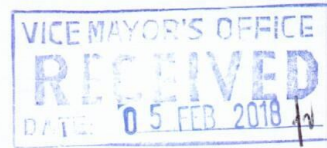




REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE
FOURTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,
ORMOC CITY HALL BUILDING
ON FEBRUARY 01, 2018

PRESENT:

Leo Carmelo L. Locsin, Jr.,	Vice Mayor & Presiding Officer
Rolando M. Villasencio,	SP Member, Majority Floor Leader
Vincent L. Rama,	SP Member, Asst. Majority Floor Leader
Mario M. Rodriguez,	SP Member, Presiding Officer "Pro-Tempore"
Tomas R. Serafica,	SP Member
Benjamin S. Pongos, Jr.,	SP Member
Eusebio Gerardo S. Penserga,	SP Member
Gregorio G. Yrastorza III,	SP Member
Nolito M. Quilang,	SP Member
John Eulalio Nepomuceno O. Aparis II,	SP Member
	Minority Floor Leader
Lea Doris C. Villar,	SP Member, Asst. Minority Floor Leader

ON OFFICIAL BUSINESS:

Mariano Y. Corro,	(OIC - City Mayor), Ex-Officio SP Member
	Chapter President, Liga ng mga Barangay ng Ormoc

RESOLUTION NO. 2018-023

**A RESOLUTION DENYING MOTION FOR RECONSIDERATION
FILED BY THE RESPONDENT IN THE ADMINISTRATIVE
CASE NO. 2015-02 FILED BEFORE THE 14TH
SANGGUNIANG PANLUNGSOD OF ORMOC CITY ENTITLED:
JOEY BANDALAN SEMBLANTE AS COMPLAINANT -
VERSUS- RAYMUNDO RAMOS AS RESPONDENT.**

WHEREAS, the Sangguniang Panlungsod, is authorized by law to hear and decide administrative complaints filed against elected barangay officials, with power to impose appropriate sanctions or penalties;

WHEREAS, in the exercise of the power, the Sanggunian took cognizance of the Complaint, docketed as Administrative Case No. 2015-02, filed by Joey Bandalan Semblante against Respondent Raymundo Ramos of Barangay Cogon, Ormoc City, and constituted the body as a Committee of the Whole to hear the charges;

WHEREAS, the Sangguniang Panlungsod decided the case on October 30, 2017 and issued a Resolution to confirm the said decision on November 16, 2017 under Resolution No. 2017-257;

WHEREAS, On November 28, 2017, a Motion for Reconsideration dated November 27, 2017 was filed by the Respondent thru his counsel before the Sangguniang Panlungsod averring and assigning three (3) errors on the abovementioned decision;

WHEREAS, the Sanggunian Panlungsod had taken cognizance to the said motion pursuant to Rule XII of Ordinance No. 001, Series of 2016;

Res. No. 2018-023

WHEREAS, On January 18, 2018, a closed door hearing was conducted by Committee of the Whole of the 14th Sanggunian Panlungsod of Ormoc to deliberate the said motion;

WHEREAS, the Sanggunian Panlungsod found out that the said assigned errors were merely rehash of previous arguments presented by the Respondent. The Respondent failed to raise new matters substantially plausible or compellingly persuasive to warrant the reconsideration of the questioned Decision;

WHEREAS, on the vote of 7-3-1 by members of the Honorable Sangguniang Panlungsod, the Motion of Reconsideration had been denied;

WHEREFORE, on motion of SP Member Nolito M. Quilang, Chairman, Committee on Good Government, severally seconded by SP Members Mario M. Rodriguez, Tomas R. Serafica, Eusebio Gerardo S. Penserga, Gregorio G. Yrastorza III and Vincent L. Rama; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass A RESOLUTION DENYING MOTION FOR RECONSIDERATION FILED BY THE RESPONDENT IN THE ADMINISTRATIVE CASE NO. 2015-02 FILED BEFORE THE 14TH SANGGUNIANG PANLUNGSOD OF ORMOC CITY ENTITLED: JOEY BANDALAN SEMBLANTE AS COMPLAINANT -VERSUS- RAYMUNDO RAMOS AS RESPONDENT;

RESOLVED, FURTHER, that the Decision dated September 11, 2017 and adopted in the Resolution No. 2017- 057 dated November 16, 2017 should thereby BE implemented by the Honorable City Mayor Richard I. Gomez, subject to pertinent rules;

ADOPTED, February 01, 2018.

RESOLVED, FINALLY, that copies of this resolution be furnished each to the City Mayor Richard I. Gomez; the City Legal Officer, Atty. Jasper Lucero; the Office of the Ombudsman-Visayas, Cebu City; the OIC-City Director DILG, Engr. Jeremy Bagares; the Office of the Liga ng mga Barangay ng Ormoc; the Complainant; the Respondent, Punong Barangay, Barangay Cogon, Ormoc City; and other offices concerned.

CARRIED UNANIMOUSLY.

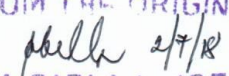
I HEREBY CERTIFY to the correctness of the foregoing resolution.


MARIA ANTONIETA G. CO HAT
(OIC - SP Secretary)
Supervising Administrative Officer


ATTESTED:

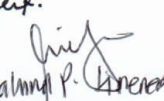

LEO CARMELO L. LOCSIN, JR.
Vice Mayor & Presiding Officer

CERTIFIED TRUE XEROX COPY
FROM THE ORIGINAL


MARIA CARLA L. ABELLA
RECORDS OFFICER I

2


BY RICHARD RAMOS
RAYMUNDO RAMOS
Respondent.


Analand P. Lirio
JOEY BANDALAN SEMBLANTE
Complainant

REPUBLIC OF THE PHILIPPINES
14th Sangguniang Panglungsod
Ormoc City



JOEY BANDALAN SEMBLANTE
Complainant,

Admin Case No. 2015-02

FOR: Grave Abuse of Authority, Grave
Misconduct and Conduct Unbecoming

-versus-

RAYMUNDO RAMOS
Respondent,
X-----X

ORDER

This treats the "Motion for Reconsideration" dated November 27, 2017 filed by respondent herein. In said Motion, the respondent assigned the following errors on the Decision dated September 11, 2017 and Resolution of this Body dated November 16, 2017:

- I. The Committee on Good Government erred and abused their discretion and authority amounting to lack or excess of jurisdiction in suspending respondent for a period of four (4) months;
- II. The Committee on Good Government erred and abused their discretion and authority amounting to lack of excess of jurisdiction in finding respondent committed an administrative offense of Conduct Prejudicial to the Best Interest of the Service for which he is not charged for, thereby violated his constitutional right to informed and heard of the charges against him; AND
- III. The Committee on Good Government erred and abused their discretion and authority for ordering respondent to vacate the property of the national government within ninety (90) days.

In his Motion, respondent questions the findings as of the Committee on Good Government dated September 11, 2017, but addresses the same Motion to the Sangguniang Panglungsod. The Sangguniang Panglungsod, taking into consideration the September 11, 2017 Decision and Dissenting Opinion dated October 30, 2017 penned by Mariano Y. Corro, then issued Resolution No. 2017- 057 which affirmed the mentioned Decision and **"effectively formalizes the same as the judgment of the Sanggunian for that matter"**. Presumably, the respondent's Motion for Reconsideration pertains to the Decision that was adopted by this Body.

Respondent argues that his suspension which is based on the finding of conduct prejudicial to the public service contravenes his right to be informed of the accusation against him, as the complaint was only for "Grave Abuse of Authority, Grave Misconduct and Conduct Unbecoming".

Respondent's argument is misplaced. As explained by the Supreme Court in the case of Civil Service Commission vs. Julian E. Ledesma (GR No. 154521, September 30, 2005):

"Even in criminal cases, a person may be convicted of a different offense than the offense he is charged with if the latter offense necessarily includes the elements of the lesser offense established by the evidence. There is no reason why the same principle should not apply in administrative cases. Criminal cases operate under more stringent rules than administrative proceedings. The right of an accused to due process is even more closely guarded in a criminal case." (emphasis supplied)

Respondent having been charged, advised, and given more than ample opportunity to be heard through manifestations made during hearings and through his Position Paper, and various other pleadings, for "Grave Abuse of Authority, Grave Misconduct and Conduct Unbecoming", cannot claim to have been caught off guard with the conviction. As discussed by the Supreme Court in the case of *Jesus Clarito Espia vs. Miguel Cerujano, et. al.* (GR No. 149377, March 28, 2008):

"While grave misconduct and conduct grossly prejudicial to the best interest of the service are both grave offenses under the Omnibus Rules Implementing Book V of Executive Order No. 292, grave misconduct has a heavier penalty. Grave misconduct is penalized by dismissal from service. On the other hand, conduct grossly prejudicial to the best interest of the service is penalized by dismissal from service only on the second offense; on the first offense, the penalty is suspension for six months and one day, to one year.

Aside from the foregoing, the matters raised by respondent in the instant motion are nothing new. In treating the instant case, the Body has already ruled that "the better right of possession, the right and personality to demand that a party vacate real property, are beyond the ambit of its disciplinary power and quasi-judicial functions. Such questions, even if presumed to be intimately related to the present case, is civil in character and properly pertains to the jurisdiction of the courts which the body does not and cannot purport to act on. This body, now acting as a quasi-judicial body, is limited to the determination of the administrative liability of an elective barangay official in the exercise of its disciplinary authority under the Local Government Code."

The respondent mistakenly insists that his conviction is based on his refusal to vacate the property subject of the case, which in turn is based on an unlawful order to vacate issued by this Body. This is unfounded. To be clear, the respondent undertook the vacate the same and asked that he be given a year to do so. This, after having been directed to remove his structure by the City Engineer in March 12, 2015. As this body stated: "His refusal to vacate said property notwithstanding his undertaking to do so and knowing that he is using public property for his personal use and gain is the crux of the matter at hand."

The directive for him to vacate the said property was issued as a result of respondent's repeated and categorical pronouncement that he would do so as he was aware that he was using government property. It should also be stressed that the ninety (90) day period to vacate was given only for the Body to determine the commencement of the period as to when the controversy would be resolved. Nothing more.

It is well worth to mention that nowhere in his Motion for Reconsideration does respondent deny the ownership by the government of the property, and his use and occupation of the same notwithstanding knowledge of its nature.

The bulk of the assigned errors is a mere rehash of previous arguments. The respondent has clearly failed to raise matters substantially plausible or compellingly persuasive to warrant the reconsideration of the questioned Decision and Resolution. As the Motion for Reconsideration filed by the respondent does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought, the same is **DENIED**.

The Decision dated September 11, 2017 and adopted in the Resolution No. 2017-057 dated November 16, 2017 should thereby be implemented by the Honorable City Mayor Richard I. Gomez, subject to pertinent rules.

Let a copy of this Order be furnished to the Office of the Ombudsman Visayas, Department of Interior and Local Government, Ormoc City, the Office of the City Mayor of Ormoc City, the complainant and the respondent, for their respective-reference, information and appropriate action.


SO ORDERED.

City of Ormoc, Philippines, January 18, 2018.


ATTY. NOLITO M. QUILANG

Presiding Chairman, Committee on the Whole
Chairman, Committee on Good Government

Concurred by:


ATTY. BENJAMIN S. PONGOS JR
Vice-Chairman, Committee on Good
Government


ENGR. ROLANDO VILLASECIO
Member


VINCENT RAMA
Member


DR. MARIO M. RODRIGUEZ
Member


TOMAS SERAFICA
Member


DR. EUSEBIO GERARDO PENSERGA
Member


DR. GREGORIO C. YRASTORZA III
Member


JOHN EULALIO NEPOMUCENO APARIS II
Member


LEADORIS VILLAR
Member


ATTY. MARIANO CORRO
Member