

ORIGINAL

SANGGUNIANG PANLALAWIGAN
RECORDED
OCT 25 2024
PROVINCE OF LEYTE

Item No.: 05
Date: 13 2024 NOV

Republic of the Philippines
Province of Leyte
Provincial Capitol, Palo, Leyte

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN
BLUE RIBBON COMMITTEE**

MARVIN T. MARTICIO
Complainant,

ADMIN CASE NO. _____

-versus-

**FOR: GRAVE MISCONDUCT
and NEGLECT OF DUTY**

HON. ANGEL ARAS SIA JR.,
Municipal Mayor of La Paz, Leyte
Respondent,

X-----X

PRELIMINARY CONFERENCE BRIEF

RESPONDENT, by counsel, most respectfully submit this Preliminary Conference Brief for the consideration of this Honorable Office.

PRELIMINARY STATEMENT

“Complainants in administrative proceedings carry the burden of proving their allegations with substantial evidence or such “relevant evidence that a reasonable mind might accept as adequate to support a conclusion”

STATEMENT OF WILLINGNESS TO SETTLE

Respondent, on such reasonable terms, not contrary to laws, morals, and public policy is open to enter into an amicable settlement.

APPLICATION & DESIRABILITIES

Respondent manifest for the application of A.M. no. 12-8-8-SC otherwise known as the Judicial Affidavit Rule in order to simplify the administrative proceedings and expeditiously administer the ends of justice.

It is equally manifested that respondent maintains his submitted documents found on the records in this case and in the meantime does not desire to amend any pleadings found therein until the need arise.

¹ Office of the Ombudsman v. Ling F. Fetalvero, Jr., G.R. no. 211450, July 223 2018

BRIEF STATEMENT OF THE CASE

This is an Administrative Charge for Grave Misconduct and Neglect of Duty against Hon. Angel A. Sia Jr. being the Municipal Mayor of the Municipality of La Paz, Leyte relative to the alleged non-response to the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 which was caused to be prepared by Emy De Paz Marticio.

I S S U E S

Whether or not respondent committed Grave Misconduct and Neglect of Duty with respect to the non-response to the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 which was caused to be prepared by Emy De Paz Marticio?

Whether or not there is substantial evidence to prove the administrative liability of the respondent?

STIPULATION FOR ADMISSION

1. The subject Letter of this administrative charge is the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 for his client, Emy De Paz Marticio;
2. The tenor of the subject letter was over the alleged agreement between the respondent and Mr. Eleuterio L. Magayones over the parcel of land allegedly purchased by Emy De Paz Marticio;
3. Emy De Paz Marticio did not file any charges against respondent over the subject letter in this case;
4. On record, the standing complainant over the alleged non-response of the subject Letter of this case is Marvin T. Marticio;
5. Marvin T. Marticio did not attach any Special Power of Attorney or Authority executed by Emy De Paz Marticio;
6. Marvin T. Marticio and Eleuterio L. Magayones were political rivals for the position of Punong Barangay of Brgy. Pansud, La Paz, Leyte during the October 2023 Barangay and Sangguniang Kabataan Election;
7. Eleuterio L. Magayones won the election and became the Punong Barangay of Brgy. Pansud, La Paz, Leyte to present;

8. Marvin T. Marticio and his 2 sons, Raymart Marticio and Raffy Marticio went to the Office of the Municipal Mayor of La Paz, Leyte 10 January 2024 on invitation;
9. Complainant was able to discuss matters with respondent over the subject Letter in this case;
10. This discussion led to the invitation for mediation over their dispute with Mr. Eleuterio L. Magayones over the disputed parcel of land in Brgy. Pansud, La Paz Leyte;
11. A series of mediation was called thereafter on 11, 12 and 16 January 2024, all were attended by complainant and his 2 sons, absent Eleuterio L. Magayones despite invitation from the office of the respondent;
12. On 15 January 2024 or during the conduct of mediation before the respondent, Marvin T. Marticio filed a criminal charge against Eleuterio L. Magayones and other Barangay Officials of Brgy. Pansud, La Paz, Leyte over the incidents of the dispute of the parcel of land allegedly purchased by Emy De Paz Marticio;
13. The parcel of land subject of the aforesaid criminal charge refers to the same parcel of land of the subject Letter of Emy De Paz Marticio;
14. Because of this criminal charge filed by Marvin T. Marticio, respondent was not able to fully resolve the dispute as complainant already opted for a legal process with judicial courts;
15. Marvin T. Marticio filed a complaint before the Office of the Ombudsman for Visayas on 8 February 2024 against the respondent;
16. His complaint is dated 7 February 2024;
17. Marvin T. Marticio filed another complaint before the Sangguniang Panlalawigan for the Province of Leyte on 21 August 2024 against the respondent;
18. His complaint is dated 19 August 2024;
19. Both complaints refers to the same administrative charge of Grave Misconduct and Neglect of Duty;

20. Both complaints refers to the same incident and circumstance of the alleged non-response by respondent of the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 for his client, Emy De Paz Marticio;

21. Both complaints is against the same respondent in this case;

IDENTIFICATION & MARKING OF EVIDENCE

The following are the documentary evidence for respondent, to wit:

EXH	DESCRIPTION	PURPOSE/S
1	<p>Complaint-Affidavit of Marvin T. Marticio dated 19 August 2024 filed before the Sangguniang Panlalawigan for the Province of Leyte</p>	<ul style="list-style-type: none"> • To prove that it is Marvin T. Marticio who stands to be the complainant in this case against respondent over the alleged non-response of the by respondent of the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 for his client, Emy De Paz Marticio; • To prove that this is the second complaint by Marvin T. Marticio against respondent over the same charge, incident and circumstances; • To prove that Marvin T. Marticio is guilty of forum shopping after he filed the same complaint before the Office of the Ombudsman on 8 February 2024;
2	<p>Complaint-Affidavit of Marvin T. Marticio dated 7 February 2024 filed before the Office of the Ombudsman for Visayas</p>	<ul style="list-style-type: none"> • To prove that it is Marvin T. Marticio stands as the complainant in this case against respondent over the alleged non-response of the by respondent of the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 for his

		<p>client, Emy De Paz Marticio;</p> <ul style="list-style-type: none"> • To prove that this is the first complaint by Marvin T. Marticio against respondent over the same charge, incident and circumstances; • To prove that Marvin T. Marticio is guilty of forum shopping after he filed a second complaint bearing the same allegation, charge and incident against the respondent before the Sangguniang Panlalawigan for the Province of Leyte on 21 August 2021;
3	Affidavit of Michael Y. Rapada dated 9 October 2024	<ul style="list-style-type: none"> • To prove that Marvin T. Marticio and his 2 sons appeared before the Office of the Municipal Mayor for the Municipality of La Paz, Leyte on 10 January 2024 to discuss over the Letter of Atty. Jerome A. Tenebro dated 8 January 2023 for his client, Emy De Paz Marticio; • To prove that respondent vehemently denied involvement over any agreement with Eleuterio L. Magayones; • To prove that a mediation was scheduled by respondent between Marvin Marticio and Eleuterio L. Magayones over the disputed property at Brgy. Pansud, La Paz, Leyte purchased by Emy De Paz Marticio ;
4	Affidavit of Froilan R. Pundavela dated 9 October 2024	

		<ul style="list-style-type: none"> • These mediations were scheduled on 10, 11, 12 and 16 January 2024; • The matters were not resolved between the parties as Eleuterio L. Magayones was consistently absent;
5	Judicial Complaint Affidavit of Marvin T. Marticio against Eleuterio Magayones et al., received on 15 January 2024	<ul style="list-style-type: none"> • To prove that the 16 January 2024 mediation with the respondent did not proceed since Marvin T. Marticio revealed that he already filed a case against Eleuterio Magayones and other Barangay Officials of Brgy. Pansud, La Paz, Leyte;
6	Tax Declaration of Real Property	<ul style="list-style-type: none"> • To prove that Exhibits 6, 7, 8, and 9 are the same attachments of Marvin T. Marticio in this case against respondent which are marked as Annex B, A, D while no markings were made on the Judicial Affidavit of Raymart P. Marticio, respectively; • To prove that these attachments to Marvin's complaint as mentioned in Exh. 5 refers to the same parcel of land allegedly purchased by Emy De Paz Marticio at Brgy. Pansud, La Paz, Leyte, the same incident to be tackled on the series of mediation with the respondent in this instant case; • To prove that Exh. 10 refers to the same incident on 6 January
7	Extrajudicial Settlement of the Estate with Sale	
8	Picture of Charlito A. Badion	
9	Judicial Affidavit of Raymart P. Marticio taken on 15 January 2024	
10	PNP Blotter with no. 2024-01-257 dated 12 January 2024	
11	Resolution of People v. Eleuterio Magayones et al., docketed as Criminal Case no. 122712 dated 15 April 2024	

		<p>2024 subject of mediation in this case;</p> <ul style="list-style-type: none"> To prove that because their case was dismissed, they went after respondent in order to coerce him to take the law into his hands over their private land dispute with Barangay Pansud, La Paz, Leyte;
--	--	--

Respondent reserves the right to present additional documentary evidence as the need arise during the course of the trial.

LIST OF WITNESSES TO BE PRESENTED

Respondent will present the following witnesses:

NAME OF WITNESS	PURPOSE/S
1. ANGEL A. SIA JR.	<ul style="list-style-type: none"> To rebut the material allegations of the complaint to prove compliance with Section 5(a) of Rep. Act no. 6713 in relation with Rep. Act no. 7160; To testify on other relevant matters and identify pertinent documents to support his allegation.
2. MICHAEL Y. RAPADA	<ul style="list-style-type: none"> To rebut the material allegations of the complaint to prove compliance with Section 5(a) of Rep. Act no. 6713 in relation with Rep. Act no. 7160; To testify on other relevant matters and identify pertinent documents to support his allegation.
3. FROILAN R. PUNDAVELA	<ul style="list-style-type: none"> To rebut the material allegations of the complaint to prove compliance with Section 5(a) of Rep. Act no. 6713 in relation with Rep. Act no. 7160; To testify on other relevant matters and identify pertinent documents to support his allegation.

<p>4. ELEUTERIO L. MAGAYONES</p>	<ul style="list-style-type: none"> • To rebut the material allegations of the complaint to prove compliance with Section 5(a) of Rep. Act no. 6713 in relation with Rep. Act no. 7160; • To testify on other relevant matters and identify pertinent documents to support his allegation.
---	---

Respondent reserves the right to present additional witnesses as the need arise during the course of the trial.

APPLICABLE LAWS AND JURISPRUDENCE

**RULES IMPLEMENTING THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES
(REPUBLIC ACT NO. 6713)**

Section 1. These Rules shall be interpreted in the light of the Declaration of Policy found in Section 2 of the Code:

“It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest”

xxx xxx xxx

**Rule VI
Duties of Public Officials and Employees**

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

Section 2. In departments, offices or agencies that are usually swamped with persons calling for a particular type of service, the head of the department, office or agency shall devise a mechanism so as to avoid long queues such as by giving each person a ticket number duly countersigned which shall specify the time and the date when the person, whose name and address shall be indicated, can be served

without delay. Said person shall have the right to prompt service upon presentation of said ticket number.

Section 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:

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

(1) Write a note or letter of acknowledgement where the matter is merely routinary or the action desired may be acted upon in the ordinary course of business of the department, office or agency, specifying the date when the matter will be disposed of and the name of the official or employee in charge thereof.

(2) Where the matter is non-routinary or the issues involved are not simple or ordinary, write a note or letter of acknowledgement, 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 acknowledgment shall so state, specifying 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 of 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.

(b) If communication is outside its jurisdiction, the official or employee must:

(1) Refer the letter, petition, telegram, or verbal request to the proper department, office or agency.

(2) Acknowledge the communication by means of note or letter, informing the interested party, petitioner, or correspondent of the action taken and attaching a copy of the letter of referral to the proper department, office or agency.

The department, office and agency to which the letter, petition, telegram or verbal request was referred for appropriate action must take action in accordance with subsection (a), pars. 1 & 2 hereof.

The period of fifteen (15) days herein provided shall be counted from date of receipt of the written or verbal communication by the department, office or agency concerned.

Section 4. All official papers and documents must be processed and completed within a reasonable time from the preparation thereof. Reasonable time shall be determined in accordance with the following rules:

a) When the law or the applicable rule issued in accordance therewith prescribes a period within which a decision is to be rendered or an action taken, the same shall be followed.

b) When the law or the applicable rule issued in accordance therewith does not prescribe a period, the head of the department, office or agency shall issue rules and regulations prescribing, among other things, what is reasonable time, taking into account the following factors:

- (1) Nature, simplicity or complexity of the subject matter of the official papers or documents processed by said department, office or agency;
- (2) Completeness or inadequacy of requirements or of data and information necessary for decision or action;
- (3) Lack of resources caused by circumstances beyond the control of the department, office or agency or official or employee concerned;
- (4) Legal constraints such as restraining orders and injunctions issued by proper judicial, quasi-judicial or administrative authorities;
- (5) Fault, failure or negligence of the party concerned which renders decision or action not possible or premature; and
- (6) Fortuitous events or force majeure.

Section 5. Except as otherwise provided by law or regulation, and as far as practicable, any written action or decision must contain not more than three (3) initials or signatures. In the absence of the duly authorized signatory, the official next-in-rank or officer-in-charge or the person duly authorized shall sign for and in his behalf.

The head of the department, office or agency shall prescribe, through an appropriate office order, the rules on the proper authority to sign in the absence of the regular signatory, as follows:

- (1) If there is only one official next in rank, he shall automatically be the signatory.

- (2) If there are two or more officials next in rank, the appropriate office order shall prescribe the order of priority among the officials next in rank within the same organizational unit; or
- (3) If there is no official next in rank present and available, the head of the department, office or agency shall designate an officer-in-charge from among those next lower in rank in the same organizational unit.

REP. ACT NO. 7160 (LOCAL GOVERNMENT CODE 1991)

CHAPTER III

Officials and Offices Common to All Municipalities

ARTICLE I

The Municipal Mayor

Section 444. *The Chief Executive: Powers, Duties, Functions and Compensation.* -

(a) The municipal mayor, as the chief executive of the municipal government, shall exercise such powers and performs such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the municipal government, and in this connection, shall:

(i) Determine the guidelines of municipal policies and be responsible to the sangguniang bayan for the program of government;

(ii) Direct the formulation of the municipal development plan, with the assistance of the municipal development council, and upon approval thereof by the sangguniang bayan, implement the same;

(iii) At the opening of the regular session of the sangguniang bayan for every calendar year and, as may be deemed necessary, present the program of government and propose policies and projects for the consideration of the sangguniang bayan as the general welfare of the inhabitants and the needs of the municipal government may require;

(iv) Initiate and propose legislative measures to the sangguniang bayan and, from time to time as the situation may require, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions;

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of municipal funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint;

(vi) Upon authorization by the sangguniang bayan, represent the municipality in all its business transactions and sign on its behalf all bonds, contracts, and obligations, and such other documents made pursuant to law or ordinance;

(vii) Carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;

(viii) Determine, according to law or ordinance, the time, manner and place of payment of salaries or wages of the officials and employees of the municipality;

(ix) Allocate and assign office space to municipal and other officials and employees who, by law or ordinance, are entitled to such space in the municipal hall and other buildings owned or leased by the municipal government;

(x) Ensure that all executive officials and employees of the municipality faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the municipality who may have committed an offense in the performance of his official duties;

(xi) Examine the books, records and other documents of all offices, officials, agents or employees of the municipality and in aid of his executive powers and authority, require all national officials and employees stationed in or assigned to the municipality to make available to him such books, records, and other documents in their custody, except those classified by law as confidential;

(xii) Furnish copies of executive orders issued by him to the provincial governor within seventy-two (72) hours after their issuance: Provided, That municipalities of Metropolitan Manila Area and that of any metropolitan political subdivision shall furnish copies of said executive orders to the metropolitan authority council chairman and to the Office of the President;

(xiii) Visit component barangays of the municipality at least once every six (6) months to deepen his understanding of problems and conditions therein, listen and give appropriate counsel to local officials and inhabitants, inform the component barangay officials and inhabitants of general laws and ordinances which especially concern them, and otherwise conduct visits and inspections to the end that the governance of the municipality will improve the quality of life of the inhabitants;

(xiv) Act on leave applications of officials and employees appointed by him and the commutation of the monetary value of leave credits according to law;

(xv) Authorize official trips outside of the municipality of municipal officials and employees for a period not exceeding thirty (30) days;

(xvi) Call upon any national official or employee stationed in or assigned to the municipality to advise him on matters affecting the municipality and to make recommendations thereon, or to coordinate in the formulation and implementation of plans, programs and projects, and when appropriate, initiate an administrative or judicial action against a national government official or employee who may have committed an offense in the performance of his official duties while stationed in or assigned to the local government unit concerned;

(xvii) Subject to availability of funds, authorize payment of medical care, necessary transportation, subsistence, hospital or medical fees of municipal officials and employees who are injured while in the performance of their official duties and functions;

(xviii) Solemnize marriages, any provision of law to the contrary notwithstanding;

(xix) Conduct a palarong bayan, in coordination with the Department of Education, Culture and Sports, as an annual activity which shall feature traditional sports and disciplines included in national and international games; and

(xx) Submit to the provincial governor the following reports: an annual report containing a summary of all matters pertaining to the management, administration and development of the municipality and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situations arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the municipality, province, region or country. mayors of municipalities of the Metropolitan Manila Area and other metropolitan political subdivisions shall submit said reports to their respective metropolitan council chairmen and to the Office of the President;

(2) Enforce all laws and ordinances relative to the governance of the municipality and the exercise of its corporate powers provided for under Section 22 of this Code implement all approved policies, programs, projects, services and activities of the municipality and, in addition to the foregoing, shall:

(i) Ensure that the acts of the municipality's component barangays and of its officials and employees are within the scope of their prescribed powers, functions, duties and responsibilities;

(ii) Call conventions, conferences, seminars or meetings of any elective and appointive officials of the municipality, including provincial officials and national officials and employees stationed in or assigned to the municipality at such time and place and on such subject as he may deem important for the promotion of the general welfare of the local government unit and its inhabitants;

(iii) Issue such executive orders as are necessary for the proper enforcement and execution of laws and ordinances;

(iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;

(v) Act as the deputized representative of the National Police Commission, formulate the peace and order plan of the municipality and upon its approval implement the same and exercise general and operational control and supervision over the local police in the municipality in accordance with R.A. No 6975;

(vi) Call upon the appropriate law enforcement agencies to suppress disorder, riot, lawless violence, rebellion or sedition or to apprehend violators of the law when public interest so requires and the municipal police forces are inadequate to cope with the situation or the violators;

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for gro-industrial development and country-wide growth and progress, and relative thereto, shall:

(i) Require each head of an office or department to prepare and submit an estimate of appropriations for the ensuing calendar year, in accordance with the budget preparation process under Title Five, Book II of this Code;

(ii) Prepare and submit to the sanggunian for approval the executive and supplemental budgets of the municipality for the ensuing calendar year in the manner provided for under Title Five, Book II of this Code;

(iii) Ensure that all taxes and other revenues of the municipality are collected and that municipal funds are applied in accordance with law or ordinance to the payment of expenses and settlement of obligations of the municipality;

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance;

(v) Issue permits, without need of approval therefor from any national agency, for the holding of activities for any charitable or welfare purpose, excluding prohibited games of chance or shows contrary to law, public policy and public morals;

(vi) Require owners of illegally constructed houses, buildings or other structures to obtain the necessary permit, subject to such fines and penalties as may be imposed by law or ordinance, or to make necessary changes in the construction of the same when said construction violates any law or ordinance, or to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance;

(vii) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest, and other resources of the municipality; provide efficient and effective property and supply management in the municipality; and protect the funds, credits, rights and other properties of the municipality; and

(viii) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and cause the municipality to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected;

(4) Ensure the delivery of basic services and the provision of adequate facilities as provided for under Section 17 of this Code and, in addition thereto, shall:

(i) Ensure that the construction and repair of roads and highways funded by the national government shall be, as far as practicable, carried out in a spatially contiguous manner and in coordination with the construction and repair of the roads and bridges of the municipality and the province; and

(ii) Coordinate the implementation of technical services rendered by national and provincial offices, including public works and infrastructure programs in the municipality; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(c) During his incumbency, the municipal mayor shall hold office in the municipal hall.

(d) The municipal mayor shall receive a minimum monthly compensation corresponding to Salary Grade twenty-seven (27) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE III

The Sangguniang Bayan

Section 447. Powers, Duties, Functions and Compensation. –

(a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:

(ii) Maintain peace and order by enacting measures to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for the violation of said ordinances;

REPUBLIC ACT NO. 7160

Section 60. Grounds for Disciplinary Actions. - An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

- (a) Disloyalty to the Republic of the Philippines;
- (b) Culpable violation of the Constitution;
- (c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- (d) Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;
- (e) Abuse of authority;
- (f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the sangguniang panlalawigan, sangguniang panlungsod, sangguniang bayan, and sangguniang barangay;
- (g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- (h) Such other grounds as may be provided in this Code and other laws.

An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Section 61. Form and Filing of Administrative Complaints. - A verified complaint against any erring local elective official shall be prepared as follows:

XXX

(b) A complaint against any elective official of a municipality shall be filed before the sangguniang panlalawigan whose decision may be appealed to the Office of the President; and

Section 65. *Rights of Respondent.* - The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documentary process of subpoena or subpoena duces tecum.

GRAVE MISCONDUCT

ESTRELLA M. DOMINGO V. CIVIL SERVICE COMMISSION AND VICTORINO MAPA MANALO G.R. No. 236050, JUNE 17, 2020

Misconduct is a transgression of some established and definite rule of action, particularly, as a result of a public officer's unlawful behavior, recklessness, or gross negligence. This type of misconduct is characterized for purposes of gravity and penalty as simple misconduct.

The misconduct is grave if it involves any of the additional elements of corruption, clear willful intent to violate the law, or flagrant disregard of established rules, supported by substantial evidence.

Xxx

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.

In Grave Misconduct, as distinguished from Simple Misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rules, must be manifest and established by substantial evidence. Grave Misconduct necessarily includes the lesser offense of Simple Misconduct. Thus, a person charged with Grave Misconduct may be held liable for Simple Misconduct if the misconduct does not involve any of the elements to qualify the misconduct as grave.

**OFFICE OF THE OMBUDSMAN AND THE FACT-FINDING
INVESTIGATION BUREAU (FFIB), OFFICE OF THE
DEPUTY OMBUDSMAN FOR THE MILITARY AND**

**OTHER LAW ENFORCEMENT OFFICES (MOLEO) vs
PS/SUPT. RAINIER A. ESPINA
G.R. No. 213500, MARCH 15, 2017**

Misconduct generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. It is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.

There are two (2) types of misconduct, namely: grave misconduct and simple misconduct. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest. Without any of these elements, the transgression of an established rule is properly characterized as simple misconduct only.

Xxx

Gross neglect of duty is defined as "[n]egligence characterized by want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." In contrast, simple neglect of duty is the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference.

**TERESITA B. RAMOS, PETITIONER, VS. ANNABELLE B.
ROSELL AND MUNICIPALITY OF BAGANGA, DAVAO
ORIENTAL
G.R. No. 241363, SEPTEMBER 16, 2020**

Also, there is no substantial evidence that Ramos was impelled by any corrupt or ill motive or intent to gain or profit that would constitute the offense of grave misconduct. Grave misconduct is defined as the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer coupled with the elements of corruption, willful intent to violate the law or to disregard established rules. Xxx

Xxx

Be that as it may, Ramos is liable for simple negligence. An act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or purposes, is merely simple negligence. Simple negligence means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference.

NEGLECT OF DUTY

**LEGAL RESEARCH AND TECHNICAL STAFF,
SANDIGANBAYAN, v. SECURITY GUARD II FERDINAND
PONCE AND SECURITY GUARD I RONALD ALLAN GOLE
CRUZ, BOTH OF THE SHERIFF AND SECURITY
SERVICES DIVISION, SANDIGANBAYAN
A.M. No. SB-22-001-P (FORMERLY OCA IPI No. 15-34-SB-P).
JUNE 20, 2022**

Dereliction of duty may be classified as gross or simple neglect of duty or negligence. Gross neglect of duty or gross negligence "refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable. In contrast, simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference."

In this relation, it is settled that the quantum of evidence necessary to find an individual liable for the aforesaid offenses is substantial evidence, or "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion." Substantial evidence does not necessarily mean preponderant proof as required in ordinary civil cases, but such kind of relevant evidence as a reasonable mind might accept as adequate to support a conclusion or evidence commonly accepted by reasonably prudent men in the conduct of their affairs.

**CIVIL SERVICE COMMISSION AND THE OFFICE OF THE
SOLICITOR GENERAL, VS. EDGAR B. CATA CUTAN, G.R.
No. 224651, JULY 3, 2019**

**EDGAR B. CATA CUTAN, VS. CIVIL SERVICE
COMMISSION AND THE OFFICE OF THE SOLICITOR
GENERAL, G.R. No. 224656**

We decline to give due course to this issue because, *first*, the allegation pertains to an infraction different from the violations for which Catacutan has been cited and to which he has been able to offer counter-evidence earlier in the proceedings. *Second*, the Court is bound by the fundamental rule that precludes higher courts from entertaining matters neither alleged in the pleadings nor raised in the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. Indeed, when a party deliberately adopts a certain theory and the case is decided upon that theory in the tribunal below, he or she will not be permitted to change the same on appeal lest it cause unfairness to the adverse party.

Xxx

The gravity of negligence or the character of neglect in the performance of duty is certainly a matter of evidence and will direct the proper sanction to be imposed. On one hand, gross neglect of duty is understood as the failure to give proper attention to a required task or to discharge a duty, characterized by want of even the slightest care, or by conscious indifference to the consequences insofar as other persons may be affected, or by flagrant and palpable breach of duty. It is the omission of that care which even inattentive and thoughtless men never fail to give to their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable. Under the law, this offense warrants the supreme penalty of dismissal from service. Simple neglect of duty, on the other hand, is characterized by failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference. This warrants the penalty of mere suspension from office without pay.

**OFFICE OF THE OMBUDSMAN, PETITIONER, VS.
MIROFE C. FRONDA AND FLORENDO B. ARIAS
G.R. No. 211239, APRIL 26, 2021**

There is a world of a difference between negligence and dishonesty. Negligence is generally defined as the failure to observe, for the protection of the interest of another person, that degree of care, precaution, and vigilance which the circumstances justly demand. On

the other hand, dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth.³² The offense is qualified as serious dishonesty if any one of the following circumstances is present:

Xxx

Gross neglect of duty or gross negligence "refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.

In contrast, simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference."

**HERMENEGILDO M. MAGSUCI, vs. THE HON.
SANDIGANBAYAN (SECOND DIVISION) AND THE PEOPLE
OF THE PHILIPPINES,
G.R. No. L-101545 JANUARY 3, 1995**

We would be setting a bad precedent if a head of office plagued by all too common problems — dishonest or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence — is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.

xxx xxx xxx

. . . . All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. . . . There has to be some added reason why he should examine each voucher in such detail. Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed. There are hundreds

of documents, letters, memoranda, vouchers, and supporting papers that routinely pass through his hands. The number in bigger offices or departments is even more appalling.

**DR. PETER STEPHEN S. SAMONTE, VS. ANTONIO B. JUMAWAK, MARINA M. TINONGA, NESTOR I. EPO, CORNELIO R. TABAD, SAMUEL L. EMIA, ARFEL D. DAAN, OMAR G. BAYRON, WILLIE JAMES A. WONG, OFFICE OF THE DEPUTY OMBUDSMAN FOR MINDANAO AND ROBERTO Y. UY, PROVINCIAL GOVERNOR, PROVINCE OF ZAMBOANGA DEL NORTE
G.R. No. 249135. JANUARY 11, 2023**

The Court reiterates that "to be disciplined for grave misconduct or any grave offense, the evidence should be competent and must be derived from direct knowledge. There must be evidence, independent of the petitioners' failure to comply with the rules, which will lead to the foregone conclusion that it was deliberate and was done precisely to procure some benefit for themselves or for another person.

NATIONAL BUREAU OF INVESTIGATION V. CONRADO M. NAJERA, G.R. NO. 237522, JUNE 30, 2020

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. The burden to establish the charges rests upon the complainant. The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon which his accusations are based. The respondent is not even obliged to prove his exception or defense.

JOSE L. DIAZ, PETITIONER, VS. THE OFFICE OF THE OMBUDSMAN G.R. NO. 203217, JULY 2, 2018

More than a mere scintilla of evidence, substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. xxx

AVAILABLE TRIAL DATES & VENUE OF HEARING

To be agreed by the parties and counsel, subject to the calendar of the Honorable Office.

RESPECTFULLY SUBMITTED. 25 October 2024 at Tacloban City
for Palo, Leyte.

LEO S. GIRON & ASSOCIATES LAW FIRM

[SY - AMBIDA - GERONG - CAMAGTING - ORTIZ - PERU - TISMO]

Counsel for the Respondent

2/F Wenzhuan Bldg., Quezon Blvd., Brgy. 91, Abucay, Tacloban City
0917-322-0752

by:


LEO S. GIRON

Roll No. 37379

IBP Lifetime No. 00733; 09-19-96; Leyte Chapter
PTR No. 8489592; 01-03-2024; Tacloban City
MCLE Compliance No. VIII-0000748; 11-07-22
attyleogiron@gmail.com


MARTIN FRANZ S. SY

Roll No. 70868

IBP Member No. 363109; 10-11-23; Leyte Chapter
PTR No. 1526515; 01-02-2024; Tacloban City
MCLE Exemption No. VIII-BEP000015; 4-20-22
attymartinfranzsy@gmail.com


JONATHAN C. AMBIDA JR.

Roll No. 75449

IBP Member No. 392974; 01-03-24; Leyte Chapter
PTR No. 8489591; 01-03-2024; Tacloban City
MCLE Compliance No. VIII-0000674; 11-04-22
attyjonathanambida@gmail.com

ALLAIN MAE DE PAZ GERONG

Roll No. 76702

IBP Member No. 393042; 01-03-2024; Leyte Chapter
PTR No. 1526570; 01-04-2024; Tacloban City
MCLE Exemption No. VIII-BEP002421; 01-26-23
attyallaingerong@gmail.com



JAYBEE ANGELO A. CAMAGTING

Roll No. 91803

IBP Member No. 395895; 01-03-2024; Leyte Chapter

PTR No. 8489590; 01-03-2024; Tacloban City

Admitted to the Bar on 22 December 2023

jaybeezxc@gmail.com



ANGIE N. BALASTA-PERU

Roll No. 88641

IBP Member No. 376814; 12-27-2023; Leyte Chapter

PTR No. 8488560; 01-03-2024; Tacloban City

Admitted to the Bar on 22 December 2023

archtorney11@gmail.com



MYRA C. TISMO

Roll No. 88941

IBP Member No. 419903; 01-13-2024; Leyte Chapter

PTR No. 1533805; 01-24-2024; Tacloban City

Admitted to the Bar on 22 December 2023

tismo.myra@gmail.com

COPY FURNISHED: RmWRC; *disregard if personally served*

ATTY. FERDINAND ARTHUR B. DIAZ

Counsel for the Complainant

Rm. 101, Gr. Flr., M.B. Yu Bldg., Real St.,

Tacloban City

REGISTRY RECEIPT No. _____
Mailed 25 OCT 2024
Tacloban City Post Office