



Republic of the Philippines
Supreme Court
 Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

RECORDED
 JUN 13 2023
 BY: _____
 TIME: _____

**ANECITA C. SUYAT, ASANO E.
 ABAN, and MARCELINO P.
 ENDI,**

Petitioners,

G.R. Nos. 251978-80

Present:

GESMUNDO, *C.J.*,
 LEONEN, *S.A.J.*,
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,
 GAERLAN,
 ROSARIO,*
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR., and
 SINGH, *JJ.*

- versus -

**COURT OF APPEALS, OFFICE
 OF THE OMBUDSMAN, and
 COMMISSION ON AUDIT,**

Respondents.

Promulgated:

January 24, 2023

X-----X

DECISION

GAERLAN, J.:

Before this Court is a Joint Petition for *Certiorari*¹ filed by Anecita C. Suyat (Suyat), Asano E. Aban (Aban), and Marcelino P. Endi (Endi; collectively petitioners) to assail the Decision² dated August 15, 2019, and the

* On official leave.

¹ *Rollo*, pp. 3-13.

² *Id.* at 71-100; penned by Associate Justice Pablito A. Perez, with Associate Justices Franchito N. Diamante and Germano Francisco D. Legaspi, concurring.

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Resolution³ dated December 19, 2019 of the Court of Appeals (CA) Special 16th Division in CA-G.R. SP Nos. 150503-05.

Said final orders of the CA affirmed with modification the Decision⁴ dated November 10, 2015 of the Office of the Ombudsman in OMB-C-A-11-0403-G, which found petitioners guilty of grave misconduct and conduct prejudicial to the best interest of the service (with petitioner Aban specifically guilty of serious dishonesty), and accordingly ordered their dismissal from the service, with cancellation of their civil service eligibility, forfeiture of their retirement benefits, and perpetual disqualification from holding public office pursuant to Section 52 of the Revised Rules on Administrative Cases in the Civil Service. The Office of the Ombudsman also denied petitioners' motion for reconsideration in an Order dated February 7, 2017.⁵

Factual Antecedents

On December 1, 2003, Apolinario T. Camsol (Mayor Camsol), who at the time was the municipal mayor of Buguias, Benguet, issued Memorandum No. 06 (s. 2003) which constituted the municipality's Bids and Awards Committee (BAC). This was done pursuant to the provisions of Republic Act (R.A.) No. 9184, otherwise known as the Government Procurement Reform Act, which was signed into law on January 10, 2003 and had become effective on January 26, 2003. Petitioner Suyat, as municipal treasurer, was included as a member of the said BAC.⁶

However, Mayor Camsol subsequently issued Memorandum No. 07 (s. 2003), which suspended the functions of the BAC due to the alleged lack of "forms and annexes necessary to effectively carry out their functions as a body,"⁷ and deemed the old BAC as reconstituted to continue to perform its functions.⁸ The BAC, as constituted by Mayor Camsol, was only restored to its functions on July 9, 2004, pursuant to Special Office Order No. 01 (s. 2004) issued by the new municipal mayor, Nardo B. Cayat.⁹

On February 3, 2004, the Department of Budget and Management (DBM) issued Special Allotment Release Order No. E-04-00614 in the amount of ₱728 Million, with the corresponding Notice of Cash Allocation No. 222447-1 in the amount of ₱291,200,000.00, which was intended for the

³ Id. at 101-110.

⁴ Id. at 54-70.

⁵ No copy thereof is attached to the *rollo*, but the same is mentioned on the first paragraph of the CA's Decision dated August 15, 2019; id. at 72.

⁶ Id. at 73.

⁷ Id.

⁸ Id. at 73-74.

⁹ Id. at 74.

implementation of the "Farm Inputs and Farm Implements Program" (FIFIP) of the Department of Agriculture (DA). The amount allocated from FIFIP to the Lone District of Benguet was ₱3 Million, and out of this amount ₱1,050,00.00 was allocated to the Municipality of Tublay, Benguet. However, the said amount intended for Tublay was subsequently reallocated to Buguias when then-Congressman Samuel M. Dangwa wrote to the municipal mayor of Tublay on June 21, 2004 about the serious delays and non-compliance by the Municipality of Tublay *vis-à-vis* the implementation of the FIFIP.¹⁰

On June 25, 2004, five days before the end of Mayor Camsol's term, a Memorandum of Agreement (MOA)¹¹ was executed between the DA-Regional Field Unit (RFU) in the Cordillera Administrative Region (CAR) and the Municipality of Buguias, Benguet with the following terms:

WHEREAS, the DA-RFU-CAR is the principal agency mandated to develop the agriculture sector and maximize production in the region through the promotion and provision of appropriate production support and agri-infrastructure facilities that will boost farm productivity, profitability, and resource sustainability;

WHEREAS, the Department of Agriculture (DA) has allocated **ONE MILLION FIFTY THOUSAND PESOS (P1,050,000.00)** for the municipality of Buguias to implement various projects in support to the GMA [sic] programs;

WHEREAS, extension work where farm inputs/implements program belongs [sic] was devolved to the LGU pursuant to the local government code;

WHEREAS, the LGU implements agriculture-related projects in their area and provide direct services to the farmer clientele, and is capable of selecting the kind of farm inputs/farm implements assistance needed by the farmers;

WHEREAS, the DA-RFU-CAR lacks personnel to implement extension programs like farm input/farm implements program [sic];

WHEREAS, the DA-RFU-CAR and Local Government Unit agreed to cooperate and jointly implement extension projects using agricultural technicians devolved to the LGUs like Buguias, Benguet;

WHEREAS, this cancels the MOA with **HON. WILLY VELASCO** of Tublay, Benguet;

NOW, THEREFORE, for and in consideration of the above premises, the parties agree on the following:

The DA-RFU-CAR shall:

¹⁰ Id. at 38-41; Original Complaint of Task Force Abono of the Office of the Ombudsman-Field Investigation Office.

¹¹ Id. at 14-16.

1. Provide and release funds to the LOCAL GOVERNMENT UNIT the amount of **ONE MILLION FIFTY THOUSAND PESOS ONLY (P1,050,000.00)**;
2. Monitor the progress of the project; [and]
3. Coordinate the preparation and submission of liquidation reports by the municipal LGU.

The LGU shall:

1. Prepare and submit to the DA-RFU-CAR [the/a] project proposal [with regard to] where to spend the said monetary assistance;
2. Assist the project beneficiaries in terms of technical requirements and disseminate information related to the project and its components;
3. Regularly monitor the project and submit liquidation and status report[s] to the DA-RFU-CAR; [and]
4. Share [with] other municipalities whenever necessary [the] farm inputs purchased out of this fund transferred by the DA-RFU-CAR.

Provision[s] of this agreement [may be] amended or properly modified upon mutual consent of the parties through an addendum or letter of agreement duly signed by both parties.

This agreement shall take effect on the date of signing hereof by the parties and shall be terminated upon the satisfactory fulfillment of all terms and conditions embodied herein.¹² (Emphases in the original)

As the abovementioned MOA was still being drafted and negotiated, Mayor Camsol held a consultation meeting on June 15, 2004 with various *barangay* captains for their feedback regarding which particular farm inputs were needed by their constituents. This resulted in a list of 12 brands of insecticides and fungicides, which are reflected in an undated and unnumbered purchase request¹³ prepared by petitioner Aban (as municipal agricultural officer) and approved by Mayor Camsol. The contents of the said purchase request are the following:

Quantity	Unit of Issue	Item Description	Estimated Unit Cost	Estimated Cost
72	Bottles	Success Insecticide	₱905.00	₱65,160.00
50	Boxes	Daconil Fungicide	₱812.00	₱40,600.00
240	Bottles	Selecron Insecticide	₱515.00	₱123,600.00
240	Bottles	Pegasus Insecticide	₱848.00	₱203,520.00
240	Bottles	Magnum Insecticide	₱431.00	₱103,440.00
120	Bottles	Score Fungicide	₱665.00	₱79,800.00

¹² Id. at 14-15.

¹³ Id. at 17.

100	Boxes	Vegetox Insecticide	₱520.00	₱52,000.00
191	Bottles	Tamaron Insecticide	₱530.00	₱101,230.00
120	Boxes	Padan Insecticide	₱522.00	₱68,640.00
200	Pieces	Mancuseb Fungicide	₱380.00	₱76,000.00
100	Boxes	Bayletun	₱700.00	₱70,000.00
122	Boxes	Gemtrac	₱541.00	₱66,002.00 ¹⁴

Thereafter, petitioner Suyat conducted a personal canvass of suppliers as instructed by Mayor Camsol. This resulted in three bids put forward by Fralens Farm Supply, JEA Farm Supply, and PMB Agro-Products as reflected in an undated and unnumbered abstract of bids for quotation¹⁵ signed by Mayor Camsol, petitioner Suyat as municipal treasurer, a member of the *Sangguniang Bayan*, and the municipal budget officer. **It appears that PMB Agri-Products had the lowest calculated responsive bid, and its quotations matched exactly with each of the estimated unit costs as stated in the purchase request prepared by petitioner Aban.**

Accordingly, an undated Disbursement Voucher No. 40120040616¹⁶ (presumably issued on June 16, 2004) was issued in favor of "PMB Agro-Goods & Services" in the amount of ₱1,007,992.32 (with ₱41,999.68 already deducted as taxes withheld). The signatories to the disbursement voucher were Mayor Camsol and petitioners Suyat and Endi, with the latter in his official capacity as municipal accountant. Mayor Camsol and petitioner Suyat are also signatories to Landbank Check No. 0000023100¹⁷ dated June 28, 2004, which was issued to Percival M. Bandonill, the sole proprietor of PMB Agro-Goods & Services, in the same amount of ₱1,007,992.32.

PMB Agro-Goods & Services accordingly issued Cash Invoice No. 0301¹⁸ dated June 29, 2004 to reflect the transaction, and petitioner Suyat signed (together with an inspection officer) an undated and unnumbered inspection and acceptance report¹⁹ that certified to the complete delivery of the insecticides and fungicides and their compliance with quantity and specifications. No official receipt issued by PMB Agro-Goods and Services appears in the record.

Eventually, the Commission on Audit (COA) Team 3-Subcluster 3-LGU (Benguet Province) issued Audit Observation Memorandum (AOM) No. 2004-002²⁰ (dated July 7, 2004) to the municipal mayor of Buguias, Benguet, with the following findings specific to the transaction at bar:

¹⁴ Id.
¹⁵ Id. at 21.
¹⁶ Id. at 24.
¹⁷ Id. at 25.
¹⁸ Id. at 26.
¹⁹ Id. at 23.
²⁰ Id. at 27-32.

AUDIT OBSERVATION

401-2004-06-07 – PMB-Agro Goods & Services – purchase of insecticides and fungicides – P1,049,992.00

It had been noted that it was made thru [sic] personal canvass. Considering the amount involved[,] this should have been made thru [sic] public bidding and not just personal canvass.

—Submit list of beneficiaries.

—There were [sic] no documentary evidence to show that prior to the purchase of the said farm supplies, consultations and/or meeting[s] with farmer-beneficiaries have been conducted to obtain the consensus of the farmers on what farm products to be purchased.

Consultations/meetings with the farmers would ensure [the] actual needs of the farmers to improve agricultural productivity.

Re-canvass made showed an overpriced amount of P9,480.00 (Annex A). Explain the discrepancy noted.²¹ (Emphasis in the original)

Based on the said findings, the same COA office accordingly issued Notice of Disallowance (ND) No. 06-01²² dated June 23, 2006, which declared as irregular the disbursement of P1,049,992.00 to PMB Agro-Goods & Services (as defined in COA Circular No. 85-55A dated September 8, 1985). It also noted that no official from the Municipality of Buguias, Benguet gave any comment on AOM No. 2004-002, and named the following persons with their corresponding liabilities:

Persons Liable:

Mayor Apolinario T. Camsol

For certifying that the expense is necessary, lawful, and incurred under his direct supervision, and for approving for payment.

Municipal Accountant Marcelino Endi

For certifying completeness and propriety of supporting documents

Municipal Treasurer Anecita C. Suyat

Being the General Services Officer²³ (Emphases in the original)

²¹ Id. at 27-28. The discrepancy/overpricing mentioned is based on COA's own re-canvass, which was compared the price per estimated unit cost as bid by PMB Agro-Goods & Services with the price per estimated unit cost of Sunrise Farm Supply based in La Trinidad, Benguet (see *rollo*, pp. 33-35). The aggregate overprice per estimated unit cost of PMB Agro-Goods & Services over that of Sunrise Farm Supply is P54, which totals in an overall overprice of P9,480.00.

²² Id. at 36.

²³ Id.

The aforementioned facts thus became the basis for the Complaint²⁴ of Task Force Abono of the Office of the Ombudsman-Field Investigation Office, which was filed against petitioners, Mayor Camsol, and even the sole proprietor of PMB Agro-Goods & Services on July 1, 2011 before the Special Panel on the Fertilizer Fund Scam created by the Office of the Ombudsman.

Specifically, Task Force Abono alleged that the procurement of the insecticides and fungicides by the Municipality of Buguias, Benguet was undertaken without the requisite public bidding in violation of R.A. No. 9184. Along with the reference to brand names in the purchase request which it specifically disallowed under Section 18²⁵ of the said statute, Task Force Abono noted that the procurement was done in the following manner and context:

32. In this instance, instead of conducting a public bidding, the Office of the Municipal Treasurer conducted a canvass (Annexes "L-1" to "L-3") and was satisfied with the results of the same. It must be noted, however, that the canvass made was even [sic] unfair and self-serving because it was gathered from different kinds of distributorships: PMB-Agro is a wholesaler while Fralen's Farm Supply and JEA Farm Supply are only retailers. Obviously, the two (2) mentioned retailers offered much higher prices than that of PMB-Agro. Moreso [sic], verification conducted with the owners of both Fralen's and JEA Farm Supply confirmed that they provided the Municipality of Buguias price quotations of insecticides and fungicides, and they executed Affidavits (Annex[es] "R" to "R-4") to support the same. Further, in the affidavits they indicated that, sometimes, PMB-Agro is their distributor of fungicides and insecticides.

33. Certainly, PMB-Agro managed to get the contract wherein it offered much cheaper prices for fungicides and insecticides compared to JEA and Fralen's Farm Supplies, which are apparently just retailers.²⁶

The Complaint also alleged the anomalies in the verification of the farmer-beneficiaries, with interviews of some farmers revealing their non-receipt of any of the aforementioned insecticides and fungicides, the gathering of their signatures to forge proof of their acceptance, and the supposed requirement of a payment of 25% of the purchase price of the supposedly free insecticides and fungicides to petitioner Aban before any were released to the said farmer-beneficiaries.²⁷ Ultimately, Task Force Abono also alleged the conspiracy between and amongst the perpetrators due to the evident lack of required details on key procurement documents, such as dates and document numbers, in order to avoid a paper trail, and to cover up the irregular

²⁴ Id. at 37-53.

²⁵ 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.

²⁶ *Rollo*, p. 46.

²⁷ Id. at 47.

transaction.²⁸ Aside from multiple criminal liabilities, Task Force Abono recommended that petitioners be held administratively liable for dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service.²⁹

Petitioners filed their Counter-Affidavits on September 2, 2011.³⁰ Their defenses can be summarized as follows:

Respondent Suyat vehemently denies criminal liability, claiming that: she merely performed her ministerial duty to sign all the documents relating to the questioned procurement since the requisite supporting documents were attached to the same; the non-indication of dates in the disbursement voucher and its supporting documents was not intentional; payment of the purchased insecticides and fungicides were made in good faith considering that all its supporting documents were deemed regular. With respect to the decision to award the contract to PMB-Agro, she claims that she is not liable for the same since she is not a member of the committee who awarded the contract.

Respondent Aban argues that: the brand names of the pesticides and other farm inputs were all gathered from the farmers through the suggestion of the Barangay Captains of the LGU; he did not order the collection of any amount from the farmers or receive any amount or gift in the distribution of the farm inputs from the farmers; he did not have any direct contact with the farmers in the distribution of the farm inputs a[s] it was the Barangay Captains who distributed the same to their farmer beneficiaries; and he was not a member of the Bids and Awards Committee (BAC) nor a signatory to any document relative to the farm inputs purchased from PMB-Agro.

Respondent Endi maintains that: it was his ministerial duty to sign the documents relative to the procurement since the requisite supporting documents had been complied with, and he checked the existence and authenticity of the same; and it is not his function as municipal accountant to procure fertilizers for the LGU as he is not a member of the BAC.

Respondents also explain that procurement was not done in accordance with RA 9184 at the time because the functions of the BAC were indefinitely suspended by Mayor Camsol effective January 9, 2004 until a new BAC was created by the succeeding mayor; the purchase of the insecticides and fungicides was made during the time the BAC was suspended, and so in order to not deprive the farmers of the LGU who suffered a series of losses due to calamities, plant pests, and diseases, the procurement was made under the old practice which was never questioned by the COA.³¹ (Emphasis omitted)

²⁸ Id. at 47-48.

²⁹ Id. at 50.

³⁰ No copy is attached to the *rollo*.

³¹ *Rollo*, pp. 60-61; Decision of the Office of the Ombudsman dated November 10, 2015.

Ruling of the Special Panel of the Office of the Ombudsman

The Office of the Ombudsman, through its Special Panel on the Fertilizer Fund Scam, promulgated its Decision on the administrative aspect of the Complaint on November 10, 2015³² with the following dispositive portion:

WHEREFORE, this Office finds respondents ANICETA C. SUYAT, MARCELINO ENDI and ASANO E. ABAN **GUILTY** of GRAVE MISCONDUCT and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, and ASANO E. ABAN also **GUILTY** of SERIOUS DISHONESTY.

Accordingly, they are meted the penalty of **DISMISSAL FROM THE SERVICE** with cancellation of their eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office, pursuant to Section 52 of the Revised Rules on Administrative Cases in the Civil Service.

In the event that the penalty of **DISMISSAL FROM THE SERVICE** can no longer be enforced due to respondents' retirement, resignation, or separation from the service for any reason, the same shall be converted into a **FINE EQUIVALENT TO ONE YEAR SALARY** for each respondent, payable to the Office of the Ombudsman, and may be deducted from respondents' retirement benefits, accrued leave credits, or any receivable from their office.

It shall be understood that the accessory penalties attached to [the] principal penalty of Dismissal shall continue to be imposed.

SO ORDERED.³³ (Emphases in the original)

The Office of the Ombudsman ruled that there was enough substantial evidence to find petitioners guilty of their administrative offenses, which are all anchored on the question of whether public bidding was conducted when the Municipality of Buguias, Benguet procured the subject insecticides and pesticides. Petitioners' justification that the Municipality's BAC was indefinitely suspended at the time was not a sufficient excuse to do away with the requirements of R.A. No. 9184. Invoking the case of *Cabrera v. Marcelo*,³⁴ the Office of the Ombudsman found petitioners' failure to observe both the requisites of public bidding and the conditions for proper resort to alternative methods of procurement as a *prima facie* contravention of the law.

Petitioners were thus not justified in signing the relevant procurement documents, and this constituted bad faith on their part. The Office of the

³² The same, however, was only approved by Ombudsman Conchita C. Carpio-Morales on July 27, 2016.

³³ *Rollo*, pp. 68-69.

³⁴ 487 Phil. 427 (2004).

Ombudsman also found petitioners to have acted with manifest partiality since their selective sending of quotation requests made sure that only one wholesaler (*i.e.*, PMB Agro-Goods & Services) would be in the best and undeniable position to secure the contract. Finally, petitioner Aban's bare denial of the allegation that he collected 25% of the purchase price of the insecticides and fungicides from the farmer-beneficiaries could not stand against the categorical and affirmative attestation of some farmer-beneficiaries and the *Sinumpaang Salaysay* of the *Punong Barangay* of Loo, Buguias, Benguet dated August 28, 2007—the latter having confirmed that petitioner Aban collected his 25% on the pretext of supplementing the funds of the Municipal Agricultural & Fisheries Council, a livelihood program of his office as municipal agricultural officer.³⁵

Petitioners duly filed their Motion for Reconsideration, but the same was denied by the Office of the Ombudsman in an Order dated February 7, 2017.³⁶ Aggrieved, they elevated the case to the CA *via* separate Petitions for Review under Rule 43 of the Rules of Court that were eventually consolidated.³⁷

Ruling of the Appellate Court

The CA Special 16th Division promulgated its Decision on the consolidated Petitioners for Review on August 15, 2019 with the following dispositive portion:

WHEREFORE, premises considered, the Decision of the Office of the Ombudsman in OMB-C-A-11-0403G, dated November 10, 2015, and the Order dated February 7, 2017, are hereby **AFFIRMED WITH MODIFICATIONS**.

With respect to CA-G.R. SP No. 150503, the Decision is **AFFIRMED** in TOTO. ANECITA C. SUYAT is found guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, and is thus meted the penalty of **DISMISSAL FROM THE SERVICE** with cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar [sic] from taking civil service examinations.

With respect to CA-G.R. SP No. 150504, the Decision is **MODIFIED**. MARCELINO P. ENDI is found guilty of Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service, and is thus meted the penalty of **DISMISSAL FROM THE SERVICE** with cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar [sic] from taking civil service examinations.

³⁵ *Rollo*, p. 66.

³⁶ *Id.* at 72 and 77.

³⁷ *Id.* at 73.

With respect to CA-G.R. SP No. 150505, the Decision is MODIFIED. ASANO E. ABAN is found guilty of Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Less Serious Dishonesty, and is thus meted the penalty of DISMISSAL FROM THE SERVICE with cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office, and bar [sic] from taking civil service examinations.

In the event that the penalty of DISMISSAL FROM THE SERVICE cannot be enforced due to resignation, retirement, or separation at the time of the finality of this Decision, the penalty shall instead be a FINE EQUIVALENT TO ONE-YEAR SALARY.

SO ORDERED.³⁸ (Emphases in the original)

The appellate court made the following rulings after its meticulous review of the facts:

1. Mayor Camsol had no authority to unilaterally suspend or dissolve the functions of the Municipality's BAC, since no authority exists in any provision of R.A. No. 9184.³⁹
2. The general rule under either R.A. No. 9184 or R.A. No. 7160, otherwise known as the Local Government Code of 1991, is that the acquisition of supplies by local government units (LGUs) shall be through competitive public bidding, and the absence of the same in the procurement process at bar, *i.e.*, the lack of any advertisement or pre-procurement conference, or any screening of bidders, *etc.*, belied any allegation of substantial compliance by petitioners, and their deviation from the said general rule had no justification on record.⁴⁰
3. Even if negotiated procurement with PMB Agro-Goods & Services was warranted, or that there was any need at all for the Municipality of Buguias, Benguet to avail of alternative modes of procurement, petitioners by their actions (and/or inaction) did not adhere to the provisions of the law. Crucially, no notice of the intended procurement of the insecticides and fungicides were posted on the Municipality's website, the online Philippine Government Electronic Procurement System (PHILGEPS), or even in any conspicuous place reserved for the purpose in the premises of the municipal hall or compound—making the lack of basic transparency in the present case was all too obvious.⁴¹

³⁸ Id. at 98-99.

³⁹ Id. at 78-80.

⁴⁰ Id. at 80-83.

⁴¹ Id. at 83-87.

4. Petitioner Aban committed grave misconduct when he prepared the undated and unnumbered purchase request that specified the brand names of insecticides and fungicides to be procured—in clear contravention of Section 18 of R.A. No. 9184 and in wanton disregard of the core principles of competitive and open public bidding, which threatened the public interest.⁴²
5. Petitioner Suyat was not merely performing a ministerial duty when she conducted her personal canvass of insecticide suppliers, certified the availability of cash for the questionable transaction, and signed the various procurement documents such as the disbursement voucher, the Landbank check payable to PMB Agro-Goods & Services, and the inspection and acceptance report. As municipal treasurer, she was duty-bound in her fiduciary function to ensure that the funds of the Municipality of Buguias, Benguet were not subject to misappropriation, waste, or other forms of unlawful disbursement or use. Her gross disregard of the law and her participation in an unjustifiable scheme to do away with public bidding were constitutive of grave misconduct, since she should have been aware of the relevant applicable procurement laws. Her twenty-two (22) years of service at the time of the procurement thus aggravates rather than mitigates her liability, and thus she cannot claim good faith due to her presumed knowledge of LGU procurement processes.⁴³
6. Petitioner Endi is not guilty of grave misconduct, but instead of gross neglect of duty. His signature on the various procurement documents, particularly on the undated disbursement voucher, was his certification that the proper processes were followed and that the documentation was complete. However, the CA noted that none of the required bidding documents specified in Section 17⁴⁴ of R.A. No. 9184 were found by the COA, and his negligence resulted in the facilitation of an illegal

⁴² Id. at 87-89.

⁴³ Id. at 89-91.

⁴⁴ SEC. 17. *Form and Contents of Bidding Documents.* – The Bidding Documents shall be prepared by the Procuring Entity following the standard forms and manuals prescribed by the GPPB. The Bidding Documents shall include the following:

- (a) Approved Budget for the Contract;
- (b) Instructions to Bidders, including criteria for eligibility, bid evaluation and post-qualification, as well as the date, time, and place of the pre-bid Conference (where applicable), submission of bids, and opening of bids;
- (c) Terms of Reference;
- (d) Eligibility Requirements;
- (e) Plans and Technical Specifications;
- (f) Form of Bid, Price Form, and List of Goods or Bill of Quantities;
- (g) Delivery Time or Completion Schedule;
- (h) Form and Amount of Bid Security;
- (i) Form and Amount of Performance Surety and Warranty; and
- (j) Form of Contract, and General and Special Conditions of Contract.

The Procuring Entity may require additional document requirements or specifications necessary to complete the information required for the bidders to prepare and submit their respective bids.

procurement prejudicial to the public interest. His position as municipal accountant imposed upon him a greater responsibility in LGU procurement matters, but he was not circumspect in the discharge of his duties.⁴⁵

7. All petitioners committed conduct prejudicial to the best interest of the service, since their actions (and/or inaction) combined had cast a serious shadow on the image of public servants, and caused injury to the public interest.⁴⁶
8. Petitioner Aban is guilty of only less serious dishonesty in his collection of 25% of the purchase price of the procured insecticides and fungicides, since there was no evidence on record that his actions caused serious damage or prejudice to the Government, or that he gravely abused his authority. He was also not an “accountable officer” within the meaning of the law and jurisprudence, and his actions did not by themselves exhibit a moral depravity on his part, nor did they sufficiently constitute fraud. Nevertheless, his misrepresentation to the farmer-beneficiaries was still punishable.⁴⁷

Petitioners accordingly filed their Motion for Reconsideration, but the same was denied by the CA in its Resolution dated December 19, 2019, *viz.*:

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED**. Our Decision dated August 15, 2019 **STANDS**.

SO ORDERED.⁴⁸ (Emphases in the original)

Petitioners made three arguments for the CA’s reconsideration: 1) R.A. No. 9184 at the time was a relatively new statute, and they really had no forms and documents with which to implement the statute’s provisions, so they should be excused from strict compliance with the same; 2) Mayor Camsol was the chief executive of their LGU, and thus they were compelled to unquestioningly rely on his judgment and comply with his instructions; and 3) Mayor Camsol’s suspension of the BAC’s functions was a difficult question of law, and their reliance on his interpretation of the law was made in good faith and with no ill motive.⁴⁹

⁴⁵ *Rollo*, pp. 92-94.

⁴⁶ *Id.* at 94-95.

⁴⁷ *Id.* at 95-97.

⁴⁸ *Id.* at 108.

⁴⁹ *Id.* at 103-104.

The CA was not persuaded, since R.A. No. 9184 had already been in full effect when the controversy came about. The law's effectivity was also not suspended by the lack of any promulgated Implementing Rules and Regulations (IRR)⁵⁰ and the issuance of new procurement forms and documents. The absence of the latter did not excuse the absence of competitive bidding or the non-compliance with R.A. No. 9184 in general. In fact, petitioners could have conducted the prescribed procurement process without the forms and documents as long as they adhered to the spirit and text of the law. In failing to do so, the CA did not detect any good faith in petitioners' actions (and/or inaction). Finally, petitioners' blind obedience to the wishes of Mayor Camsol was also inexcusable, since they completely disregarded the provisions of the law in their scheme. There was no difficult question of law for them to ponder, since the basic procedure and minimum requirements of competitive public bidding were clearly stated in R.A. No. 9184 and its IRR.⁵¹

Hence, the present Joint Petition.

Arguments of the Parties

Petitioners submit only one argument for the Court's consideration: they were denied due process since they were denied the opportunity to explain their side before the COA prior to the issuance of the ND relative to the questioned procurement. They argue that they were not served with copies of AOM No. 2004-002 and the ND, and that the Office of the Ombudsman unduly decided on their administrative liabilities without the COA processes relative to the questioned procurement being properly concluded. The final orders of the Office of the Ombudsman dismissing them from the service and imposing the attendant penalties were thus rendered without due process and are, to them, void *ab initio*.⁵²

In its Comment⁵³ on behalf of all respondents, the Office of the Solicitor General (OSG) basically argues the following:

1. A petition for *certiorari* under Rule 65 of the Rules of Court is not the proper remedy to assail the decisions and findings of the CA in the exercise of its appellate jurisdiction under Rule 43. Petitioners should have filed a petition for review on *certiorari* under Rule 45. As such, the reglementary period for filing the proper action had already lapsed after

⁵⁰ The CA did note, however, that the IRR of Republic Act No. 9184 had already been in effect since October 8, 2003, about nine (9) months prior to the procurement in question. See *rollo*, pp. 106-107.

⁵¹ Id. at 104-108.

⁵² Id. at 8-11.

⁵³ Id. at 125-157.

fifteen (15) days from notice of the CA's Resolution dated December 19, 2019. The case had thus already become final and executory.⁵⁴

2. Petitioners were given ample opportunity to be heard before the Office of the Ombudsman with regard to their administrative case, and that both the same office and the CA did not err in their findings *vis-à-vis* their administrative liabilities, since the latter were based on substantial evidence and a correct and careful reading of all relevant laws relating to the questionable procurement at bar, and relating to the administrative liabilities of public officers.⁵⁵

In their Reply,⁵⁶ petitioners merely reiterate their main arguments of denial of due process and the alleged grave abuse of discretion on the part of the Office of the Ombudsman and the CA. Petitioners also filed a "Manifestation and Respectful Motion to Admit Decision as Part of Evidence for Petitioners"⁵⁷ in order to include for the Court's consideration the Decision⁵⁸ dated July 1, 2022 of the Sandiganbayan 7th Division. Said ruling apparently acquitted Mayor Camsol and petitioners of the charge of violation of Section 3(e)⁵⁹ of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, in relation to the questionable procurement at bar.

Issues before the Court

For the Court's consideration are the following five issues:

1. Whether or not Petitioners elevated the case to the Court *via* the correct mode of review;
2. Whether or not the Decision dated 15 August 2019 and Resolution dated 19 December 2019 of the CA were already deemed final and executory;
3. Whether or not Petitioners' recent acquittal by the Sandiganbayan has any bearing on the present controversy;

⁵⁴ Id. at 135-137.

⁵⁵ Id. at 138-155.

⁵⁶ Id. at 177-180.

⁵⁷ Id. at 186-187.

⁵⁸ Id. at 190-216.

⁵⁹ (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage, or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith, or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

4. Whether or not Petitioners' alleged denial of their right to due process in the relevant COA proceedings have any bearing on their administrative case before the Office of the Ombudsman; and
5. Whether or not the CA erred in affirming the ruling and findings of the Office of the Ombudsman *vis-à-vis* Petitioners' administrative liabilities in relation to the questioned procurement at bar.

Ruling of the Court

The instant Joint Petition must be dismissed.

Going first to the procedural issues, the OSG is correct to bring up the issue of the propriety of the mode of review invoked by petitioners relative to the present case. Indeed, petitioners elevated the case from the CA *via* Rule 65 of the Rules of Court, instead of Rule 45, of which Section 1 states that judgments, final orders, or resolutions of the CA are appealable to the Court *via* a petition for review on *certiorari*. Section 2 of Rule 45 mandates that the petition shall be filed within fifteen (15) days from notice of said judgment, order, or resolution appealed from, or from the denial of the petitioner's motion for new trial or reconsideration. The Court may, for justifiable reasons, extend for thirty (30) days the period within which the petition may be filed, premised upon a motion for the said extension duly filed and served, as well as the full payment of docket and other lawful fees and the deposit for costs before the expiration of the original reglementary period.

A petition for *certiorari* under Rule 65, on the other hand, is a different legal animal in the realm of civil procedure. Section 1 thereof defines said petition as an action where a party seeks to annul or modify the proceedings or actions of a board, tribunal, or public officer exercising judicial or quasi-judicial functions, and said proceedings or actions have been done without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. **Crucially, a special civil action for certiorari is premised on the fact that there is neither an appeal nor any plain, speedy, and adequate remedy available in the ordinary course of law.**

Having established that petitioners did have the right to appeal the CA's ruling and subsequent denial of their motion for reconsideration, the Court finds that they indeed chose and utilized the wrong mode of review when they came before the Court. The OSG is correct in invoking the case of *Landbank of the Philippines v. Court of Appeals*⁶⁰ (*Landbank*) wherein the Court stated that the resort to a wrong mode of appeal or review did not toll the running of the

⁶⁰ 789 Phil. 577 (2016).

relevant reglementary period.⁶¹ From the records, petitioners received notice of the CA's denial of their Motion for Reconsideration on January 8, 2020. They thus had only until January 23, 2020 to file their petition for review on *certiorari* with the Court. However, the present Joint Petition for *Certiorari* was filed on March 9, 2020, indicating that petitioners had in mind the reglementary period of sixty (60) days under Section 4 of Rule 65. Clearly, the CA's Decision dated August 15, 2019 and Resolution (on petitioners' Motion for Reconsideration) dated December 19, 2019 had indeed already become final and executory.

As such, the Court cannot rightly entertain the present Joint Petition. As stated in the *Landbank* case, "the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional, and failure of a party to conform to the rules regarding appeal will render the judgment final and executory."⁶²

If petitioners' theory was that either or both the Office of the Ombudsman or the CA were acting in excess of their jurisdiction or had gravely abused their discretion in proceeding with the merits of their administrative case, their full participation in both proceedings below negate their stance. Petitioners could have thus utilized Rule 65 immediately while proceedings were still at the Office of the Ombudsman, but the records show that they filed their counter-affidavits and submitted to the said office's jurisdiction. Petitioners' appeal to the CA via Rule 43 also belies that their theory and sole argument of being denied due process *vis-à-vis* the relevant COA proceedings are merely an afterthought brought before the Court at this late stage. Had they felt that the Office of the Ombudsman was indeed without jurisdiction in entertaining the administrative case, a Rule 65 petition (instead of an appeal under Rule 43) should have been filed before the CA.

Thus, the fact that petitioners now submit before the Court a copy of their acquittal alongside Mayor Camsol in criminal proceedings before the Sandiganbayan Seventh Division is of no moment. Since the present case is already final and executory, the Court sees no reason to disturb the findings of both the Office of the Ombudsman and the CA. In any event, the standard of evidence in criminal proceedings, *i.e.*, proof beyond reasonable doubt, is different (and higher) from that in administrative cases, *i.e.*, that of substantial evidence, or "such relevant as a reasonable mind may accept as adequate to support a conclusion."⁶³ As previously expounded upon, there is enough substantial evidence in the record to warrant a finding of petitioners' administrative liabilities and penalties, which are distinct from (though related to) their criminal aspects. The fact that the administrative offenses here (*i.e.*,

⁶¹ Id. at 582-583.

⁶² Id. at 583.

⁶³ *National Bureau of Investigation v. Najera*, G.R. No. 237522, June 30, 2020.

grave misconduct, conduct prejudicial to the best interest of the service, grave neglect of duty, and less serious dishonesty) are substantially different from the charged offense before the Sandiganbayan (*i.e.*, unwarranted benefits to a party in the discharge of official functions through manifest partiality, evident bad faith, or gross inexcusable negligence) also goes against petitioners' plea. As stated by the Court (by quoting *verbatim* the disquisition of the CA) in the case of *Ganzon v. Arlos*,⁶⁴

x x x The mere fact that he was acquitted in the criminal case (said criminal case was based on the same facts or incidents which gave rise to the instant administrative case) does not *ipso facto* absolve him from administrative liability. Time and again, the Supreme Court has laid down the doctrine that an administrative case is not dependent on the conviction or acquittal of the criminal case because the evidence required in the proceedings therein is only substantial and not proof beyond reasonable doubt.

An administrative case is, as a rule, independent from criminal proceedings. The dismissal of a criminal case on the ground of insufficiency of evidence or the acquittal of the accused who is also a respondent in an administrative case does not necessarily preclude the administrative proceeding, nor carry with it relief from administrative liability. This is because the quantum of proof required in administrative proceedings is substantial evidence, unlike in criminal cases which require proof beyond reasonable doubt. x x x.⁶⁵

Proceeding now to the discussion on petitioners' sole assertion of denial of due process, the Court is not persuaded by their argument. It has long been settled since the *Cabrera*⁶⁶ case that COA proceedings neither forestall nor postpone the exercise of the Office of the Ombudsman of its independent and constitutionally mandated investigatory powers relative to any anomaly or transgression committed by Philippine public officers. The Court enunciated in the said case the following:

Petitioners cannot fault the Ombudsman for relying on the COA Audit Report, notwithstanding that it had not yet attained finality. The initial basis for the Ombudsman's investigation was not the COA Audit Report, but the complaints filed by Casanova. While the allegations in the complaint happened to be similar with those contained in the COA Audit Report, the Ombudsman could very well conduct an independent investigation based on the complaints for the purpose of whether criminal charges should be filed against the petitioners. The Ombudsman is reposed with broad investigatory powers in the pursuit and [sic] of its constitutional mandate as protector of the people and investigator of complaints filed against public officials. It is even empowered to request from any government agency such as the COA, the

⁶⁴ 720 Phil. 104 (2013).

⁶⁵ *Id.* at 118.

⁶⁶ *Supra* note 34.

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information necessary in the discharge of its responsibilities and to examine, if necessary, pertinent records and documents.

It should be borne in mind that the interest of the COA is solely administrative, and that its investigation does not foreclose the Ombudsman's authority to investigate and determine whether there is a crime to be prosecuted for which a public official is answerable. In *Ramos v. Aquino*, the Court ruled that the fact that petitioners' accounts and vouchers had passed in audit is not a ground for enjoining the provincial fiscal from conducting a preliminary investigation for the purpose of determining the criminal liability of petitioners for malversation. Clearly then, a filing of probable cause does not derive its veracity from the findings of the COA, but from the independent determination of the Ombudsman.⁶⁷ (Emphasis and underscoring supplied; citations omitted)

In reality, petitioners were given ample opportunity to refute the administrative charges in the administrative case proper, which was initiated on the basis of the Complaint filed by Task Force Abono of the Office of the Ombudsman-Field Investigation Office. This was the proper venue for them to explain their side relative to the questionable procurement at bar and their alleged participation in the same. They cannot now belatedly claim that the COA audit observation and disallowance proceedings have an effect similar to that of a prejudicial question in criminal proceedings under Sections 6 and 7, Rule 111 of the Rules of Court.⁶⁸ Verily, there is neither statutory nor jurisprudential basis for such an interpretation, since it has been established that proceedings before the Office of the Ombudsman can (and must) proceed independently from COA proceedings that may either be pending or favorable to a respondent. In line with *Cabrera*, the purposes of the two classes of proceedings are distinct: COA proceedings are to determine the nature of, and corresponding accountabilities in, anomalous government transactions, whilst proceedings before the Office of the Ombudsman are for the determination of criminal and administrative wrongdoing of public officers. While the two may definitely intersect, one may definitely proceed independently of the other. Moreover, it appears that petitioners did not raise the issue of denial of due process (in the COA proceedings) in their appeal before the CA. Notably, the Ombudsman's ruling was not solely based on the COA ND, but also (and mainly) on the factual findings and separate investigation conducted by the Ombudsman's Task Force Abono. The COA ND was only an investigative lead that paved the way for the disclosure of the anomalies in the subject

⁶⁷ Id. at 438-439.

⁶⁸ Sec. 6. *Suspension by reason of prejudicial question.* — A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.

Sec. 7. *Elements of prejudicial question.* — The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed."

procurement. Thus, petitioners' belated claim of denial of due process deserves scant consideration.

Going now to the substance of the rulings of the Office of the Ombudsman and the CA, the Court finds no reversible error in the same. There is more than enough substantial evidence to merit petitioners' dismissal from the service with the attendant accessory penalties, and the Office of the Ombudsman was correct in invoking *Cabrera* when it characterized that the anomalies in the questionable procurement at bar constituted *prima facie* violation of Philippine government procurement laws. Settled is the rule that when the findings of fact of the Ombudsman are supported by substantial evidence, said findings should be considered as conclusive. This Court recognizes the expertise and independence of the Ombudsman and will avoid interfering with its findings absent a finding of grave abuse of discretion.⁶⁹ The Court will not disturb the findings of the Ombudsman that are supported by substantial evidence and affirmed by the CA.⁷⁰

Section 3 of R.A. No. 9184 outlines the governing principles of government procurement, *viz.*:

SEC. 3. *Governing Principles on Government Procurement.* – All procurement of the national government, its departments, bureaus, offices, and agencies, including state universities and colleges, government-owned and/or –controlled corporations, government financial institutions, and local government units, shall, in all cases, be governed by these principles:

- (a) Transparency in the procurement process and in the implementation of procurement contracts.
- (b) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.
- (c) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method.
- (d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts, and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

⁶⁹ See *Miro v. Mendoza*, 721 Phil. 772, 784 (2013), citing *Cabalit v. Commission on Audit-Region VII*, 679 Phil. 138, 157-158 (2012).

⁷⁰ *Id.*

- (e) Public monitoring of the procurement process and the implementation of awarded contracts, with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and that all these contracts are performed strictly according to specifications.⁷¹

The short but succinct Section 10 of R.A. No. 9184 provides for the general rule in government procurement: “[a]ll Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act.” Article XVI of R.A. No. 9184 outlines the five (5) kinds of alternative modes of procurement, namely: limited source/selective bidding (Section 49),⁷² direct contracting (Section 50),⁷³ repeat order (Section 51),⁷⁴ shopping (Section 52),⁷⁵ and negotiated procurement (Section 53).⁷⁶ To the Court’s mind, the

⁷¹ Emphases, italics, and underscoring supplied.

⁷² SEC. 49. *Limited Source Bidding*. — Limited Source Bidding may be resorted to only in any of the following conditions:

- (a) Procurement of highly specialized types of Goods and Consulting Services which are known to be obtainable only from a limited number of sources; or
- (b) Procurement of major plant components where it is deemed advantageous to limit the bidding to known eligible bidders in order to maintain an optimum and uniform level of quality and performance of the plant as a whole.

⁷³ SEC. 50. *Direct Contracting*. — Direct Contracting may be resorted to only in any of the following conditions:

- (a) Procurement of Goods of proprietary nature, which can be obtained only from the proprietary source, i.e. when patents, trade secrets and copyrights prohibit others from manufacturing the same item;
- (b) When the Procurement of critical components from a specific manufacturer, supplier or distributor is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of his contract; or,
- (c) Those sold by an exclusive dealer or manufacturer, which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government.

⁷⁴ SEC. 51. *Repeat Order*. — When provided for in the Annual Procurement Plan, Repeat Order may be allowed wherein the Procuring Entity directly procures Goods from the previous winning bidder whenever there arises a need to replenish goods procured under a contract previously awarded through Competitive Bidding, subject to post-qualification process prescribed in the Bidding Documents and provided all the following conditions are present:

- (a) The unit price must be equal to or lower than that provided in the original contract;
- (b) The repeat order does not result in splitting of requisitions or purchase orders;
- (c) Except in special circumstances defined in the IRR, the repeat order shall be availed of only within six (6) months from the date of the Notice to Proceed arising from the original contract; and,
- (d) The repeat order shall not exceed twenty-five percent (25%) of the quantity of each item of the original contract.

⁷⁵ SEC. 52. *Shopping*. — Shopping may be resorted to under any of the following instances:

- (a) When there is an unforeseen contingency requiring immediate purchase: *Provided, however*, That the amount shall not exceed Fifty thousand pesos (P50,000); or
- (b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding Two hundred fifty thousand pesos (P250,000): *Provided, however*, That the Procurement does not result in Splitting of Contracts: *Provided, further*, That at least three (3) price quotations from bona fide suppliers shall be obtained.

The above amounts shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons.

⁷⁶ SEC. 53. *Negotiated Procurement*. — Negotiated Procurement shall be allowed only in the following instances:

facts and details of the questionable procurement at bar do not make the latter fall squarely under any of the five mentioned modes.

To illustrate, the Court notes the following: the personal canvass conducted by petitioner Suyat that resulted in the three bids can seemingly place the procurement under either limited source/selective bidding (due to the ostensible pre-selection of pesticide suppliers that, to petitioner Suyat's mind, had known experience or proven capability relative to the requirements of the contract) or shopping (since petitioner Suyat did indeed simply request for the submission of price quotations for readily available off-the-shelf pesticides to be procured from suppliers of known qualification). However, the questionable procurement at bar is neither, since: 1) limited source/selective bidding can only be resorted to for the "[p]rocurement of highly specialized types of Goods,"⁷⁷ of which the subject pesticides were not proven on record to be; and 2) there are monetary limits (₱50,000.00 for unforeseen contingencies requiring immediate purchase, and ₱250,000.00 for ordinary/regular officer supplies and equipment not available with the DBM-Procurement Service⁷⁸) to shopping as allowed under R.A. No. 9184. It also goes without saying that the questionable procurement at bar falls under none of the remaining alternative modes: direct contracting, repeat order, or negotiated procurement. What then, is the alternative mode of procurement used here?

The seeming confusion can be explained by a look into the repealing clause of R.A. No. 9184. Section 76 states that R.A. No. 9184 repeals, among

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- (a) In cases of two (2) failed biddings, as provided in Section 35 hereof;
 - (b) In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;
 - (c) Take-over of contracts, which have been rescinded or terminated for causes provided for in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;
 - (d) Where the subject contract is adjacent or contiguous to an on-going infrastructure project, as defined in the IRR: *Provided, however*, That the original contract is the result of a Competitive Bidding; the subject contract to be negotiated has similar or related scopes of work; it is within the contracting capacity of the contractor; the contractor uses the same prices or lower unit prices as in the original contract less mobilization cost; the amount involved does not exceed the amount of the ongoing project; and, the contractor has no negative slippage: *Provided, further*, That negotiations for the procurement are commenced before the expiry of the original contract. Whenever applicable, this principle shall also govern consultancy contracts, where the consultants have unique experience and expertise to deliver the required service; or,
 - (e) Subject to the guidelines specified in the IRR, purchases of Goods from another agency of the government, such as the Procurement Service of the DBM, which is tasked with a centralized procurement of commonly used Goods for the government in accordance with Letter of Instruction No. 755 and Executive Order No. 359, series of 1989.

⁷⁷ REPUBLIC ACT NO. 9184, Section 49, paragraph (a).

⁷⁸ *Id.*, Section 52, paragraphs (a) and (b). The same section provides that the said amounts "shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons." Since Republic Act No. 9184 was a fairly recent enactment at the time of the questioned procurement at bar, it was impossible for the allowable amount to be increased to cover the contract price.

others, "Title Six, Book Two of Republic Act No. 7160, otherwise known as the 'Local Government Code of 1991.'" Under Section 366 of R.A. No. 7160, the "personal canvass of responsible merchants" was an allowed mode of procurement without public bidding, and this is likely what petitioners are apt to invoke as their justification for their actions. However, Section 367 states the requirements for the same:

Sec. 367. Procurement through Personal Canvass. — Upon approval by the Committee on Awards, procurement of supplies may be effected after personal canvass of at least three (3) responsible suppliers in the locality by a committee of three (3) composed by the local general services officer or the municipal or *Barangay* treasurer, as the case may be, the local accountant, and the head of office or department for whose use the supplies are being procured. The award shall be decided by the Committee on Awards.

Purchases under this Section shall not exceed the amounts specified hereunder for all items in any one month for each local government unit:

Provinces and Cities and Municipalities within the Metropolitan Manila Area:

First and Second Class – One hundred fifty thousand pesos (P150,000.00)

Third and Fourth Class – One hundred thousand pesos (P100,000.00)

Fifth and Sixth Class – Fifty thousand pesos (P50,000.00)

Municipalities:

First Class – Sixty thousand pesos (P60,000.00)

Second and Third Class – Forty thousand pesos (P40,000.00)

Fourth Class and Below – Twenty thousand pesos (P20,000.00)

The Court takes judicial notice of the fact that the Municipality of Buguias, Benguet is currently a 3rd class municipality in terms of income classification, and was likely the same back when the questionable procurement at bar occurred. The contract price of ₱1,050,000.00 (which was not broken down into any installments or components) was thus well beyond the limits of what was allowed under the previous law for LGUs, and even if assuming *arguendo* that the said provision was still in effect, the Court finds that petitioners still did not follow the express requirements of prior approval by the Municipality's BAC, and the stated monetary limitations on personal canvass procurement. Petitioners should have been aware that R.A. No. 9184 had amended the pertinent provisions of R.A. No. 7160, and even if they were not aware of such fact, their non-compliance with even the outdated provisions relative to their procurement activities is plainly inexcusable.

Thus, even if petitioners claim good faith and excusable negligence due to the fairly recent enactment of R.A. No. 9184, they are still in default of their expected responsibilities as municipal officials. The lack of the required documentation of the procurement process, the likely intentional omission of

dates on the bare documentation available, the blatant reference to brand names of pesticides, the uncannily exact match between the estimated unit costs in the purchase request and the offered quotations of PMB Agro-Goods & Services, the overall absence of any justification or prior written approval of Mayor Camsol as head of the procuring entity, and the other gross anomalies in the record all cannot escape the Court's attention here. The CA correctly ruled that petitioners' respective actions collectively constituted a stain on the reputation of Philippine public service, and this deserved the ultimate administrative penalty of dismissal.

In *Office of the Ombudsman-Mindanao v. Martel*,⁷⁹ which involved a similar instance where the provincial accountant and provincial treasurer were made administratively liable (and accordingly dismissed) for the lack of public bidding (and instead, a direct purchase) for the procurement of excess service vehicles for the Office of the Governor of Davao del Sur, the Court stressed that "serious offenses, such as grave misconduct and gross neglect of duty, have always been and should remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee, but the improvement of public service and the preservation of the public's faith and confidence in the government. Indeed, public office is a public trust."⁸⁰ And as aptly stated in *Andaya v. Office of the Ombudsman-Field Investigation Office*,⁸¹ the "high constitutional standard of conduct is not intended to be mere rhetoric and taken lightly, as those in the public service are enjoined to fully comply with this standard or run the risk of facing administrative sanctions ranging from reprimand to the extreme penalty of dismissal from the service."⁸²

Specific to grave misconduct, the Court ruled in *Office of the Deputy Ombudsman for Luzon v. Dionisio*⁸³ the following:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. 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, 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. In order to differentiate gross misconduct from simple misconduct, the elements

⁷⁹ 806 Phil. 649 (2017).

⁸⁰ Id. at 666.

⁸¹ G.R. No. 237837, June 10, 2019

⁸² Id., citing *Amit v. Commission on Audit*, 699 Phil. 9, 26 (2012).

⁸³ 813 Phil. 474 (2017).

of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.⁸⁴

The Court further held in the same case the following relative to either ignorance or lack of familiarity with R.A. No. 9184:

To be sure, respondents cannot hide behind the cloak of ignorance or lack of familiarity with the foregoing laws and policies. It is a basic legal tenet that ignorance of the law excuses no one from compliance therewith.⁸⁵ Besides, Dionisio did not deny that when complainants inquired with her about leasing a portion of the school grounds, she responded that she will study the matter as it might take a long and complicated procedure if they follow the DepEd rules. Also, respondents tried to justify their disregard of the relevant rules by arguing that their actions inured to the benefit of the school and its students. Verily, the foregoing circumstances indicate that respondents knew of existing laws, rules, and regulations pertaining to the lease of public properties, use of public funds, and procurement of government projects, among others; and despite these, they still went ahead with their transactions. By and large, these exhibit respondents' clear intent to violate the law and/or flagrant disregard of established rules, thus justifying the finding that they are indeed liable for Grave Misconduct.⁸⁶

To basically summarize, petitioners were enjoined and duty-bound to know and follow the law, and even if they did not know the new law, they did not follow the old one anyway—noticeably in a flagrant manner and with such disregard for the same. It did not matter that the Municipality's BAC and its functions were indefinitely suspended, and it did not matter that Mayor Camsol exerted undue pressure or influence upon them as the local chief executive—petitioners still failed to discharge their duties as municipal officials and public officers in compliance with the exacting standard required of them. In particular, petitioner Suyat, as a member of the then-suspended BAC, should have known all the relevant requirements of the LGU's procurement process, as well as the anomalies she and her fellow petitioners were getting into at Mayor Camsol's behest. All petitioners should have kept in mind that local chief executives and other politicians come and go, but the law in all its enduring permanence shall and always remain.


WHEREFORE, the instant Joint Petition for *Certiorari* is hereby **DISMISSED**. The Decision dated August 15, 2019 and the Resolution dated December 19, 2019 of the Court of Appeals Special 16th Division in CA-G.R. SP Nos. 150503-05 are hereby **AFFIRMED**.

⁸⁴ Id. at 487-488, citing *Commission on Elections v. Mamalinta*, 807 Phil. 304 (2017), and *Office of the Court Administrator v. Viesca*, 758 Phil. 16 (2015).

⁸⁵ REPUBLIC ACT NO. 386 (otherwise known as THE CIVIL CODE OF THE PHILIPPINES), Article 3.

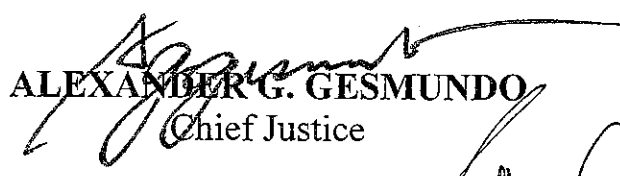
⁸⁶ Supra note 69, at 490.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

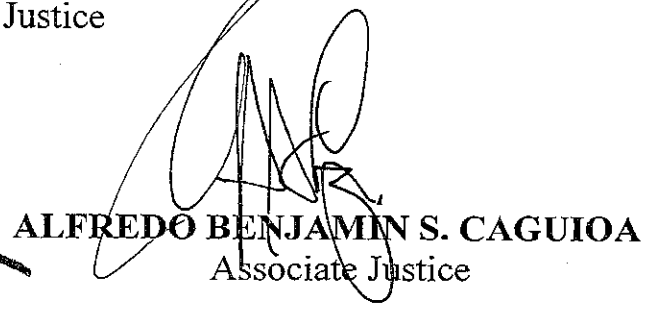
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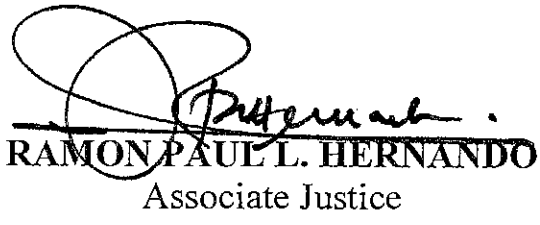
ALEXANDER G. GESMUNDO
Chief Justice



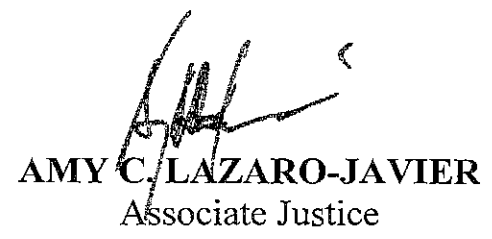
MARVIC M.V.F. LEONEN
Senior Associate Justice



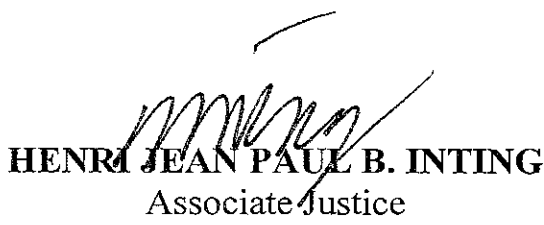
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



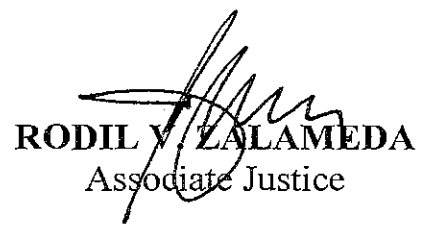
RAMON PAUL L. HERNANDO
Associate Justice



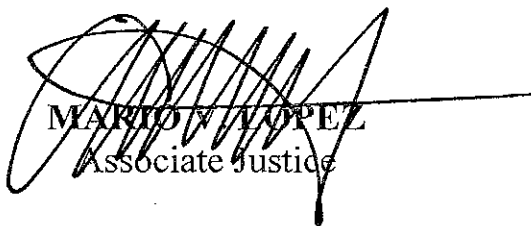
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

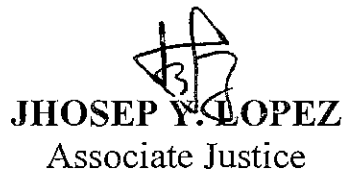


RODIL Y. ZALAMEDA
Associate Justice

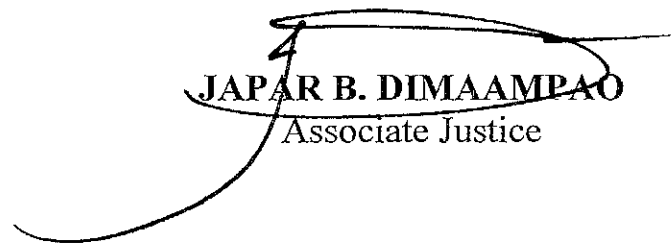


MARIO LOPEZ
Associate Justice


(On official leave)
RICARDO R. ROSARIO
Associate Justice




JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

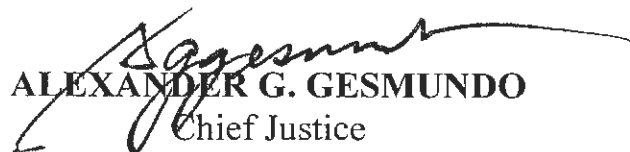

JOSE MIDAS P. MARQUEZ
 Associate Justice


ANTONIO T. KHO, JR.
 Associate Justice

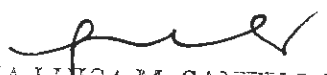

MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ALEXANDER G. GESMUNDO
 Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLANA
 Deputy Clerk of Court and
 Executive Officer
 OGC-En Banc, Supreme Court

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