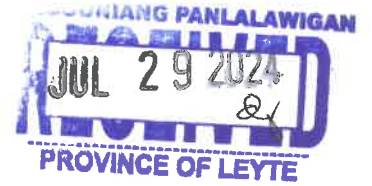


29 July 2024

Item No.: 18
Date: 05 2024 AUG

18
THE HONORABLE SANGGUNIANG PANLALAWIGAN-LEYTE
Thru: HON. LEONARDO M. JAVIER, JR.
Vice Governor's Office
Leyte Provincial Capitol
Palo, Leyte



NOTICE OF APPEAL & APPEAL MEMORANDUM

Dear Vice Governor Javier:


I am respectfully submitting the attached Notice of Appeal and my Memorandum on Appeal for a Complaint I originally filed and decisioned by the Sangguniang Bayan of Pastrana, Leyte.

We also have furnished a copy for the Sangguniang Bayan of Pastrana and the DILG in consonance with the rules.

I hope you find this in order for the proper action of the Sangguniang Panlalawigan.

Thank you and best regards.

Sincerely,


RAMEIL B. CORNIEJO
Appellant
Brgy. Sta. Elena
Tanauan 6502
Leyte
CP # 09269366419

Republic of the Philippines
Province of Leyte
SANGGUINANG PANLALAWIGAN OF LEYTE
Leyte Capitol Building
Palo, Leyte
-o0o-

RAMEIL B. CORNEJO
Complainant-Appellant

CASE NO. : 2024-01

For:

CARLO A. ENALES
Brgy. Kagawad, Brgy. Aringit
Pastrana, Leyte

**Harassment, Grave
Misconduct and Conduct
Unbecoming of a Public
Official**

Respondent-Appellee,

X-----X

MEMORANDUM ON APPEAL

APPELLANT, **RAMEIL B. CORNEJO**, by himself, unto this Honorable Body, files this Memorandum on Appeal of the May 20, 2024 Decision of the Sangguniang Bayan of Pastrana, Leyte adopted by its Sangguniang Bayan Resolution No. 333 during its Special Session on June 10, 2024 and received by Appellant on June 28, 2024 which appellant filed the Notice of Appeal upon receipt on July _____, 2024 and most respectfully avers; THAT -

THE DECISION SUBJECT OF APPEAL

The Sangguniang Bayan promulgated a Decision dated May 20, 2024, the dispositive portion of which reads:

"Wherefore the Committee finds the case for bereft of evidentiary basis, thus, respondent CARLO AURES ENALES not guilty of conduct of unbecoming of a public official.

So, ordered. May 20, 2024.

THE SPECIAL INVESTIGATION COMMITTEE "OF THE WHOLE"
(Created to Investigate this Case)

THE ASSIGNMENT OF ERROR

WITH DUE RESPECT, THE HONORABLE SANGGUINAGN BAYAN OF PASTRANA, LEYTE COMMITTED PALPABLE ERRORS AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN THE OVERWHELMING EVIDENCES AGAINST RESPONDENT WERE NOT APPRECIATED.

The assailed Decision and Resolution No. 333 Series of 2024 by the Sangguniang Bayan of Pastrana states that the Complaint was bereft of evidentiary basis. However, no basis was ever mentioned for such findings. Contrary to its dispositive portion, the same decision points out of provisions under the laws tending to imply that respondent was indeed guilty of harassment and the Safe Spaces Act of 2019, grave threats and Conduct Unbecoming a Public Official. However, the dispositive portion contradicted the earlier discussion on the stringent standards of conduct and ethical behavior required of public officials.

The assailed Decision states that the case was "bereft of evidentiary basis". The aforesaid finding is contrary to what transpired during the hearing as at least five witnesses positively identified and described the lewd acts of the respondent during the incidents. Even the respondent in his answer admitted that altercation between the parties occurred during the said time. All of the elements for the offenses charged are present and proved. What the Honorable Sangguniang Bayan failed to note is the applicable quantum of evidence to be proved in an administrative case such as this one.

In a recent decision of the Supreme Court, it stated that "The quantum of proof in administrative proceedings necessary for a finding of guilt is **substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion**" (*National Bureau of Investigation v. Najera*, G.R. 237522, June 30, 2020).

It is a degree of proof lower than proof beyond reasonable doubt and preponderance of evidence.

"The standard of substantial evidence is satisfied when there is reasonable ground to believe, based on the evidence submitted, that the respondent is responsible for the misconduct complained of.

"It need not be overwhelming or preponderant, as is required in an ordinary civil case, or evidence beyond reasonable doubt, as is required in criminal cases, but the evidence must be enough for a reasonable mind to

support a conclusion" (*Miro v. Mendoza, et al.*, G.R. 172532, 172544-45, November 20, 2013).

In this instant case, not only were there many witnesses who had personal knowledge and were present in the incident, the complaint was supported by police and barangay blotters and other documents. These were more than enough for a reasonable mind to support a conclusion.

The Investigating Committee likewise erred when it stated on its Decision that although the complainant submitted several affidavits of witnesses, they were not testified onto because of inconsistencies.¹

How did the Committee arrived at those conclusion without pointing out of the inconsistencies it was alleging? The witnesses were always present ready to be presented at the hearing dates, but it was the Committee who failed to call them to testify. The decision of the Committee to forego with the presentation of witnesses deprived the undersigned complainant to fully present its case and his right of present his side.

The excuse given by the Committee that they were just following the rules hence the witnesses need not be presented is incorrect. First and foremost, the Committee did not disclose what rules they were following to exclude the many witness of the Complainant. And even if there was a Rule being followed, it should not be used as an excuse to frustrate the ends of justice.

A plethora of decisions by the Supreme Court has held that rules of procedure are **construed liberally in proceedings before administrative bodies**. They are not to be applied in a very rigid and technical manner, as they are used only to hold secure and not to override substantial justice.

By denying the Complainant to present its witnesses and wrongfully stating in its decision that it was the failure of the complainant hence their judicial affidavits are not given weight is absurd. It must be noted that procedural rules were strictly enforced by the Court if it involved violation of the rules either before the trial court, the CA or before the Supreme Court. But not before an administrative body like the Sanggunian.

In a case², the Supreme Court held that "liberality in the application of rules of procedure may not be invoked if it will result in the wanton disregard of the rules or cause needless delay in the administration of

¹ 3rd Paragraph, page 2 of Decision

² *Besaga vs. Acosta, et. al.*, G.R. No. 194061, April 20, 2015.

justice.”

In this instant case, it was not the failure of the Complainant or his witnesses that said witnesses were not made to testify during the hearing. The delay was on the side of the Sangguian’s failure to convene immediately in accordance with the Local Government Code.

As the above-quoted jurisprudence state:

“Yet, it is equally true that in proceedings before administrative bodies the general rule has always been liberality. Strict compliance with the rules of procedure in administrative cases is not required by law. Administrative rules of procedure should be construed liberally in order to promote their object to assist the parties in obtaining a just, speedy and inexpensive determination of their respective claims and defenses.”

Xxx

“Between strict construction of administrative rules of procedure for their own sake and their liberal application in order to enhance fair trials and expedite justice, we uphold the latter. After all, administrative rules of procedure do not operate in a vacuum. The rules facilitate just, speedy and inexpensive resolution of disputes before administrative bodies. The better policy is to apply these rules in a manner that would give effect rather than defeat their intended purpose.” (*Besaga vs. Acosta, et. al., G.R. No. 194061, April 20, 2015*)

It is therefore the duty of the Honorable Sanggunian to determine based on the merits of the allegations and evidence of the case, and not just automatically deny the claim of witnesses due to technicalities.

It is the humble request to the Honorable Sangguniang Panlalawigan to consider the claims and allegations of the Complainant as seen in his Complaint and his Witnesses and to decide on the merits on the case based on applicable rules.

WITH DUE RESPECT, THE HONORABLE SANGGUINAGN BAYAN OF PASTRANA, LEYTE WHO COMMITTED PALPABLE ERRORS AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN THE RESPONDENT WAS NOT PLACED ON PREVENTIVE SUSPENSION AND ONLY DECIDED ON ONE ASPECT OF THE COMPLAINT.

The Honorable Sangguniang Bayan of Pastrana, Leyte clearly failed to act in accordance with the Rules, especially on placing the respondent under preventive suspension while the case was under investigation. The same was prayed for by the Complainant in the beginning but no action was done by the Honorable Body. Instead, it was only mentioned during its Decision, an ending stage where it is useless as intended by the Rules. The failure of preventively suspend the respondent has allowed him to hold on to his position in the barangay and use it to concoct cases against complainant and his witnesses which is now pending before the Court.

Added to this is the patent failure of the Sangguniang Bayan to rule of the other offenses charged in the Complaint such as Harassment, Conduct Unbecoming a Public Official and violation of the Safe Spaces Act of 2019.

With these predicament, and with the belief that complainant cannot get justice from a body whose partiality is quite evident, the Decision is being appealed to the Honorable Sangguniang Panlalawigan .

PRAYER

WHEREFORE, in light of the foregoing facts, it is respectfully prayed of the Honorable Sangguniang Panlalawigan of Leyte that judgment be issued in favour of the Appellant:

- A. **MODIFY** or setting aside the assailed Decision which did not find the respondent guilty of the offenses charged; and,
- B. **ORDER** to consider the Preventive Suspension of the Appellee, and eventually its penalty of suspension or removal from office after finding his guilt based on evidence and merits of the case; and,

All other remedies just and equitable under the circumstances are likewise prayed for. **RESPECTFULLY SUBMITTED.**

Tacloban City, Philippines. 29 July 2024.


RAMEIL B. CORNEJO
Complainant -Appellant
Brgy. Sta. Elena, Tanauan, Leyte
Cellphone Number 09269366419

Republic of the Philippines)
Province of Leyte) S.S.

VERIFICATION

I, **RAMEIL B. CORNEJO**, of legal age, Filipino, single and a resident of Brgy. Sta. Elena, Tanauan, Leyte, hereby depose and say that:

1. I am the appellee in the above-entitled case;
2. I caused the preparation of foregoing memorandum on appeal;
3. I have read the contents thereof and the facts stated therein are true and correct, of my personal knowledge and/or on the basis of copies of authentic documents and records in my possession;
4. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. The factual allegations therein have evidentiary support after reasonable opportunity for discovery;
6. I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency and to the best of our knowledge and belief, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency;
7. If I should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report that fact within five (5) days therefrom to this Honorable Office.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 29 July 2024 in Tacloban City, Leyte, Philippines.



RAMEIL B. CORNEJO
Appellant

Voter's ID # 3748-0124A-A0579RBC10000

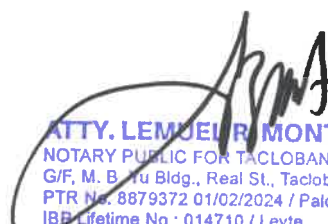
SUBSCRIBED AND SWORN to before me this 29 July 2024 in Tacloban City. Affiant id personally known and identified through competent documents of identity by the undersigned.

Doc No.: 115

Page No.: 23

Book: 11

Series of 2024.



ATTY. LEMUEL R. MONTES
NOTARY PUBLIC FOR TACLOBAN CITY & LEYTE
G/F, M. B. Yu Bldg., Real St., Tacloban City
PTR No. 8879372 01/02/2024 / Palo, Leyte
IBP Lifetime No.: 014710 / Leyte
Attys. Roll No. 59068 April 15, 2011
Notarial Commission No.: 2023-01-66
Comm. Expires on December 31, 2024

Copy hereof sent thru registered mail:

SANGGUNIANG BAYAN OF PASTRANA

c/o Hon. Vice Mayor Chito C. Cayaco
Pastrana, Leyte 6514

RE 871 543 710 78 - 7-29-24

ANNABELLE V. KINAADMAN HALL

Provincial Director
DILG-Leyte Provincial Office
Kanhuraw Hill, Tacloban City
6500

RE 871 543 746 78 - 7-29-24