

Item No.: 34

Date: 18 2025 MAR



Republic of the Philippines
OFFICE OF THE OMBUDSMAN
Sen. Miriam P. Defensor-Santiago Avenue (formerly Agham Road)
Brgy. Bagong Pag-asa, Diliman, Quezon City 1105

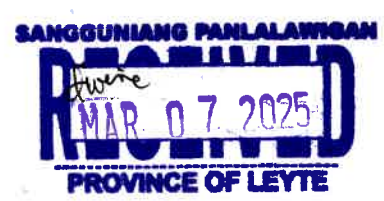
MESIAS P. AREVALO

Complainant,

- versus -

OMB-V-A-JUN-23-0157

For: Abuse of Authority/Dishonesty/Gross Neglect of Duty/Misconduct/Oppression/Violation of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees)/R.A. No. 7160 (Local Government Code)/R.A. No. 9485/R.A. No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act), as amended



RAMON CHU OÑATE (SG-27)

Municipal Mayor
Municipality of Palompon, Leyte

CHRISTOPHER TOLEDO MONTEBON (SG-24)

Municipal Planning and Development Coordinator-Designate
Municipality of Palompon, Leyte

Respondents.

X-----X

DECISION

This resolves the complaint¹ filed on 29 March 2023² by MESIAS P. AREVALO for Abuse of Authority, Dishonesty, Gross Neglect of Duty, Misconduct, Oppression, Violation of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), R.A. No. 7160 (Local Government Code), and R.A. No. 9485/R.A. No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act), as amended, against **RAMON CHU OÑATE** (Oñate), Municipal Mayor;³ and **CHRISTOPHER TOLEDO MONTEBON** (Montebon), Municipal

¹ The criminal aspect of the complaint is separately treated in OMB-V-C-JUN-23-0149.
² Docketed on 23 June 2023; Raffled to the undersigned investigator on 27 June 2023.
³ Records Folder I, p. 72, Counter-Affidavit, Par. 4.

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Planning and Development Coordinator-Designate,⁴ both of the Municipality of Palompon, Leyte. Respondents are accused of requiring complainant, on 6 January 2023, to personally appear before respondent Mayor Oñate as a precondition for complainant's applications to renew business permits and refusing to receive and act on said applications despite complainant's submission of complete requirements.

In his Complaint,⁵ complainant mainly questions the validity of Executive Order no. 1, Series of 2023⁶ (Executive Order No. 1) issued by respondent Oñate. On 4 January 2023, at around 4:00 p.m. complainant's driver Bryan Cotejo Cajeras (Cajeras) was driving a dump truck to transport washed sand to Barangay Cantuhaon, Palompon, Leyte. The sand had been purchased from industrial sand and gravel operator Erwin Lagancia (Lagancia) in Kananga, Leyte.

Cajeras was stopped⁷ at a checkpoint in Barangay Tabunok, Palompon, Leyte by municipal employee Ranulfo Andales (Andales) and prohibited from traversing the road going to his destination on the basis of Executive Order No. 1. Cajeras was allegedly forced to unload the washed sand⁸ on the shoulder portion of the national highway despite being shown delivery receipts⁹ issued by seller Lagancia, the sand and gravel business operator in Kananga, Leyte.

Andales was also accompanied by three (3) unidentified men allegedly without authority from the Department of Environment and Natural

⁴ *Id.* at p. 207, Counter-Affidavit, Par. 2.

⁵ *Id.* at 2-23.

⁶ *Id.* at 41-42, entitled, "AN EXECUTIVE ORDER ON THE STRICT COMPLIANCE IN SECURING PREREQUISITE PERMITS AND CLEARANCES FROM LEYTE PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE (PENRO) AND MINES AND GEOSCIENCES BUREAU REGION 8 X X X CONCERNING THE TRANSPORT AND TRANSFER OF SAND AND GRAVEL FROM ANY PART OF LEYTE TO THE MUNICIPALITY OF PALOMPON, LEYTE."

⁷ *Id.* at 28, photo of checkpoint sign.

⁸ *Id.* at 27, photo of sand on the side of the road.

⁹ *Id.* at 26, which Delivery Receipts were issued to one "Mateo."

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Resource (DENR) or Provincial Government of Leyte Task Force on Sand and Gravel. Cajeras and another driver Ranil Pacaldo (Pacaldo),¹⁰ who came to help out Cajeras, were also allegedly pressured, intimidated, and forced to sign the 4 January 2023 document¹¹ at the Barangay Hall of Barangay Tabunok stating that Cajeras voluntarily unloaded the sand. Complainant had the incident recorded in the police blotter.¹²

In his 23 January 2023 letter¹³ to respondent Oñate, complainant asked for a copy of Executive Order No. 1 and informed him of the incident, to which respondent responded by his 30 January 2023 letter¹⁴ to complainant.

Sections 1 and 2 of Executive Order No. 1 states:

Section 1. Strict Monitoring on the Compliance in Securing Prerequisite Permits and Clearances from Leyte Provincial Environment and Natural Resources Office (PENRO) and Mines and Geosciences Bureau Region 8 (MGB R8) Concerning the Transport and Transfer of Sand and Gravel from any part of Leyte to the Municipality of Palompon.

The transport and transfer of sand and gravel from any part of Leyte to the municipality of Palompon is hereby strictly monitored. As used in this Order, it means that all sand and gravel to be transported and transferred to the municipality of Palompon shall have prerequisite permits and clearances particularly from the concerned offices stated above.”

Section 2. Penalties for violation. Failure to present these permits and clearances when asked at the municipal border check point shall constitute as a violation of this Order and trucks or any form of transportation equipment carrying/loading sand and gravel shall not be allowed to enter in any territorial jurisdiction of Palompon, Leyte.¹⁵ (*emphasis original*)

¹⁰ The complaint claims that Pacaldo’s Affidavit was attached as Annex D, but no such document, however, was attached to such complaint.

¹¹ Records Folder I, p. 39, Entry No. 17 in the barangay logbook dated 4 January 2023.

¹² *Id.* at 24, 27 January 2023 excerpt of police report.

¹³ *Id.* at 29-33.

¹⁴ *Id.* at 36-38.

¹⁵ *Id.* at 42.

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Complainant asserts that these provisions contravene Section 138¹⁶ of Local Government Code¹⁷ as it should only be the Provincial Government and not the Municipality, that can regulate the extraction of sand, gravel, and other quarry resources within the province's territorial jurisdiction.

Executive Order No. 1 was never submitted for review to and approval by the Provincial Governor¹⁸ and for concurrence by the Sangguniang Panlalawigan¹⁹ of the Province of Leyte in alleged contravention of Sections 29²⁰ and 30²¹ of the Local Government Code.

Complainant claims that Executive Order No. 1 was issued to harass legitimate business owners who did not support respondent Oñate during the last elections. Moreover, several show cause letters were issued to complainant regarding his gas station, to wit:

- (1) By respondent Montebon's 11 July 2022 Show Cause Order,²² complainant was directed to explain why he constructed his gasoline

¹⁶ SECTION 138. Tax on Sand, Gravel and Other Quarry Resources. — The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.

x x x x (underscoring supplied)

¹⁷ Republic Act No. 7160.

¹⁸ Records Folder I, p. 44, Certification.

¹⁹ *Id.* at 45, Certification.

²⁰ SECTION 29. Provincial Relations with Component Cities and Municipalities. — The province, through the governor, shall ensure that every component city and municipality within its territorial jurisdiction acts within the scope of its prescribed powers and functions. Highly urbanized cities and independent component cities shall be independent of the province.

²¹ SECTION 30. Review of Executive Orders. — (a) Except as otherwise provided under the Constitution and special statutes, the governor shall review all executive orders promulgated by the component city or municipal mayor within his jurisdiction. The city or municipal mayor shall review all executive orders promulgated by the punong barangay within his jurisdiction. Copies of such orders shall be forwarded to the governor or the city or municipal mayor, as the case may be, within three (3) days from their issuance. In all instances of review, the local chief executive concerned shall ensure that such executive orders are within the powers granted by law and in conformity with provincial, city, or municipal ordinances. (underscoring supplied)

(b) If the governor or the city or municipal mayor fails to act on said executive orders within thirty (30) days after their submission, the same shall be deemed consistent with law and therefore valid.

²² Records Folder I, p. 46.

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station business on agricultural land to which complainant responded by his 12 July 2022 letter;²³

- (2) Respondent Montebon's 18 July 2022 Show Cause Order²⁴ responding to complainant's 12 July 2022 letter and requiring the submission of an Environmental Compliance Certificate to which complainant responded by his 19 July 2022 letter;²⁵
- (3) Respondent Montebon's 17 August 2022 letter²⁶ to complainant over the same gasoline station requiring the submission of a Certificate of Compliance from the Department of Energy to which complainant responded by his 19 August 2022 letter.²⁷

On 6 January 2023, complainant's authorized representative²⁸ Teresa P. Olorvida (Olorvida) visited the Business Permits and Licensing Office (BPLO) to process the renewal of business permits for Cozy Gas Station, Mesmar General Merchandise, and Mateo Enterprises. The BPLO allegedly found Olorvida's documents to be complete. Olorvida then went to the Office of the Building Official, which referred her to respondent Montebon's office. Montebon's function was to allegedly endorse said documents to the Municipal Treasurer's Office for payment of the corresponding fees. Olorvida, thus, appeared²⁹ before respondent Montebon but he allegedly refused to act on the renewal application, despite the requirements being complete. Instead, respondent Montebon allegedly brought Olorvida before respondent Oñate who asked her to convey that complainant should personally appear before respondent Oñate as a condition for him to act on the application for renewal of business permit.

On 12 January 2023, Olorvida returned to respondent Montebon allegedly bringing again all the required documents that she attached to

²³ *Id.* at 47.

²⁴ *Id.* at 48.

²⁵ *Id.* at 49.

²⁶ *Id.* at 50.

²⁷ *Id.* at 51.

²⁸ *Id.* at 53-55, Special Power of Attorney.

²⁹ *Id.* at 52, Certificate of Appearance.

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complainant's 10 January 2023 letter³⁰ addressed to respondent Montebon, which the latter received. Olorvida was asked to come back after break but upon her return, no action was made on the 10 January 2023 letter. In support of his claims, complainant submitted two video files.³¹ While the complaint mentions an Annex "T" or the alleged Affidavit of Olorvida, no such document was attached to the complaint.

Complainant claims that he opted to send his 10 January 2023 letter together with all the required documents to renew his business permit by registered mail on 12 January 2023, which respondent Montebon received on 17 January 2023.³² Respondent Montebon, however, still allegedly refused to act on such application.

On 7 February 2023, three separate Cease and Desist Orders dated 1 February 2023³³ were issued by respondent Oñate against complainant and his children prohibiting the further conduct of business.

Complainant asserts that the "inaction on the part of respondent Montebon upon the instruction of the respondent Oñate"³⁴ should make them administratively liable for violating the relevant portions of Section 9(a),³⁵ (b), and (c)³⁶ and Section 21³⁷ of R.A. No. 9485 as amended by R.A.

³⁰ *Id.* at 56-59.

³¹ *Id.* at 60. The 20-second video entitled, "ANNEX C-2 Video Recording" shows respondent Montebon going through a set of papers. An 8-second video entitled, "ANNEX C-1 Video Recording" shows an unnamed person standing in front of Olorvida.

³² *Id.* at 61, only registry receipt and return card submitted without the alleged business permit requirements.

³³ *Id.* at 62-64, which letters similarly state: "[o]n January 12, 2023, this Office received your application for renewal of business permit coursed through registered mail. However, the Office cannot process the same considering that attached to said letter were permits and licenses that have expired on December 31, 2022 rendering the same as irrelevant in the application for renewal of business permit for 2023. x x x."

³⁴ Records Folder I, p. 14, par. 60 of complaint.

³⁵ SEC. 9. *Accessing Government Services.* – The following shall be adopted by all government offices and agencies:

- (a) Acceptance of Applications or Requests. –

- (1) All offices or employees shall accept written applications, requests, and/or documents being submitted by applicants or requesting parties of the offices or agencies.

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No. 11032.³⁸ They should also be administratively liable for Abuse of Authority, Dishonesty, Gross Neglect of Duty, Misconduct, Oppression, and Violation of Section 4(A)(a), (c), and (d) and Section 5(c) and (d) of R.A. No. 6713.

- (2) The receiving officer or employee shall perform a preliminary assessment of the application or request submitted with its supporting documents to ensure a more expeditious action on the application or request. The receiving officer or employee shall immediately inform the applicant or requesting party of any deficiency in the accompanying requirements, which shall be limited to those enumerated in the Citizen's Charter.

x x x x

³⁶ SEC. 9. *Accessing Government Services.* – The following shall be adopted by all government offices and agencies:

x x x x

(b) Action of Offices. –

- (1) All applications or requests submitted shall be acted upon by the assigned officer or employee within the prescribed processing time stated in the Citizen's Charter which shall not be longer than three (3) working days in the case of simple transactions and seven (7) working days in the case of complex transactions from the date the request and/or complete application or request was received.

x x x x

The maximum time prescribed above may be extended only once for the same number of days, which shall be indicated in the Citizen's Charter. Prior to the lapse of the processing time, the office or agency concerned shall notify the applicant or requesting party in writing of the reason for the extension and final date of release of the government service/s requested. Such written notification shall be signed by the applicant or requesting party to serve as proof of notice.

x x x x

- (2) No application or request shall be returned to the applicant or requesting party without appropriate action. In case an application or request is disapproved, the officer or employee who rendered the decision shall send a formal notice to the applicant or requesting party within the prescribed processing time, stating therein the reason for the disapproval. A finding by a competent authority of a violation of any or other laws by the applicant or requesting party shall constitute a valid ground for the disapproval of the application or request, without prejudice to other grounds provided in this Act or other pertinent laws.

- (c) Denial of Application or Request for Access to Government Service. – Any denial of application or request for access to government service shall be fully explained in writing, stating the name of the person making the denial and the grounds upon which such denial is based. Any denial of application or request is deemed to have been made with the permission or clearance from the highest authority having jurisdiction over the government office or agency concerned.

x x x x

³⁷ SEC. 21. *Violations and Persons Liable.* – Any person who performs or cause the performance of the following acts shall be liable:

- (a) Refusal to accept application or request with complete requirements being submitted by an applicant or requesting party without due cause;

- (b) Imposition of additional requirements other than those listed in the Citizen's Charter;

x x x x

- (f) Failure to attend to applicants or requesting parties who are within the premises of the office or agency concerned prior to the end of official working hours and during lunch break;

x x x x

³⁸ Ease of Doing Business and Efficient Government Service Delivery Act, as amended by R.A. No. 11032.

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By the 27 June 2023 Joint Order,³⁹ the Office directed respondents to file their respective counter-affidavits and complainant to file a reply-affidavit.

In his Counter-Affidavit,⁴⁰ **respondent Oñate** counters that complainant already filed the following prior complaints:

- (1) Complaint filed on 20 February 2023⁴¹ against respondent Oñate before the Sangguniang Panlalawigan of Leyte for Dishonesty, Oppression, Misconduct, Gross Negligence, Dereliction of Duty, and Abuse of Authority;
- (2) 3 February 2023 administrative complaint⁴² against respondent Montebon before the Anti-Red Tape Authority (ARTA) of the Office of the President with prayer for automatic approval or automatic extension of business permit;
- (3) Administrative complaint⁴³ against respondent Oñate before the ARTA filed by business owners who do not include complainant;
- (4) 27 January 2023 criminal complaint⁴⁴ filed by complainant before the NBI against respondent Oñate for Grave Coercion regarding the foregoing 4 January 2023 checkpoint incident which is currently pending before the Office of the Provincial Prosecution-Leyte.⁴⁵

Executive Order No. 1 was allegedly implemented regardless of political color and it was just unfortunate that complainant's driver was unable to provide the necessary permit to transport sand and, thus, disallowed.

As regards his issuance of several show cause orders, respondent Oñate justifies that it was an exercise of his power to promote the general welfare and affords due process to complainant who is given an opportunity to

³⁹ Records Folder I, pp. 69-70.

⁴⁰ *Id.* at 71-91.

⁴¹ *Id.* at 92-113.

⁴² *Id.* at 143-153.

⁴³ *Id.* at 154, Notice of Clarificatory Hearing. *Id.* at 155, Complainant, however, is not among those named as complainant.

⁴⁴ *Id.* at 160-161, Sinumpaang Recklamo. *Id.* at 157-159, NBI Transmittal of complaint to Department of Justice.

⁴⁵ *Id.* at 156, Subpoena.

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explain the queries of the Municipality. As regards the three show cause orders issued, respondent Oñate justifies that they were necessary as the last administration failed to make a complete turnover of records, requiring his office to work on all available records left.

As regards the third show cause order requiring the submission of a certificate of compliance from the Department of Energy, it was allegedly necessary as complainant did not provide a clear answer in his letter and instead invoked R.A. No. 11032.

As regards the application for business permits, respondent Oñate explains that they were denied after failing to comply with the pre-requisite documents as stated in respondent Oñate's 19 January 2023 letter,⁴⁶ to wit:

"X X X X

This is in reference to your letter dated January 10, 2023 sent through registered mail and duly received by this office on January 12, 2023.

X X X X

A careful perusal of your attached documents would readily show that there is an utter lack of the pre-requisite documents. As can be noted, attached to your letter were permits and certificates which expired on December 31, 2022 rendering the same as irrelevant in the application of renewal of business permit for the year 2023. Considering the lack of pre-requisite documents, your application for renewal cannot be processed by this Office.

X X X X⁴⁷

For lack of business permit for 2023, complainant's Cozy Gas Station was ordered closed. Nevertheless, complainant allegedly continues to operate despite such closure order.

As regards the alleged violation of R.A. No. 11032, respondent Oñate claims that complainant already filed a previous complaint against him

⁴⁶ *Id.* at 197.

⁴⁷ *Ibid.*

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before the ARTA as shown by the ARTA show cause order⁴⁸ with attached complaint.⁴⁹

As regards the implementation of Executive Order No. 1,⁵⁰ it imposes no additional requirements for the extraction of sand and gravel. Respondent Oñate explains that three checkpoints were established in three different barangays of the Municipality of Palompon, including Barangay Tabunok. All vehicles transporting sand and gravel, with no exception, were flagged down at the checkpoints and asked to present the pre-requisite licenses, permits and other pertinent documents such as: (1) Delivery Receipt; (2) Official Receipt; and (3) Industrial Sand and Gravel Permit, without which entry into the Municipality shall be prohibited.

In complainant's case, his driver Cajeras was only able to present an unsealed delivery receipt⁵¹ out of the three required documents. He was, consequently, refused entry into the Municipality until a copy of the Industrial Sand and Gravel Permit could be shown. Complainant called Palompon Municipal Police Station Acting Chief Realthur Tabernero (Tabernero) and asked that his dump truck be allowed to pass through the checkpoint, promising to comply with the requirements later.⁵² Tabernero, however, denied the request.

Respondent Oñate asserts that, as instructed by complainant, driver Cajeras voluntarily dumped the sand on the side of the road, which was witnessed⁵³ by several police officers, including Chief Tabernero. Barangay

⁴⁸ *Id.* at 198, ARTA Show Cause Order to respondent Oñate.

⁴⁹ *Id.* at 199, 27 January 2023 letter complaint to ARTA signed by business owners, excluding complainant. The letter alleges that respondent Oñate required them to personally appear in his office and, among others, required the posting of a public apology on social media.

⁵⁰ *Id.* at 177-178.

⁵¹ *Id.* at 179.

⁵² *Id.* at 180-181, Affidavit.

⁵³ *Id.* at 182-183, Affidavit of Andales, Alcher Astillero, Leopoldo Clapano, and Ramil Solidum.

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Kagawad Roweno L. Limpangog, and Municipal employees Andales, Alcher Astillero, Leopoldo Clapano, and Ramil Solidum.

Respondent Montebon, for his part,⁵⁴ counters that complainant has filed a previous complaint⁵⁵ against him before the ARTA on 6 February 2023 regarding his alleged inaction of an application for renewal of business permit. A clarificatory hearing was conducted on 11 May 2023.⁵⁶ As the ARTA has already taken cognizance of the case, the complaint should allegedly fail.

Respondent Montebon asserts that complainant's documents for his application for business permits were incomplete, justifying the denial⁵⁷ of the application.

By the 11 August 2023 Order,⁵⁸ the Office directed the parties to file their respective position papers. All parties complied,⁵⁹ substantially reiterating their previous arguments.

In his Manifestation,⁶⁰ complainant informed the Office of the 23 August 2023 Resolution⁶¹ of the ARTA in the case entitled, "*Ian Jay L. Arevalo, et al. v. Oñate*," docketed as CTN: 202301310325, 202301200197, 202302060050, 202304250244, which resolved:

"X X X X



⁵⁴ *Id.* at 207-215, Counter-Affidavit.
⁵⁵ *Id.* at 216-217, ARTA Show Cause Order; *Id.* at 218-221, respondent Montebon's Answer; *Id.* at 223-234, Request for Completion with attached complaint; *Id.* at 235, Notice of Clarificatory hearing.
⁵⁶ *Id.* at 235-236, Notice of Clarificatory Hearing for the case only against respondent Oñate.
⁵⁷ *Id.* at 241, 19 January 2023 letter.
⁵⁸ *Id.* at 242-243.
⁵⁹ *Id.* at 244-268, complainant's Position Paper; *Id.* at 310-324, respondents' Verified Position Paper. Records Folder II, pp. 545-555, respondent Oñate's Verified Position Paper; *Id.* at 563-570, respondent Montebon's Verified Position Paper.
⁶⁰ Records Folder II, pp. 325-328. Furnished to respondents per registry receipts. *Id.* at 327-328.
⁶¹ *Id.* at 329-358.

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IN VIEW OF THE FOREGOING, the following are hereby recommended:

1. FILING of an administrative case against MAYOR RAMON C. OÑATE as the Municipal Mayor of Palompon, Leyte, there being a *prima facie* finding of a violation of Section 21(b) and (f) of RA No. 11032 before the Office of the Ombudsman for requiring personal appearance of business owners before him and requiring locational clearance for business renewal. x x x
2. x x x
3. To DISMISS allegations of Section 21(e) of R.A. 11032 against CHRISTOPHER T. MONTEBON, as head of Municipal Planning and Development Office for insufficient evidence
4. x x x
23 August 2023, Quezon City”⁶² (*citations and emphasis omitted*)

Attached to the Manifestation are Olorvida’s 30 January 2023⁶³ and 1 February 2023⁶⁴ Affidavits, among others.

By the 4 January 2024 Notice of Clarificatory Hearing,⁶⁵ the parties were directed to personally appear for a clarificatory hearing on 21 February 2024. At the hearing, all parties appeared and manifested their intention to submit additional evidence within ten (10) days from the hearing.

Respondent Oñate manifested⁶⁶ that both the ARTA and the Sangguniang Panlalawigan already resolved the complaints filed against him. Respondent Montebon also asserted⁶⁷ that the ARTA has resolved the case filed against him.

Complainant, for his part, claimed⁶⁸ that he submitted copies of the required documents to support his application to renew his business permit.

⁶² *Id.* at 331, 347-353, 357-358, pp. 3, 19-25, 29-30 of Resolution.

⁶³ *Id.* at 369-371

⁶⁴ *Id.* at 440-442.

⁶⁵ *Id.* at 526-527.

⁶⁶ *Id.* at 590-591, 21 February 2024 Transcript of Stenographic Notes (TSN), pp. 11-12.

⁶⁷ *Id.* at 591, 21 February 2024 TSN, p. 12.

⁶⁸ *Id.* at 595, 21 February 2024 TSN, p. 16.

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On 22 January 2024, the Office was furnished by the Sangguniang Panlalawigan of Leyte with a copy of its 12 December 2023 Resolution No. 2023-566 in the case of *Arevalo v. Oñate*, docketed as Admin. Case No. BRC-SP2023-001, to wit:

WHEREAS, the August Body approved and adopted the subject Committee Report⁶⁹ of the SP Blue Ribbon Committee x x x;

x x x x

RESOLVED, as it is hereby resolved, TO DISMISS WITHOUT PREJUDICE ADMINISTRATIVE CASE NO. BRC-SP 2023-001, MESIAS P. AREVALO SR. VERSUS MAYOR RAMON C. OÑATE OF PALOMPON, LEYTE.

x x x x

Approved unanimously.⁷⁰ (*emphasis omitted*)

By his Motion to Admit Supplemental Exhibits, complainant submitted additional evidence in the form of photographs marked as Annex “Y” to “Y-3.”⁷¹ The Motion claims to have attached Annexes “Z,” “AA,” and “BB” but none were attached to said Motion.

The issue for resolution is whether respondents, by allegedly requiring complainant, on 6 January 2023, to personally appear before respondent Mayor Oñate as a precondition for complainant’s applications to renew business permits and refusing to receive and act on said applications despite complainant’s submission of the complete requirements on said date, should be held administratively liable for Abuse of Authority, Dishonesty, Gross Neglect of Duty, Misconduct, Oppression, Violation of R.A. No. 6713, R.A.

⁶⁹ *Id.* at 537, p. 3 of Resolution, which committee found that, “[t]he committee subscribes to the opinion of the PLO, particularly insofar as to the possibility of conflicting decisions being rendered by the Sangguniang Panlalawigan and the Office of the Ombudsman, respectively. The committee is likewise convinced that when the Office of the Ombudsman issued the Joint Order dated June 27, 2023, requiring respondents to file their respective counter affidavits, the said office took cognizance of both the administrative and criminal aspect of the case and not the criminal aspect only. x x x the fact is, the Office of the Ombudsman clearly took cognizance of both the administrative and criminal aspect of the case filed before it. It is then the opinion of the committee that the Sangguniang Panlalawigan submits to the authority of the Office of the Ombudsman, pursuant to the provision of Section 15 of Republic Act No. 6770 x x x.”

⁷⁰ *Id.* at 538, p. 4 of Resolution.

⁷¹ Photos of alleged Job Order personnel deployed across the street from complainant’s house to allegedly harass complainant.

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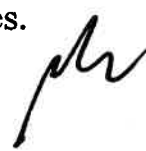
No. 7160, and R.A. No. 9485/R.A. No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act), as amended.

The Office finds substantial evidence that respondent Oñate Violated Section 21(b) of R.A. No. 9485/R.A. No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act), as amended.

Preliminarily, it is not for the Office to rule on complainant's allegations questioning the validity of Executive Order No. 1 for allegedly violating Sections 29,⁷² 30,⁷³ and 138⁷⁴ of the Local Government Code. Laws, rules, or acts are presumed valid⁷⁵ until annulled in a direct proceeding⁷⁶ by a court of competent jurisdiction. Until then, the same are valid and binding for all intents and purposes.⁷⁷

The Office also finds no merit to respondents' prayer to dismiss these cases due to the complaints previously filed by complainant before the Office of the Provincial Prosecution-Leyte,⁷⁸ ARTA, and Sangguniang Panlalawigan of Leyte.⁷⁹

The case before the Office of the Provincial Prosecution-Leyte accuses respondent Oñate of committing the criminal offense of Grave Coercion. It is distinct from the instant case which charges both respondents with administrative infractions and not criminal offenses.



⁷² *Supra*, note 20.

⁷³ *Supra*, note 21.

⁷⁴ *Supra*, note 16.

⁷⁵ Civil Code, Art. 7.

⁷⁶ See *Figueroa v. Commission on Audit*, G.R. No. 213212, 27 April 2021. See Constitution, Art. VIII, Sec. 5(2).

⁷⁷ *Ibid*.

⁷⁸ Records OMB-V-C-Jun-23-0149, pp. 160-161, Sinumpaang Recklamo for Grave Coercion. *Id.* at 157-159, NBI Transmittal of complaint to Department of Justice.

⁷⁹ Records OMB-V-C-Jun-23-0149, pp. 92-113.

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The Sangguniang Panlalawigan of Leyte, on the other hand, has expressly deferred exercising jurisdiction⁸⁰ and dismissed the case before it as it found that the Office had already taken cognizance of the complaint.⁸¹

As regards the ARTA, the Office is not precluded from exercising administrative jurisdiction despite its issuance of its 23 August 2023 Resolution⁸² on complainant's complaint against respondent Montebon and the complaint filed against respondent Oñate by other business owners. Under Section 24⁸³ of R.A. No. 9485,⁸⁴ as amended by R.A. No. 11032, the Office has administrative jurisdiction over any violation of such law. The ARTA's function is limited to initiating an investigation, *motu proprio* or upon receipt of a complaint, referring the same to the appropriate agency, or filing cases for violations of said law.⁸⁵

As regards the substantial allegations of the complaint, the Office gives no credence to the claim that respondent Montebon refused to receive the applications to renew business permits. The Certificate of Appearance⁸⁶ issued to complainant's representative Olorvida only evinces the fact that she appeared before respondent Montebon but no copies of such alleged *complete* documentary requirements were ever attached to such Certificate. The same can be said of the two video files⁸⁷ submitted with the complaint which do not show that such complete documentary requirements were submitted.



⁸⁰ Records Folder II, p. 538, p. 4 of 12 December 2023 Resolution.

⁸¹ *Ibid.*

⁸² *Id.* at 329-358.

⁸³ Which states that, "[t]he administrative jurisdiction on any violation of the provisions of this Act shall be vested in either the CSC, or the Office of the Ombudsman as determined by appropriate laws and issuances."

⁸⁴ Ease of Doing Business and Efficient Government Service Delivery Act.

⁸⁵ R.A. No. 9485 (2007), as amended, Sec. 17(d).

⁸⁶ Records Folder I, p. 52.

⁸⁷ *Id.* at 60. The 20-second video entitled, "ANNEX C-2 Video Recording" shows respondent Montebon going through a set of papers. An 8-second video entitled, "ANNEX C-1 Video Recording" shows an unnamed person standing in front of Olorvida.

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Even assuming *arguendo* that Olorvida submitted such applications albeit with incomplete requirements, to respondent Montebon on 6 January 2023, it is not among the latter's functions as Municipal Planning and Development Coordinate to grant or deny an application for business permit, which power is lodged with the Mayor.

Respondent Oñate, on the other hand, is faulted for not⁸⁸ endorsing the applications for renewal to the Municipal Treasurer's Office, on 6 January 2023, for payment of fees which the complaint insinuates is a refusal to receive such applications. A perusal of the Municipality's Citizen's Charter,⁸⁹ however, reveals that payment at the treasurer's office presupposes that the applicant has already completed the first step of complying with the pre-requisite documents for renewal. Section 9(b)(1) of the R.A. No. 9485, as amended by R.A. No. 11032, also provides that, "[a]ll applications x x x submitted shall be acted upon by the assigned officer or employee within x x x three (3) working days in the case of simple transactions and seven (7) working days in the case of complex transactions from the date the request and/or complete application or request was received,"⁹⁰ which is not the case here, there being no compliance with the pre-requisite documents for renewal as to make such periods applicable.

By his 19 January 2023 letter,⁹¹ it is shown that complainant was apprised that his applications for renewal lacked such pre-requisite documents as "the permits and certificates x x x expired on December 31, 2022 rendering the same as irrelevant in the application of renewal of business permit for the year 2023."⁹² Consequently, respondent Oñate

⁸⁸ *Id.* at 56, par. 3 of 10 January 2023 letter.

⁸⁹ Citizen's Charter <<https://palomponleyte.gov.ph/citizencharter.html>> (visited 6 May 2024).

⁹⁰ Underscoring supplied.

⁹¹ Records Folder I, p. 197.

⁹² *Ibid.*

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cannot be faulted for not endorsing, on 6 January 2023, said applications for renewal of business permits to the treasurer's office for payment of fees.

Similarly, the Office does not give credence to the claim that on 6 January 2023, both respondents asked complainant's representative Olorvida to come back to the Municipal Hall the next day, or on 7 January 2023. The two video files⁹³ submitted with the complaint does not show such alleged demand to come back. They merely show an unnamed person standing in front of the camera, and respondent Montebon being seated while going through some papers. Olorvida's 30 January 2023⁹⁴ and 1 February 2023⁹⁵ Affidavits, on the other hand, similarly state that she was asked by one Gemma Maupo Apuya to come back the next day, and not by respondents.

The records, however, sufficiently show that, on 7 January 2023, respondent Oñate required complainant to appear before him.

Respondent Oñate required complainant to appear before him.

Section 21(b) of R.A. No. 9485/R.A. No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act), as amended, prohibits the "[i]mposition of additional requirements other than those listed in the Citizen's Charter x x x."

By her 30 January 2023⁹⁶ and 1 February 2023⁹⁷ Affidavits, complainant's representative Olorvida attested that on 6 January 2023,⁹⁸ she

⁹³ *Id.* at 60. The 20-second video entitled, "ANNEX C-2 Video Recording" shows respondent Montebon going through a set of papers. An 8-second video entitled, "ANNEX C-1 Video Recording" shows an unnamed person standing in front of Olorvida.

⁹⁴ Records Folder II, pp. 369-371.

⁹⁵ *Id.* at 440-442.

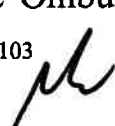
⁹⁶ Records Folder II, pp. 369-371.

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was at the Municipal Hall to apply for renewal of business permits when she was asked by one Mae Escoton to go up to the Mayor's Office. The next day, or on 7 January 2023, Olorvida met respondent Mayor Oñate who asked for her purpose. Upon being informed that she had come to renew the business permit of complainant, respondent Mayor Oñate required that, "[s]ila lang paanhia. Sila lang paatubanga." (*Let them come. Let them face me.*) This was left uncontroverted by respondent Oñate who neither denied nor presented countervailing evidence.

Moreover, the ARTA found *prima facie* evidence that respondent Oñate imposed the additional requirement of personal appearance of the business owner before him.⁹⁹ It found that Olorvida was able to talk to respondent Oñate who said that her employer should come to him.¹⁰⁰

By imposing a condition that is not required in the Citizen's Charter,¹⁰¹ respondent Oñate violated Section 21(b) of R.A. No. 9485/R.A. No. 11032, as amended. In line with Section 22(a)¹⁰² of R.A. No. 9485/R.A. No. 11032, as amended, it is appropriate to impose on respondent Oñate the penalty of suspension from work without pay for a period of six (6) months. Pursuant, however, to the plenary powers of the Ombudsman, suspension from service may be converted to a FINE instead.¹⁰³ 

⁹⁷ *Id.* at 440-442.

⁹⁸ Olorvida's 30 January 2023 Affidavit states that she went to the Municipal Hall on 4 January 2023 while the latest affidavit states that she went on 6 January 2023. The Office gives credence to the latest affidavit, being her latest statement.

⁹⁹ Records Folder II, p. 348, p. 20 of Resolution.

¹⁰⁰ *Id.* at 353, p. 25 of Resolution.

¹⁰¹ Municipality of Palompon Citizen's Charter <<https://palomponleyte.gov.ph/citizencharter.html>> (visited 9 May 2024).

¹⁰² SEC. 22. *Penalties and Liabilities* – Any violations of the preceding actions will warrant the following penalties and liabilities.

(a) First Offense: Administrative liability with six (6) months suspension: *Provided, however,* That in the case of fixing and/or collusion with fixers under Section 21(h), the penalty and liability under Section 22(b) of this Act shall apply.

X X X X

¹⁰³ See Section 10, Rule III, Rules of Procedure of the Office of the Ombudsman (Administrative Order No. 07); Secs. 19 and 20, Rule XIV of Omnibus Rules Implementing Rules and Regulation of Book V of Executive Order 292.

WHEREFORE, with the Office's finding of substantial evidence of Violation of Section 21(b) of R.A. No. 9485/R.A. No. 11032, as amended, against respondent **RAMON CHU OÑATE**, the penalty of **FINE** equivalent to his Six (6) Months Salary is imposed on him.


The administrative case for Abuse of Authority, Dishonesty, Gross Neglect of Duty, Misconduct, Oppression, Violation of R.A. No. 6713, R.A. No. 7160, and R.A. No. 9485/R.A. No. 11032, as amended, against respondent **CHRISTOPHER TOLEDO MONTEBON** is **DISMISSED** for lack of substantial evidence.

SO ORDERED.

Cebu City. 15 May 2024.


ROGIE L. DELA QUESTA-FERNANDEZ
Graft Investigation & Prosecution Officer II

REVIEWED BY:

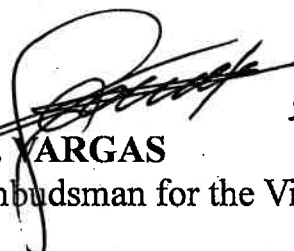

EUPHEMIA B. BACALSO
Director, Preliminary Investigation, Administrative
Adjudication and Prosecution Bureau – A (PIAAPB-A)


GAUDIOSO J. MELENDEZ
Assistant Ombudsman – Visayas

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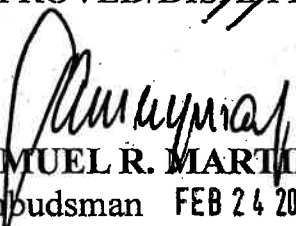
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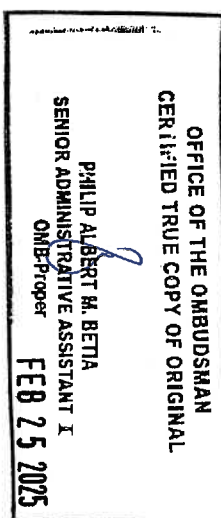
RECOMMENDING APPROVAL: *

 5/27/24
DANTE F. VARGAS
Deputy Ombudsman for the Visayas

APPROVED/DISAPPROVED:




SAMUEL R. MARTIRE
Ombudsman FEB 24 2025 *yk*



*The dispositive portion reads:

WHEREFORE, with the Office's finding of substantial evidence of Violation of Section 21(b) of R.A. No. 9485/R.A. No. 11032, as amended, against respondent RAMON CHU OÑATE, the penalty of FINE equivalent to his Six (6) Months' Salary¹⁰³ is imposed on him.

The administrative case for Abuse of Authority, Dishonesty, Gross Neglect of Duty, Misconduct, Oppression, Violation of R.A. No. 6713, R.A. No. 7160, and R.A. No. 9485/R.A. No. 11032, as amended, against respondent CHRISTOPHER TOLEDO MONTEBON is DISMISSED for lack of substantial evidence.

SO ORDERED.

Copy furnished:

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CHRISTOPHER TOLEDO MONTEBON

Respondent
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