



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

MANSUE NERY LUKBAN,  
Petitioner,

G.R. No. 238563

Present:

- versus -

PERALTA, C.J., *Chairperson*,  
CAGUIOA,  
J. REYES, JR.,\*  
LAZARO-JAVIER, and  
LOPEZ, JJ.

OMBUDSMAN CONCHITA CARPIO-  
MORALES,  
Respondent.

Promulgated:

FEB 12 2020

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DECISION

CAGUIOA, J.:

Before the Court is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision dated August 20, 2015,<sup>2</sup> as well as the Resolutions dated January 18, 2016<sup>3</sup> and October 10, 2016<sup>4</sup> issued by Court of Appeals (CA) Fourth Division, and Resolution dated March 27, 2018<sup>5</sup> issued by the CA Special Fourteenth Division in CA-G.R. SP No. 127992. The CA Decision affirmed the May 30, 2012 Joint Resolution<sup>6</sup> of the Office of the Ombudsman (Ombudsman), which found herein petitioner P/SSupt. Mansue Nery Lukban (Lukban) administratively liable with several others for Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service.

\* On leave.

<sup>1</sup> *Rollo*, pp. 11-31.

<sup>2</sup> Id. at 32-46, penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Noel G. Tijam, and Francisco P. Acosta concurring.

<sup>3</sup> Id. at 47-48.

<sup>4</sup> Id. at 50-51.

<sup>5</sup> Id. at 53-54, penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Ricardo R. Rosario and Germano Francisco D. Legaspi concurring.

<sup>6</sup> Id. at 215-362.

### *The Facts*

This case arose from the so-called “chopper scam” that involved the procurement of second-hand light police operational helicopters (LPOHs) for use of the Philippine National Police (PNP). During the time material to this case, petitioner Lukban was the Chief of the Management Division of the PNP Directorate for Comptrollership.<sup>7</sup>

The facts of the instant case were summarized in the CA Decision as follows:

Pursuant to the modernization program of the [PNP], procurement of three (3) [LPOHs] were included in its Annual Procurement Plan (APP) for Calendar Year 2008. Relative thereto, the National Police Commission (NAPOLCOM) thereafter issued Resolution No. 2008-260 dated May 5, 2008 which prescribed the following minimum standard specifications for the purchase of the LPOHs:

SPECIFICATIONS	
Power Plant	Piston
Power Rating	200 HP
Speed	100 knots
Range	300 miles
Endurance	3 hours
Service Ceiling (Min. Height Capability)	14,000 feet (max.)
T/O Gross Weight	2,600 lbs (max.)
Seating Capacity	1 pilot +3 pax (max.)
Ventilating System	Air-conditioned

Following two failed biddings and unsuccessful negotiated procurement based on prescribed standard specifications, Police Director Luizo Cristobal Ticman issued a Request for Quotation (RFQ). It was intended for the PNP’s procurement, through its Negotiation Committee, of the supply and delivery of one (1) fully-equipped and two (2) standard LPOHs with an [Approved Budget for the Contract or] ABC of ₱105,000,00[0].00, through negotiated procurement, pursuant to Section 53 (b) of the IRR-A of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, from legally, technically, and financially competent and PhilGEPS-registered suppliers and manufacturers.

A negotiation conference was subsequently conducted which were attended by BEELINE and Manila Aerospace Products and Trading (MAPTRA) Sole Proprietorship. Eventually, the Negotiation Committee’s Resolution No. 2009-04 awarded the contract to MAPTRA for the purchase and delivery of one fully equipped and two standard LPOHs, all brand new, amounting to One Hundred Four Million Nine Hundred Eighty-Five Thousand Pesos (₱104,985,000.00) which was also confirmed by the National Headquarters-Bids and Awards Committee (NHQ-BAC) per Resolution No. 2009-36.

After the concluded Supply Contract, a Notice to Proceed was issued to MAPTRA on July 24, 2009 and the LPOHs were delivered on

<sup>7</sup> Id. at 14.

September 24, 2009. Thereafter, the members of the PNP's Directorate for Research and Development and a team of inspectors from its Logic Support Services, Special Action Force – Air Unit and Directorate for Logistics prepared a Weapons, Tactics and Communications Division (WTCD) Report which contained these findings:

PNP SPECIFICATIONS FOR LIGHT POLICE OPERATIONAL HELICOPTERS	SPECIFICATIONS OF ROBINSON R44 RAVEN 1 HELICOPTER	REMARKS
Power Plant: Piston	Piston-type	Conforming
Power Rating: 200 hp (minimum)	225	Conforming
Speed: 100 knots (minimum)	113 knots	Conforming
Range: 300 miles	400 miles	Conforming
Endurance: 3 hours (minimum)	No available data	
Service Ceiling (Height Capability): 14,000 feet (maximum)	14,000 feet	Conforming
T/O Gross Weight: 2,600 lbs (maximum)	2,400 lbs	Conforming
Seating Capacity: 1 pilot + 3 pax (maximum)	1 pilot + 3 passengers	Conforming
Ventilating System: Air-Conditioned	Not air-conditioned	Standard Helicopter
Aircraft Instruments: Standard to include directional gyro above horizon with slip skid indicator and vertical compass	Equipped with directional gyro above horizon with slip skid indicator and vertical compass	Conforming
Color and Markings: White with appropriate markings specified in NAPOLCOM Res. No. 99-002 dated January 6, 1999 (approving the Standard Color and Markings for PNP Motor Vehicles, Seacraft and Aircraft)	White with appropriate marking specified in NAPOLCOM Res. No. 99-002	Conforming
Warranty: The supplier warrants any defect in material and workmanship within the most advantageous terms and conditions in favor of the government.	The supplier will warrant any defect in material and workmanship within the most advantageous terms and conditions in favor of the government for two (2) years.	Indicated in the contract (To include time-change parts as suggested by DRD Test and Evaluation Board)
Requirements: Maintenance Manual Operation Manual	Provided Provided	Conforming Conforming

It was the PNP Inspection and Acceptance Committee, per Resolution No. IAC-09-045, which vouched for the LPOHs' conformity to the NAPOLCOM specifications and that these LPOHs had passed the acceptance criteria per WTCD Report No. T-2009-04-A and the Committee further recommended the acceptance of the two standard LPOHs.

The subject Inspection Report Form was thereafter prepared which declared that the LPOHs were in good condition and conformed with NAPOLCOM specifications.

Yet, an investigation of the subject transactions later revealed that the LPOHs did not meet specifications provided in Resolution No. 2008-260 by the NAPOLCOM. Further, during the course of the inquisition, it was discovered that the LPOHs were hardly brand new and the choppers were actually pre-owned by then First Gentleman Mike Arroyo.<sup>8</sup>

As a result of the investigation, the Ombudsman — Field Investigation Office (FIO) filed a Complaint<sup>9</sup> dated November 25, 2011 charging several public and private respondents,<sup>10</sup> including petitioner Lukban, with various criminal and administrative offenses, which included the following: 1) violation of paragraphs (e) and (g), Section 3,<sup>11</sup> Republic Act (R.A.) No. 3019,<sup>12</sup> in relation to R.A. No. 9184;<sup>13</sup> and 2) Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service under paragraphs 1, 2 and 20, Section 52(A), Uniform Rules on Administrative Cases in the Civil Service (URACCS).<sup>14</sup>

<sup>8</sup> Id. at 33-36.

<sup>9</sup> Id. at 155-187.

<sup>10</sup> Ronaldo V. Puno, Former Secretary, Department of Interior and Local Government (DILG); Oscar F. Valenzuela, Former Assistant Secretary, DILG; Conrado L. Sumanga, Jr., NAPOLCOM Director, Installations & Logistic Services; Miguel G. Coronel, NAPOLCOM Commissioner; Avelino L. Razon, Jr., Former PNP Chief and NAPOLCOM Commissioner; Celia Sanidad-Leones, NAPOLCOM Commissioner; Jesus Ame Verzosa, Former Director General, PNP; P/Dir. Luizo Cristobal Ticman, P/Dir. Ronald Dulay Roderos, P/Dir. Leocadio Salva Cruz Santiago, Jr., Members, PNP Negotiation Committee (NC) and PNP NHQ-BAC; P/Dir. Romeo Capacillo Hilomen, Member, PNP NC; P/Ddg. Jefferson Pattau Soriano, P/CSupt. Herold G. Ubalde, Members, PNP NHQ-BAC; P/Supt. Ermilando Villafuerte, P/Supt. Roman E. Loreto, Legal Officers, PNP NHQ-BAC; P/CSupt. Luis Luarca Saligumba, P/SSupt. Job Nolan D. Antonio, P/Dir. George Quinto Piano, P/SSupt. Edgar B. Paatan, P/CInsp. Maria Josefina Vidal Recometa, P/SSupt. Claudio DS Gaspar, Jr., P/SSupt. Larry Balmaceda, SPO3 Jorge B. Gabiana, SPO3 Ma. Linda A. Padojinog, PO3 Dionisio Jimenez, PO3 Avensuel G. Dy, NUP Ruben S. Gongona, NUP Erwin O. Chavarria, NUP Emila A. Aliling, NUP Erwin Paul Maranan, Members, Inspecting Team and the Inspection and Acceptance Committee, PNP; P/SSupt. Joel Crisostomo DL Garcia, Recommending Authority on WTCD Report No. T-2009-04, PNP, P/SSupt. Lurimer B. Detran, Secretariat Head, PNP NHQ-BAC; Atty. Jose Miguel "Mike" Arroyo, Hilario "Larry" B. De Vera, in their private capacities; and Rep. Ignacio "Iggy" Arroyo.

<sup>11</sup> SECTION 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

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

x x x x

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

<sup>12</sup> Anti-Graft and Corrupt Practices Act, August 17, 1960.

<sup>13</sup> An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes, "Government Procurement Reform Act," January 10, 2003.

<sup>14</sup> Civil Service Commission Resolution No. 991936.

In his Counter-Affidavit<sup>15</sup> dated January 16, 2012, Lukban maintained that he was not a member of the Bids and Awards Committee (BAC), the Negotiation Committee, the Technical Inspection Team, the Inspection and Acceptance Committee (IAC), or any other committee created in connection with the procurement of the subject helicopters. He claimed that his inclusion in the case was based on the fact that in the Inspection Report Form, he affixed his signature on the “NOTED” portion thereof. According to him, the form was prepared by his co-respondent PO3 Avensuel G. Dy (Dy), the designated Property Inspector of the Management Division, and was further initialed by his immediate superior, PSupt. Marlon Madrid (Madrid), who verified the completeness, correctness, and authenticity of the report and that of the documentary requirements attached to it, before it was forwarded to Lukban for his notation. Thus, he claimed that he validated the truthfulness of the report of his personnel based on the attached supporting documents prior to affixing his signature thereon.<sup>16</sup>

Further, Lukban explained that the function of the Management Division of the Directorate for Comptrollership, relative to the procurement process, was limited to ensuring that there was an available fund for said procurement and that the allocated fund was properly released to the winning bidder after the delivery of the procured item and upon the approval of the procuring head. Once the documentary requirements were complied with, he claimed that it became the ministerial function of the Directorate for Comptrollership to issue a clearance for the release of the fund for the payment of the procured items.<sup>17</sup>

#### *Ruling of the Ombudsman*

In a Joint Resolution<sup>18</sup> dated May 30, 2012, the Ombudsman found the respondents therein administratively liable and likewise ordered the filing of Informations against them for crimes relative to the procurement process. The dispositive portion of the Joint Resolution is hereby quoted in part:

**WHEREFORE**, it is hereby resolved as follows:

#### **OMB-C-C-11-0758-L (CRIMINAL CASE)**

1) Respondents x x x, P/SSupt. Mansue Nery Lukban, x x x **BE CHARGED** before the Sandiganbayan with one (1) count of violation of **Section 3(e), R.A.3019**, as amended;

x x x x

4) Respondents P/SSupt. Mansue Nery Lukban and PO3 Avensuel G. Dy **BE CHARGED** before the Sandiganbayan with **Falsification of Public Documents** under Article 171, par (4), Revised Penal Code relative to *Inspection Report Form dated November 13, 2009*;

x x x x

<sup>15</sup> *Rollo*, pp. 188-195.

<sup>16</sup> *Id.* at 189-190.

<sup>17</sup> *Id.* at 190-191.

<sup>18</sup> *Id.* at 215-362.

**OMB-C-A-11-0758-L (ADMINISTRATIVE CASE)**

1) Respondents x x x, P/SSupt. Mansue Nery Lukban, x x x are hereby found **GUILTY** of *Serious Dishonesty* and *Conduct Prejudicial to the Best Interest of the Service*, and are thus meted the penalty of **DISMISSAL FROM THE SERVICE**, including the accessory penalties of forfeiture of retirement benefits and perpetual disqualification to hold public office, pursuant to the *Uniform Rules on Administrative Cases in the Civil Service* (CSC Resolution No. 991936, as amended).

If the penalty of dismissal from the service can no longer be served by reason of resignation or retirement, the alternative penalty of **FINE** equivalent to **ONE YEAR** salary is imposed, in addition to the same accessory penalties of forfeiture of retirement benefits and perpetual disqualification to hold public office.<sup>19</sup>

As regards the administrative liability of Lukban, which is the subject of the instant case, the pertinent discussion in the Joint Resolution is reproduced below:

Applying now the foregoing criteria to the present case, there exist *substantial* evidence to show that respondents Santiago, Jr., Ubalde, Villafuerte, Loreto, Saligumba, Antonio, Piano, Gongona, Paatan, **Lukban**, Rekometa, Gaspar, Padojinog, and Dy, while in the exercise of their respective public duties and functions as participants to the questioned PNP procurement, conspired with each other to falsify documents, skirt procedures, circumvent rules, and defraud the government of millions of pesos in order to ultimately ensure the unwarranted benefit and pecuniary gain in favor of private respondents de Vera, MAPTRA, and FG [Arroyo]. These unlawful acts, as exhaustively discussed earlier, certainly constitute *serious* dishonesty and conduct prejudicial to the best interest of the service in that it caused severe pecuniary damage and prejudice to the government. Its immense debilitating effect on the government service certainly deserves the curtailment of respondents' privilege to continue holding public office.<sup>20</sup> (Emphasis supplied).

Lukban's Motion for Reconsideration (MR) was denied by the Ombudsman in a Joint Resolution dated November 5, 2012 in OMB-C-A-11-0758-L.<sup>21</sup> Thus, he went to the CA questioning the finding of administrative liability against him.

*Ruling of the CA*

In a Decision<sup>22</sup> dated August 20, 2015 (CA Decision), the CA dismissed Lukban's petition for review, and sustained his administrative liability, ruling as follows:

As Chief of the Management Division of the PNP Directorate for Comptrollership, he is presumed to know all existing policies, guidelines and procedures in carrying out the agency's mandate in the area, such as Resolutions No. 2009-04 and 2009-36 from the Negotiation Committee, respectively. By practically expressing petitioner's acquiescence to the Inspection Report Form, without verifying the accuracy and truthfulness

<sup>19</sup> Id. at 353-356.

<sup>20</sup> Id. at 350-351.

<sup>21</sup> Id. at 17.

<sup>22</sup> Supra note 2.

thereof, he committed a serious lapse of judgment sufficient to pin him for dishonesty and conduct prejudicial to the best interest of the service, especially so when his participation thereon was vital to, and it facilitated the release of funds for, the full payment of two “brand new” helicopters which turned out to be second-hand units. What negated the defense of good faith and ministerial duty was the fact that the LPOHs failed to surpass the minimum NAPOLCOM specifications, and yes, the transactions could not have materialized without the indispensable cooperation and participation of petitioner and other officials of the PNP.<sup>23</sup>

Lukban filed his MR *via* private courier, which was denied in a Resolution<sup>24</sup> dated January 18, 2016 for being filed out of time.

Lukban filed a Manifestation and Motion premised on an apparent oversight in the computation of the reglementary period. Still, the CA denied the same in a Resolution<sup>25</sup> dated October 10, 2016. It appears that Lukban had until September 25, 2015 to file the MR. However, the MR was filed only on September 28, 2015 thru private courier and the CA received the same only on October 2, 2015. Thus, the CA ruled:

Indeed, it is an established rule that transmission of pleadings and other paper through a private carrier or letter forwarder — instead of the Philippine Post Office — is not a recognized mode of filing pleading. The date of delivery of pleadings to a letter-forwarding agency is not to be considered as the date of filing thereof in court, and that in such cases, the date of actual receipt by the court, and not the date of delivery to private carrier is deemed the date of filing of that pleading.<sup>26</sup>

As a result, the CA ruled that the August 20, 2015 CA Decision had already become final and executory on September 29, 2015. Hence, an Entry of Judgment<sup>27</sup> was issued on October 13, 2016.

Lukban filed a Motion for Leave to File Attached Second Motion for Reconsideration and a Motion to Set Aside Entry of Judgment, which were denied by the CA in a Resolution<sup>28</sup> dated March 27, 2018. Aggrieved, Lukban went to the Court through the instant petition.

### *Petition Before the Court*

In his Petition for Review on Certiorari,<sup>29</sup> Lukban claims that the CA erred in denying his MR not on the merits but on sheer technicality. His counsel admitted that he had made an honest mistake in the filing of the MR. Hence, he pleads for compassion and liberality in the interest of substantial justice.<sup>30</sup>

Likewise, he avers that the CA erred in upholding the Ombudsman’s findings on the administrative charge against him. He maintains that he never

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<sup>23</sup> Id. at 38-39.

<sup>24</sup> Id. at 47-48.

<sup>25</sup> Id. at 50-51.

<sup>26</sup> Id. at 51.

<sup>27</sup> Id. at 52.

<sup>28</sup> Id. at 53-54.

<sup>29</sup> Id. at 11-29.

<sup>30</sup> Id. at 19-20.



conspired with anyone to commit any wrongdoing. According to him, he truly and faithfully saw to it that all supporting documents and approvals specified in the prescribed checklist of requirements had been submitted to the Management Division of the Directorate for Comptrollership. After he was able to verify that the needed supporting documents and approval were indeed submitted, he noted the same. He claims that it was not his duty to verify, check, and countercheck the correctness of the entries in each of the numerous signed reports of the officers in other divisions and their signatures in support of the procurement process. Also, he argues that the cases cited by the Ombudsman and the CA in finding him administratively liable are not applicable to the instant case.<sup>31</sup>

In its Comment,<sup>32</sup> the Office of the Solicitor General (OSG) maintains that the CA correctly denied Lukban's MR for being filed out of time and that Lukban failed to proffer any justification for a relaxation of the rules.<sup>33</sup> On the merits, the OSG claims that the findings of fact by the Ombudsman, as affirmed by the CA, are already final and conclusive on the Court.<sup>34</sup>

The OSG claims that the CA correctly affirmed the Ombudsman's ruling finding Lukban guilty of serious dishonesty and conduct prejudicial to the best interest of the service. The Ombudsman states that as Chief of the Management Division of the Directorate for Comptrollership, it was Lukban's responsibility when he signed the Inspection Report to verify the accuracy and truthfulness not only of the Inspection Report itself but also of the supporting documents presented to him. Further, his act of signing the Inspection Report was not ministerial but involved the propriety of said Inspection Report together with the corresponding attachments. Furthermore, his argument that he merely relied in good faith on the acts of his subordinates, namely Dy and Madrid, is untenable. Lastly, the OSG maintains that conspiracy was present among Lukban and other PNP officers in this case.<sup>35</sup>

In his Reply,<sup>36</sup> Lukban maintains that there are sufficient and compelling reasons for the relaxation of the rules on timeliness.<sup>37</sup> As regards the factual findings, he claims that the CA erroneously appreciated his official functions as Chief of the Management Division of the PNP Directorate for Comptrollership, as well as his purported involvement in the subject transaction. According to him, significant and material facts pertaining to the nature of his functions and the import of his signature on the Inspection Report Form have been grievously misinterpreted by the CA "to such extent that functions not appurtenant to [his] office have been mistakenly attributed to him and have been used as basis for administrative liability."<sup>38</sup> He also cited several other decisions of the CA wherein it exonerated the other PNP officials involved in the same transaction as in this case but were nonetheless

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<sup>31</sup> Id. at 21-22.

<sup>32</sup> Id. at 387-405.

<sup>33</sup> Id. at 395-398.

<sup>34</sup> Id. at 398-399.

<sup>35</sup> Id. at 399-403.

<sup>36</sup> Id. at 429-460.

<sup>37</sup> Id. at 431.

<sup>38</sup> Id. at 430.



exonerated on the basis of the same documents and evidence that he had presented.<sup>39</sup>

### *Issues*

Whether the CA erred in (1) denying Lukban's MR based on technicality; and (2) upholding the Ombudsman's finding of administrative liability against Lukban.

### *Ruling of the Court*

The petition is meritorious.

#### *I. On Lukban's Motion for Reconsideration filed before the CA*

At the outset, it should be emphasized that compliance with procedural rules is necessary for an orderly administration of justice. These are set in place in order to obviate arbitrariness, caprice, or whimsicality.<sup>40</sup> Nonetheless, these rules are not to be rigidly applied so as to frustrate the greater interest of substantial justice. Even the Rules of Court provides that the rules "shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding."<sup>41</sup>

Based on the records, it appears that Lukban received a copy of the CA Decision on September 10, 2015.<sup>42</sup> Thus, he only had 15 days from receipt of the CA Decision or until September 25, 2015 to file his MR. However, his MR was filed by his previous counsel *via* private courier only on September 28, 2015 and was received by the CA on October 2, 2015.<sup>43</sup> As a result of the CA's denial of his MR, the CA Decision was deemed final and executory on September 29, 2015 and an Entry of Judgment<sup>44</sup> was issued on October 13, 2016.

There is no dispute that Lukban belatedly filed his MR before the CA. Nevertheless, there is merit to his contention that the CA should have granted his MR. Time and again, the Court has relaxed the observance of procedural rules to advance substantial justice.

In *PNB v. Yeung*,<sup>45</sup> although petitioner's MR of the CA decision therein was filed out of time, the Court still gave due course to the petition in view of the substantial merits of the case:

In the present case, we find the delay of 7 days, due to the withdrawal of the petitioner's counsel *during the reglementary period of filing an MR*, excusable in light of the merits of the case. Records show that

<sup>39</sup> Id. at 446.

<sup>40</sup> *Tible & Tible Company, Inc. v. Royal Savings and Loan Association*, 574 Phil. 20, 38 (2008).

<sup>41</sup> RULES OF COURT, Rule 1, Sec. 6.

<sup>42</sup> *Rollo*, p. 431.

<sup>43</sup> Id.

<sup>44</sup> Id. at 52.

<sup>45</sup> 722 Phil. 710 (2013).

the petitioner immediately engaged the services of a new lawyer to replace its former counsel and petitioned the CA to extend the period of filing an MR due to lack of material time to review the case. There is no showing that the withdrawal of its counsel was a contrived reason or an orchestrated act to delay the proceedings; the failure to file an MR within the reglementary period of 15 days was also not entirely the petitioner's fault, as it was not in control of its former counsel's acts.

Moreover, after a review of the contentions and the submissions of the parties, we agree that suspension of the technical rules of procedure is warranted in this case in view of the CA's erroneous application of legal principles and the substantial merits of the case. If the petition would be dismissed on technical grounds and without due consideration of its merits, the registered owner of the property shall, in effect, be barred from taking possession, thus allowing the absurd and unfair situation where the owner cannot exercise its right of ownership. This, the Court should not allow. In order to prevent the resulting inequity that might arise from the outright denial of this recourse — that is, the virtual affirmance of the writ's denial to the detriment of the petitioner's right of ownership — we give due course to this petition despite the late filing of the petitioner's MR before the CA.<sup>46</sup> (Underscoring supplied)

Similarly, in *Mitra v. Sablan-Guevarra*,<sup>47</sup> the petitioner therein also belatedly filed the MR of the CA decision. Nevertheless, the Court still decided the same on its merits:

x x x "Litigations should, as much as possible, be decided on the merits and not on technicalities."

x x x x

In the present case, the petitioner's motion for reconsideration of the CA decision was indeed filed a day late. However, taking into account the substantive merit of the case, and also, the conflicting rulings of the RTC and CA, a relaxation of the rules becomes imperative to prevent the commission of a grave injustice. Verily, a rigid application of the rules would inevitably lead to the automatic defeasance of Legaspi's last will and testament — an unjust result that is not commensurate with the petitioner's failure to comply with the required procedure.<sup>48</sup> (Underscoring supplied)

The relaxation of procedural rules in the interest of substantial justice even finds application in judgments that are already final and executory. The following pronouncements in *Barnes v. Padilla*<sup>49</sup> are instructive:

x x x Phrased otherwise, a final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.

**However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and**

<sup>46</sup> Id. at 722.

<sup>47</sup> G.R. No. 213994, April 18, 2018, 862 SCRA 32.

<sup>48</sup> Id. at 38.

<sup>49</sup> 482 Phil. 903 (2004).

**dilatory, and (f) the other party will not be unjustly prejudiced thereby.**

Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflects this principle. **The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.**<sup>50</sup> (Emphasis and underscoring supplied)

Considering the foregoing, the instances for relaxation of the rules are present in this case. Here, Lukban avers:

14. It bears stressing that while Petitioner admits the belated filing, he has been able to give sufficient explanation as to why timeliness requirements have not been complied with — his previous counsel miscalculated the period of filing and misunderstood the rules therefor as he equated the effects of filing *via* private courier with filing through registered mail. In fact, and as noted in the Comment, this mistake had readily been acknowledged by his previous counsel when the handling lawyer filed a manifestation to this effect before the CA, specifically imploring the Honorable Court to exercise indulgence on account of his inadvertence.

x x x x

17. The injurious effect of the counsel's blunder was made more palpable by the fact that the Assailed Decision immediately caused Petitioner's dismissal from service. That after thirty-three (33) years of being a public servant — one with an unblemished service record at that — Petitioner was immediately terminated with all his benefits reduced to nil. This immediate deprivation of hard-earned benefits should have equally compelled the CA to reconsider.

18. Furthermore, it bears stressing that the belated filing was not motivated by any malicious intent, as it was apparent that the late filing was merely due to the previous counsel's gross and inexcusable neglect of his client's cause. There was no ill will on the part of Petitioner and the belated filing was not a ploy to unduly prolong and delay the proceedings. There being no deliberate intent to delay the proceedings, the Petitioner's plea for the relaxation of the rules merits consideration.<sup>51</sup> (Underscoring supplied)

Lukban's contentions are well-taken. Thus, the Court opts for a liberal application of the procedural rules especially considering that the substantial merits of the case warrant its review by the Court.

*II. On Lukban's  
Administrative  
Liability*

In administrative proceedings, the complainant carries the burden of proving the allegations with substantial evidence or "such relevant evidence

<sup>50</sup> Id. at 915.

<sup>51</sup> *Rollo*, pp. 432-433.

as a reasonable mind will accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine differently.”<sup>52</sup>

Here, the Ombudsman and the CA found substantial evidence to hold Lukban administratively liable for serious dishonesty and conduct prejudicial to the best interest of the service. However, **after a careful review of the records of this case**, the Court finds that there is no substantial evidence to hold Lukban administratively liable for gross dishonesty and conduct prejudicial to the service. Consequently, his dismissal was improper.

*A. Serious Dishonesty and  
Conduct Prejudicial to the  
Best Interest of the Service*

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 and an intent to violate the truth.<sup>53</sup> For dishonesty to be considered serious, thus warranting the penalty of dismissal from service, the presence of any one of the following attendant circumstances must be present:

- (1) The dishonest act caused serious damage and grave prejudice to the Government;
- (2) The respondent gravely abused his authority in order to commit the dishonest act;
- (3) Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption;
- (4) The dishonest act exhibits moral depravity on the part of the respondent;
- (5) The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;
- (6) The dishonest act was committed several times or in various occasions;
- (7) The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to impersonation, cheating and use of crib sheets;
- (8) Other analogous circumstances.<sup>54</sup>

Moreover, dishonesty — like bad faith — is not simply bad judgment or negligence, but a question of intention. In evaluating such intention, the following are some considerations: the facts and circumstances giving rise to the act committed; his state of mind at the time the offense was committed; the time he might have had at his disposal for the purpose of meditating on

<sup>52</sup> *Fajardo v. Corral*, 813 Phil. 149, 156 (2017).

<sup>53</sup> *Alforon v. Delos Santos*, 789 Phil. 462, 473 (2016).

<sup>54</sup> *Id.* at 474, citing CSC Resolution No. 06-0538 (2006), Sec. 2.

the consequences of his act; and the degree of reasoning he could have had at that moment.<sup>55</sup>

As for what specific acts constitute conduct prejudicial to the best interest of the service, there is no concrete description of such under the Civil Service law and rules. However, jurisprudence instructs that for an act to constitute such an administrative offense, it need not be related to or connected with the public officer's official functions. What is essential is that the questioned conduct tarnishes the image and integrity of his public office.<sup>56</sup>

Here, Lukban was found to have committed serious dishonesty and conduct prejudicial to the best interest of the service by his having signed the "Noted by" portion of the Inspection Report Form without verifying the accuracy and truthfulness thereof, thereby facilitating the release of funds for the payment of supposedly brand-new helicopters which turned out to be secondhand units.<sup>57</sup> **However, a review of the functions and duties of his office leads the Court to conclude otherwise.**

At the time material to this case, Lukban was the Chief of the Management Division of the PNP Directorate for Comptrollership. Lukban explained the functions of his office in this wise:

At the outset, it must be emphasized that Petitioner is the Chief of the Management Division — a division under the umbrella of the Directorate for Comptrollership of the PNP, the office principally concerned with the management of the financial resources of the agency. The Management Division assists the latter in the formulation of policies on resource management of the PNP, internal auditing and control, and liquidation of funds and property accountability of PNP personnel. This is in line with the mandates of its parent department, the Directorate for Comptrollership, whose main function — as the term 'comptrollership' denotes — relates to budgetary matters, accounting, financial reporting, internal auditing and management improvement.

30. Accordingly, as Chief of the Management Division, Petitioner's responsibilities were therefore geared towards fund/resource management — and not the technicalities involved in the inspection and verifying compliance with the standards set by the NAPOLCOM.

31. Indeed, as indicated in the PNP's Comptrollership Handbook, the Management Division's competence relates to resource management such that its functions are streamlined as follows: (1) developing plans and policies to improve resource management of the PNP, (2) initiating means for simplification and standardization of operations of offices/units, (3) formulating plans, policies and procedure for internal auditing and control, (4) conducting management audit of PNP resources, (5) issuing appropriate guidance in the liquidation of fund and property accountability of PNP personnel, (6) conduct of inspection of deliveries, and (7) conduct of pre-audit of purchase/work/job orders and disbursement vouchers. Petitioner, as Chief of the Management Division, could only be held responsible for these areas, and he could not be charged with the functions that fall outside the

<sup>55</sup> *Sabio v. Field Investigation Office*, G.R. 229882, February 13, 2018, 855 SCRA 293, 305.

<sup>56</sup> *Villanueva v. Reodique*, G.R. No. 221647, November 27, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64772>>.

<sup>57</sup> *Rollo*, pp. 38-39.

ambit of the Management Division's assigned mandate.<sup>58</sup> (Underscoring supplied; emphasis in the original omitted)

Based on the foregoing, which has not been disputed, Lukban's official duties revolve only around accounting and fund or resource management. To be sure, his claim that the function of verifying the LPOH specifications belonged to different departments of the PNP is, in fact, already recognized by jurisprudence. In *Field Investigation Office v. Piano*,<sup>59</sup> which involved the exact same factual milieu as the instant case, the Court, through Justice Peralta, now the Chief Justice, zeroed in on the IAC as the ultimate entity in the PNP responsible for verifying the LPOH specifications, to wit:

Respondent is the Chairman of the PNP Inspection and Acceptance Committee (*IAC*). **The IAC plays a very important role in the procurement process of the agency, since it has the responsibility of inspecting the deliveries to make sure they conform to the quantity and the approved technical specifications in the supply contract and the purchase order and to accept or reject the same. Notably, only after the IAC's final acceptance of the items delivered can the supplier be paid by the PNP.**

x x x x

**The IAC Resolution was the final act for the acceptance of these helicopters for the use of the PNP, and which was the basis for the PNP to pay the price of brand new helicopters for the delivered second-hand items to MAPTRA, which caused serious damage and grave prejudice to the government. In issuing the said Resolution which contained untruthful statements, respondent is indeed guilty of act of serious dishonesty in the exercise of his public functions. Indeed, the affixing of signatures by the committee members are not mere ceremonial acts but proofs of authenticity and marks of regularity.**<sup>60</sup> (Emphasis and underscoring supplied)

Even the CA acknowledged this in its recital of facts, to wit:

**It was the PNP Inspection and Acceptance Committee, per Resolution No. IAC-09-045, which vouched for the LPOHs' conformity to the NAPOLCOM specifications and that these LPOHs had passed the acceptance criteria per WTCD Report No. T-2009-04-A and the Committee further recommended the acceptance of the two standard LPOHs.**<sup>61</sup> (Emphasis supplied)

Without doubt, and as already judicially found and confirmed by no less than this Court itself, it was the IAC, through its Resolution, which vouched that the LPOHs conformed to the NAPOLCOM specifications and passed the acceptance criteria by the WTCD and further recommended the acceptance of the units. Thus, even granting that the Inspection Report Form, which was "noted by" Lukban, declared that the LPOHs were in good condition and conformed with NAPOLCOM specifications, this was issued on the basis of the IAC Resolution, along with the WTCD Report, which

<sup>58</sup> Id. at p. 438.

<sup>59</sup> G.R. No. 215042, November 20, 2017, 845 SCRA 167.

<sup>60</sup> Id. at 181-185.

<sup>61</sup> *Rollo*, p. 35.

confirmed the findings of the technical inspection conducted on the LPOHs. The IAC Resolution states in part:

WHEREAS, in accordance with paragraphs 3-10, Chapter 3 of the NAPOLCOM-approved PNP Procurement Manual entitled Inspection and Acceptance Committee, it is stated that the Committee must properly inspect all deliveries of the PNP and must be consistent with [the] interest of the government.

x x x x

WHEREAS, **after inspection and evaluation was conducted, the Committee found the said items to be conforming to the approved NAPOLCOM specifications and passed the acceptance criteria** as submitted by DRD on WTCR Report No. T-2009-04-A.

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, that the **above-mentioned items be accepted for use** of the PNP.<sup>62</sup> (Emphasis and underscoring supplied)

Thus, the Court gives credence to Lukban's claim that he merely relied on the IAC Resolution as regards the compliance of the LPOHs with the NAPOLCOM specifications when he affixed his signature on the Inspection Report Form under the portion of "Noted by." Borrowing the language of the Court in *Field Investigation Office v. Piano*, it is the IAC that has the responsibility of inspecting the deliveries to make sure they conform to the quantity and the approved technical specifications in the supply contract and the purchase order and to accept or reject the same, and it is only after the IAC's final acceptance of the items delivered can the supplier be paid by the PNP, so that it is the IAC Resolution that constitutes "the final act for the acceptance of these helicopters for the use of the PNP, and which was the basis for the PNP to pay the price of brand new helicopters for the delivered second-hand items."<sup>63</sup>

Considering the foregoing, it is the considered view of the Court that Lukban cannot be held liable for serious dishonesty or conduct prejudicial to the best interest of the service. To reiterate, dishonesty — like bad faith — is not simply bad judgment or negligence, but a question of intention. Lukban's acts do not show any disposition to defraud, cheat, deceive, or betray, nor any intent to violate the truth. Moreover, Lukban's reliance on the findings of the IAC and the property inspectors within his division negates any dishonest intent.

*B. Conspiracy to Defraud  
the Government*

On the matter of conspiracy, the CA made the following pronouncements:

Contrary to petitioner's belief, conspiracy was sufficiently established by the Ombudsman x x x. To reiterate, the mere fact that

<sup>62</sup> Id. at 440.

<sup>63</sup> *Field Investigation Office v. Piano*, supra note 59 at 184-185. (Emphasis and underscoring supplied)

petitioner signed the Inspection Report Form, without thoroughly examining the documents attached thereto, which actually did not conform to the NAPOLCOM specifications, eventually resulted to the disbursement of government funds. As aptly observed by the OSG, and to which We agree:

x x x x

Petitioner's role in the committed irregularities shows his concurrence with the other PNP official's objective to defraud the Government. The irregularities will not see their fruition if petitioner and the other PNP officials involved in the fraud did not consent to its implementation by making it appear that the two standard LPOHs conformed to the NAPOLCOM specifications. These acts pointed to one criminal intent — with one participant perform a part of the transaction to complete the whole scheme, with a view of attaining the object which they were pursuing.<sup>64</sup>

The Court disagrees. In this regard, the pronouncements of the Court in *PNP-CIDG v. Villafuerte*,<sup>65</sup> a case involving the same factual backdrop, find full application in the instant case, to wit:

In the first place, conspiracy as a means of incurring liability is strictly confined to criminal cases; even assuming that the records indicate the existence of a felonious scheme, the administrative liability of a person allegedly involved in such scheme cannot be established through conspiracy, considering that one's administrative liability is separate and distinct from penal liability. Thus, in administrative cases, the only inquiry in determining liability is simply whether the respondent, through his individual actions, committed the charges against him that render him administratively liable.

In any case, it bears stressing that **while the [Office of the Ombudsman]'s factual findings in their entirety tend to demonstrate a sequence of irregularities in the procurement of the LPOHs, this does not ipso facto translate into a conspiracy between each and every person involved in the procurement process.** For conspiracy to be appreciated, it must be clearly shown that there was a conscious design to commit an offense; **conspiracy is not the product of negligence but of intentionality on the part of cohorts. Conspiracy is never presumed.**<sup>66</sup>

As applied to the instant case, there is a sheer dearth of evidence on Lukban's participation in the alleged conspiracy to defraud the government.

#### *A Final Note*

Indeed, a public office is a public trust, and public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives.<sup>67</sup> In order to protect this Constitutional mandate,

<sup>64</sup> *Rollo*, pp. 42-43.

<sup>65</sup> G.R. Nos. 219771 & 219773, September 18, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64554>>.

<sup>66</sup> *Id.* Emphasis and underscoring in the original.

<sup>67</sup> CONSTITUTION, Art. XI, Sec. 1.



the Ombudsman is empowered to investigate and prosecute, for and in behalf of the people, criminal and administrative offenses committed by government officers and employees, as well as private persons in conspiracy with the former.<sup>68</sup> Specifically for administrative cases, it is empowered to impose penalties in the exercise of its administrative disciplinary authority.<sup>69</sup>

Nevertheless, the duty of the Ombudsman as the “protector of the people”<sup>70</sup> should not be marred by overzealousness at the expense of public officers. This is especially true in instances where the supreme penalty of dismissal from service may be imposed. Here, records show that Lukban has been a public servant for 33 years with an **unblemished** service record.<sup>71</sup> In his more than three decades of service, he has never been charged or accused of any misconduct nor has he been found guilty of any administrative or criminal offense.<sup>72</sup> That the penalty of dismissal would not only mean his separation from service but would also entail the forfeiture of his retirement benefits and perpetual disqualification from holding public office should have impelled the Ombudsman to be more judicious in imputing liability. In this regard, the Court finds it proper to reiterate the following pronouncements in *PNP-CIDG v. Villafuerte*:

x x x The Ombudsman is as much the protector of the innocent as it is the sentinel of the integrity of the public service; the zeal of prosecution must, at all times, be tempered with evidence. In this case, the cavalier attitude of the Ombudsman in distilling the facts and meting out the most severe penalty of dismissal cannot go unnoticed; the dismissal of an officer based on nothing but conjecture and a talismanic invocation of conspiracy is, aside from being manifestly unjust, a gross disservice to its mandate. To be sure, the cleansing of our ranks cannot be done at the expense of a fair and just proceeding.<sup>73</sup>

This case is one of those instances where the Ombudsman was called upon to be more circumspect in assessing the liability of public officers and more prudent in exercising its administrative disciplinary authority. The Ombudsman failed in this regard by simply doing a “shot-gun” approach — at the expense of Lukban. This the Court is now called upon to rectify as a matter of justice.

**WHEREFORE**, premises considered, the petition is **GRANTED**. The Decision dated August 20, 2015, as well as the Resolutions dated January 18, 2016 and October 10, 2016 issued by the Court of Appeals Fourth Division, and Resolution dated March 27, 2018 issued by the Court of Appeals Special Fourteenth Division in CA-G.R. SP No. 127992 are **REVERSED AND SET ASIDE**.

Petitioner Mansue Nery Lukban is hereby **REINSTATED** to his former rank as Police Senior Superintendent without loss of seniority rights

<sup>68</sup> *Ampil v. Ombudsman*, 715 Phil. 733, 738 (2013).

<sup>69</sup> *Office of the Ombudsman v. Apolonio*, 683 Phil. 553, 563 (2012).

<sup>70</sup> CONSTITUTION, Art. XI, Sec. 12.

<sup>71</sup> *Rollo*, p. 433.

<sup>72</sup> *Id.* at 452.

<sup>73</sup> *PNP-CIDG v. Villafuerte*, supra note 65.

and with payment of back salaries and all benefits which would have accrued as if he had not been illegally dismissed.

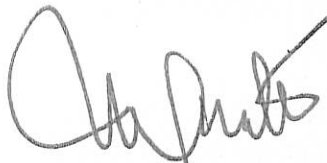
Let a copy of this Decision be reflected in the permanent employment record of petitioner.

**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

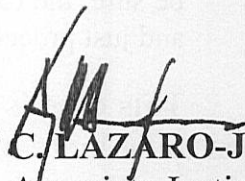
WE CONCUR:



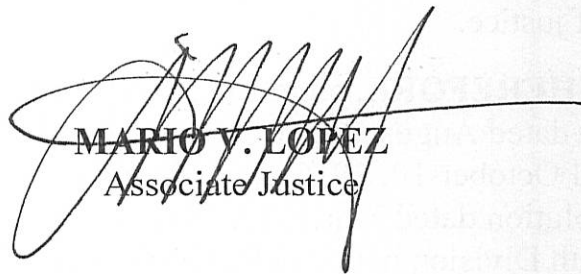
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson

On leave

**JOSE C. REYES, JR.**  
Associate Justice



**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice



