on petitioner's legal standing "[i]n so far as the Complaint-Affidavit filed before the Office of the Ombudsman is concerned" but that the filing of the petition for review on certiorari before this Court, after the Ombudsman, upon re-investigation, ordered the dismissal of the criminal complaint, is another matter. Thus, applying the rule on real party-in-interest under Section 2,²⁹ Rule 3 of the 1997 Rules of Civil Procedure, as amended, petitioner in said case was found to be a stranger and not an injured private complainant in a criminal complaint who has direct interest in the outcome of the criminal case.

On the finding of petitioners' administrative liability, we find no reversible error committed by the Ombudsman.

Section 5(a) of RA 6713 explicitly mandates as follows:

SEC. 5. *Duties of Public Officials and Employees.*—In the performance of their duties, all public officials and employees are under obligation to:

(a) *Act promptly on letters and requests.* — All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain, the action taken on the request.

X X X X

Records showed that despite Sanchez's written and verbal requests made between September and November 2004 in connection with his pending petition for review/reconsideration on his disqualification on the basis of the subject memoranda and its approval by the NEA Board of Administrators, petitioners did not respond to his queries or at the very least inform him that as early as May 27, 2004, the NEA Board of Administrators had already approved the subject memoranda. Notably, Sanchez had invoked the OGCC's Opinion declaring the subject memoranda to have no binding force and effect on electric cooperatives which is contrary to petitioner Bueno's stance that the said regulations remain valid until declared illegal by a competent court. Moreover, despite constant follow

²⁸ Supra note 21.

²⁹ SEC. 2. *Parties in interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

ups, Ranchez was not informed as to when the NEA Board of Administrators will take up or its action on his petition for reconsideration. In any event, petitioners clearly failed to disclose crucial information sought by Ranchez within fifteen working days, in violation of Section 5(a) of RA 6713.

We note that the Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees emphasizes promptness in attending to requests made upon government offices or agencies. Rule VI, Sections 1 and 3(2) provides:

SECTION 1. As a general rule, when a request or petition, whether written or verbal, can be disposed of promptly and expeditiously the official and employee in charge to whom the same is presented shall do so immediately, without discrimination, and in no case beyond fifteen (15) working days from receipt of the request or petition.

x x x x

SEC. 3. In case of written requests, petitions or motions, sent by means of letters, telegrams, or the like, the official or employee in charge shall act on the same within fifteen (15) working days from receipt thereof, provided that:

(b) If the communication is within the jurisdiction of the office or agency, the official and employee must:

(1) x x x

(2) Where the matter is non-routinary or the issues involved are not simple or ordinary, write a note or letter of acknowledgment, **informing the interested party, petitioner or correspondent of the action to be taken or when such requests, petitions or motions can be acted upon.** Where there is a need to submit additional information, requirements, or documents, the note or letter of acknowledgement shall so state, specifying a reasonable period of time within which they should be submitted, and the name of the particular official or employee in charge thereof. When all the documents or requirements have been submitted to the satisfaction of the department or office or agency concerned, the particular official or employee in charge shall inform the interested party, petitioner, or correspondent of the action to be taken and when such action or disposition can be expected, barring unforeseen circumstances. (Emphasis supplied.)

Petitioners violated the above mandate and presented no proof whatsoever that they made a written reply to Ranchez's requests within the prescribed period of fifteen (15) days. This constituted neglect of duty which cannot be countenanced.³⁰ Petitioners should be reminded that as government officials and employees they are expected to adhere to the standards set by law in the discharge of their official duties, among others, commitment to public service, professionalism, justness and sincerity and

³⁰ *Lim, Jr. v. Judge Magallanes*, 548 Phil. 566, 575 (2007).

responsiveness to the public.³¹

Under Section 52 (C) (13) and (15), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, petitioners' infraction is classified as a light offense.

SEC. 52. *Classification of Offenses.* – x x x

x x x x

C. The following are Light Offenses with corresponding penalties:

x x x x

13. Failure to act promptly on letters and request within fifteen (15) days from receipt x x x

1st Offense – Reprimand

2nd Offense – Suspension 1-30 days

3rd Offense – Dismissal

x x x x

15. Failure to attend to anyone who wants to avail himself of the services of the office, or act promptly and expeditiously on public transactions

1st Offense – Reprimand

2nd Offense – Suspension 1-30 days


3rd Offense – Dismissal

This being petitioners' first offense, the penalty of reprimand imposed by the Ombudsman was thus proper. As to the Ombudsman's pronouncement in the *fallo* of its decision that petitioners have not been shown to have acted in bad faith and with malice, this will not exculpate them from administrative liability. There is nothing in RA 6713 or its implementing rules that requires a finding of malice or bad faith in the commission of the administrative offense defined under Section 5.

WHEREFORE, the petition is **DENIED** for lack of merit. The Decision dated November 4, 2009 and Resolution dated March 18, 2010 of the Court of Appeals which upheld the Decision dated January 22, 2007 of the Office of the Ombudsman in OMB-C-A-05-0065-B are hereby **AFFIRMED** and **UPHELD**.

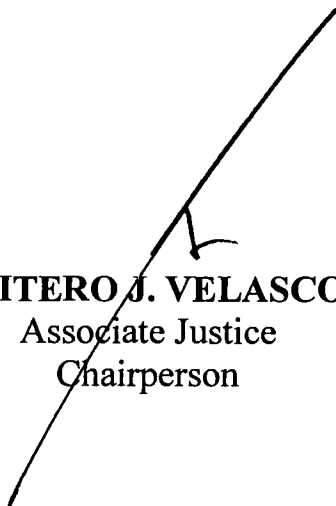
With costs against petitioners.


SO ORDERED.



MARTIN S. VILLARAMA, JR.
Associate Justice

³¹ Sec. 4 (a), (b), (c), and (e), RA 6713.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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.


MARIA LOURDES P. A. SERENO
Chief Justice

