



Republic of the Philippines
PROVINCE OF LEYTE
Municipality of Calubian
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Item No.: 08

Date: 08 NOV 2022

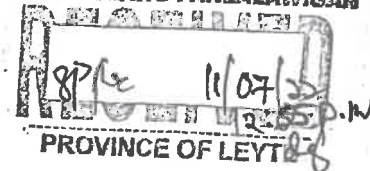


OFFICE OF THE SANGGUNIANG BAYAN

Oct. 28, 2022

Hon. Leonardo "Sandy" M. Javier, Jr.
Prov. Vice Governor
Leyte Province
Legislative Building
Government Center, Palo, Leyte

SANGGUNIANG PANLALAWIGAN



Thru : Florinda Jill S. Uyvico
SP Secretary
Province of Leyte
Legislative Building
Government Center, Palo, Leyte

Dear Sir/ Madam :

My greetings...

In addendum to my reply dated Sept. 30, 2022 on the Complaint (docketed as Case No. IC-OVT-31-0034, FOR: "GRAVE ABUSE OF AUTHORITY") filed by Mrs. Catalina C. Panugan of Brgy. Cabalhin/ Herrera, Calubian, Leyte before the Office of the Ombudsman, Visayas, Cebu City and forwarded to your good office for appropriate action, I am submitting herewith the Decision from Regional Trial Court Branch 11 of Calubian, Leyte dated Aug. 26, 2022. Copy of which is hereto attached for your immediate action, the same is material to the complaint pending before your good office.

Kindly acknowledge receipt hereof.

Thank you.

Very truly yours,


ATTY. F. NIERRAS
SB Member

Enc : a/s

Republic of the Philippines
SUPREME COURT
Eighth Judicial Region
REGIONAL TRIAL COURT
Branch 11, Calubian, Leyte
rtc2cub011@judiciary.gov.ph

HON. CATALINA C. PANUGAN,
Petitioner,

SPECIAL CIVIL NO. SPC-CN-006
For:

-versus-

"CERTIORARI With PRAYER FOR
ISSUANCE OF TEMPORARY
RESTRAINING ORDER (TRO) and/
or WRIT OF PRELIMINARY
INJUNCTION."

The Municipal Mayor of Calubian, Leyte
Hon. MARCIANO S. BATIANCELA,
The Sangguniang Bayan of Calubian, Leyte
composed of the following:

Hon. GILBERT S. PONCE in his capacity as the
Municipal Vice Mayor and Presiding Officer of
The Sangguniang Bayan of Calubian, Leyte,
Hon. ELPEDIO M. GO, Hon. JOSEPH C. AVENIR,
Hon. DIOMEDES D. CARLOS, Hon. EUGENIO A. CHING, JR.
Hon. LUZ M. ASEVEROS, Hon. VIVENCIA V. CASAS,
Hon. AIDA Q. LABTIC, Hon. HENRY T. BAGALLON,
Hon. ALYZA F. NIERRAS (SK Federation President) and
Hon. ALFREDO M. CASAS (Liga Ng Mga Barangay President)
in their capacity as members of the Sangguniang Bayan
of Calubian, Leyte.

Respondents.

x-----x

NOTICE OF DECISION

TO:

August 26, 2022

ATTY. JOSE RAYMUND A. ACOL
Asst. Provincial Legal Officer
The PROVINCIAL LEGAL OFFICE
Leyte Provincial Capitol
SMED Center, Sen. Enage Streets
Tacloban City

HON. MARCIANO A. BATIANCELA, JR.
LGU, Brgy. Veloso, Calubian, Leyte

ATTY. OCTAVIUS L. LABTIC
San Isidro, Leyte

HON. GILBERT S. PONCE

HON. CATALINA C. PANUGAN

Hon. ELPEDIO M. GO, Hon. JOSEPH C. AVENIR,

Brgy. Herrera, Calubian, Leyte

Hon. DIOMEDES D. CARLOS, Hon. EUGENIO A. CHING, JR.

Hon. LUZ M. ASEVEROS, Hon. VIVENCIA V. CASAS,

Hon. AIDA Q. LABTIC, Hon. HENRY T. BAGALLON,

Hon. ALYZA F. NIERRAS, Hon. ALFREDO M. CASAS

LGU, Brgy. Veloso, Calubian, Leyte

You are hereby notified by these presents that on the 26th day of
August, 2022, the Court issued/rendered the decision in the above-entitled
case, a copy of which is attached hereto.

ATTY. MARCELIANA F. YAP-APACIBLE

Clerk of Court VI

Republic of the Philippines
8th Judicial Region
REGIONAL TRIAL COURT
Branch 11, Calubian, Leyte

SPECIAL CIVIL No. SPC-CN-006

HON. CATALINA C. PANUGAN,
Petitioner,

For:
CERTIORARI with Prayer for
Issuance of Temporary
Restraining Order and/or Writ
of Preliminary Injunction

-versus-

HON. MARCIANO S. BATIANCELA, et. al.,
Respondents.

x-----x

DECISION

For decision is Hon. Catalina C. Panugan’s (Hon. Panugan) Petition for Certiorari under Rule 65, Section 1, Rules of Court seeking to annul the Decision of the *Sangguniang Bayan* of Calubian, Leyte, (Respondents SB) dated December 7, 2020, ruling that Panugan is guilty of Abuse of Authority as *Punong Barangay*, Dishonesty, Malversation of funds and shall be penalized for suspension of six (6) months, for having been issued by the respondent council with grave abuse of discretion amounting to lack or excess of jurisdiction.

This petition stems from a Complaint filed by the *Barangay* Officials of Brgy. Cabalhin, Calubian, Leyte against petitioner for Abuse of Authority, Grave Misconduct, Gross Ignorance of the Law, Gross Negligence, Dereliction of Duty and Violation of R.A. No. 6713, before the *Sangguniang Bayan* of Calubian, Leyte. The Committee on Barangay Affairs, Peace and Order and Committee on Order and Good Governance, Ethics and Accountability through SB Committee Report No. 2020-78-A promulgated a guilty verdict on petitioner for said offenses on December 7, 2020. On the same date, the *Sangguniang Bayan* (SB) of Calubian, Leyte, as a body, passed Resolution No. 2020-226, approving the above-mentioned decision. Petitioner was aggrieved with the swift action of the SB, as she was denied due process in the

proceedings before that body. On January 6, 2021¹, she received a letter from the Municipal Mayor of Calubian, Leyte, Hon. Marciano A. Batiancela, Jr., directing her to comply with the said decision imposing the penalty of six (6) months suspension. Petitioner filed this petition praying that judgment be rendered annulling the proceedings of the SB, Calubian, Leyte, and its Decision dated December 7, 2020. The said Decision is immediately executory and the remedy of appeal tot he *Sangguniang Panlalawigan* (SP) of the Province of Leyte is slow, inadequate, insufficient, and will not promptly relieve the petitioner from the injurious effects of the Decision complained of.

Respondents SB, on the other hand, in their Answer with Special and Affirmative Defenses assails Hon. Panugan's petition stating that petitioner is engaged in forum shopping and that the writ of certiorari is limited to errors of jurisdiction and not errors of judgment. On the part of respondent Hon. Marciano A. Batiancela, Jr., he argues that certiorari will not lie against him because as the municipal mayor and an officer of the executive department, he is not endowed with quasi-judicial power. His power is to implement laws, decision, resolutions or ordinances passed by the *Sanggunian*, and is only performing an executive function pursuant to his executive power and not in judicial or quasi-judicial function.

The petition has no merit.

At the outset, the court finds this petition for certiorari in order because in her Petition, petitioner clearly alleges: "That the act of respondent *Sangguniang Bayan* of Calubian, Leyte through the membership of respondent members of the said council in promulgating a Decision of the administrative case of petitioner without giving her the full opportunity to be heard, in convicting her of the offenses of Abuse of Authority as *Punong Barangay*, Dishonesty, and Malversation of funds in violation of Article 217 of the Revised Penal Code, without a clear and substantial evidence to support it, constitute grave abuse of discretion and/or without or in excess of jurisdiction amounting to lack or excess of jurisdiction."¹ As aptly cited by the petitioner, a special civil action for *certiorari* is deemed legally permissible where an appeal would be slow, inadequate, insufficient, and will not promptly relieve a party from the injurious effects of the

¹ See paragraph 17, Petition.

judgment complained of, or in order to avoid further litigation.² Availability of the ordinary course of appeal does not constitute sufficient ground to prevent a party from making use of the extraordinary remedy of *certiorari* where the appeal is not an adequate remedy or equally beneficial, speedy and sufficient. It is the inadequacy – not the mere absence of all other legal remedies and the danger of failure of justice without the writ, that must usually determine the propriety of *certiorari*.³

However, petitioner's contention that she was not accorded due process when the respondents SB made a decision against her without following their own rules of procedure is belied by the records in this case. SB Committee Report No. 2020-78 A states that:

"The COMMITTEES ON BARANGAY AFFAIRS, PEACE & ORDER & GOOD GOVERNANCE, ETHICS & ACCOUNTABILITY conducted a Committee Investigation/Hearing on Dec. 1, 2020 at the SB Session Hall, wherein the respondent and the Complainants attended."⁴

The Punong Barangay Catalina C. Panugan insisted her stand that don't like & has no trust and confidence on the newly appointed Bay. Treasurer, Cresle R. Isorena, despite having appointed her in July 2020 & duly concurred by the Sangguniang Barangay; thus failed to sign other related documents pertaining to the processing of authority as to the official signatory of the financial transaction of the Barangay as per requirement by the Office of BIR in Ormoc City and LBP at Naval, Biliran."⁵

In the Answer to the Complaint of Punong Barangay Catalina C. Panugan, she enclosed therein 3 official receipts of payment by Yuga Construction, as stated below: xxx. In this answer, it was stated that the last

² *Presco v. Court of Appeals*, G.R. No. 82215, December 10, 1990, 192 SCRA 232 citing *De la Cruz v. IAC*, G.R. No. 63612, January 31, 1985, 134 SCRA 417; *Balagtas Realty Corp. v. Romillo*, G.R. Nos. L-48376-85, July 16, 1984, 130 SCRA 415; *Lobete v. Sundiam*, G.R. No. L-38278, June 28, 1983, 123 SCRA 95; *Velasco v. Segundo*, G.R. No. 58187, September 30, 1982, 117 SCRA 573.

³ *Jaca v. Lumber Company*, No. L-25771, March 29, 1982, 113 SCRA 107, 129. cited in *Lansang, Jr. v. Court of Appeals*, G.R. No. 76028, April 6, 1990, 184 SCRA 230, 235.

⁴ Exhibit D, par. 3.

⁵ *Id.*, par. 4.

payment was made on Feb. 4, 2020 for the consumption of Dec. 2019. xxx⁶

The Decision dated 7 December 2020,⁷ and the resolution adopting the same through Resolution No. 2020-226⁸ of the respondents SB were the product of the said committee investigation and hearing.

In the leading case of *Ledesma v Court of Appeals*,⁹ the Supreme Court ruled that “(d)ue process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of.” (Underlining supplied)

Thus, respondents SB did not have to resort to a “trial-type proceeding” which is like the one described under Rule VIII, Section 6 of the Amended Internal Rules of Procedure of the *Sangguniang Bayan* of Calubian, Leyte, to satisfy the requirements of due process for petitioner Hon. Panugan.

WHEREFORE, the instant petition is **dismissed** for lack of merit.

SO ORDERED.

Calubian, Leyte, 26 August 2022.



MANASSEH S. BASTES
Acting Presiding Judge

⁶ Id, par. 9.

⁷ Exhibit F.

⁸ Exhibit E.

⁹ G.R. No. 166780, December 27, 2007, 541 SCRA 44 .