

**MAYOR WILSON M. NANDANG, SANGGUNIAN BAYAN MEMBERS:
MARLON B. VALENZUELA, ELICITA M. RUIZ, AZRALF T. MANUPAC,
MOHEDIN M. BALIMBING, NADZARIEL C. NANDANG, BRAULIO G.
ANLIMON AND ...**

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari and Prohibition[1] filed by petitioners assailing the Resolution[2] of the Sangguniang Panlalawigan (SP) of Zamboanga Del Sur approving the recommendation[3] of the SP Committee on Good Government and Public Accountability for the 6-month suspension of the petitioners for Misconduct and the Implementation Order[4] issued by Governor Antonio Cerilles (Governor) implementing it, the dispositive portion of the Order states:

NOW THEREFORE, THIS OFFICE hereby orders the immediate implementation of Resolution No. 2K12-682 effective upon the date of receipt thereof by the Respondents.

FURTHERMORE, in accordance with the relevant provisions of Republic Act 7160 (The Local Government Code of 1991), the elected Vice-Mayor shall assume the powers and functions of the Office of the Municipal Mayor during the period of suspension and/or until such time that Resolution No. 2K12-682 is vacated by competent authority or by a court of competent jurisdiction.

LET copies of this Implementation Order, together with Resolution No. 2K12-682 and all its attachments, be furnished to each of the Respondents, the Department of Interior and Local Government (DILG), and the Honorable Sangguniang Panlalawigan.

The facts of the case are as follows:

Sometime in April 2011, Municipal Engineer Manupac filed an administrative complaint (Manupac complaint) against Mayor Nandang for culpable violation of the Constitution, oppression, misconduct in office and abuse of authority before the Sangguniang Panlalawigan.[5] The SP issued a Resolution recommending a 60-day preventive suspension of Mayor Nandang, which the Governor implemented with an Order preventively suspending Mayor Nandang.[6] Mayor Nandang appealed to the Office of the President (OP) which ruled in his favor.[7]

On the same date of the ruling of the OP, the SP issued a resolution finding merit to the Manupac complaint with an imposition of a 6-month suspension on Mayor Nandang.[8] The Governor in turn issued an Order for the implementation of the 6-month suspension of Mayor Nandang.[9] Mayor Nandang then appealed to the OP.[10]

During the pendency of the appeal of Mayor Nandang to the OP, Vice Mayor Talumpa filed an administrative complaint (Talumpa complaint) against petitioners before the SP for oppression, grave misconduct, abuse of authority, usurpation of authority and open defiance of a lawful order.[11] The Talumpa complaint essentially alleges that Mayor Nandang disobeyed the order of suspension as a result of the Manupac complaint and

continued to perform the functions of the office of the Mayor.

Meanwhile, the OP ruled on the appeal of Mayor Nandang and dismissed the Manupac complaint.[12] Mayor Nandang then filed a Memorandum with Motion to Dismiss on the ground of mootness of the Talumpa complaint in view of the OP decision.[13]

The SP however issued a resolution regarding the Talumpa complaint recommending the imposition of a 6-month suspension on petitioners.[14] They filed their Motion for Reconsideration.[15] The Governor then issued an Order implementing the SP resolution regarding the Talumpa complaint.[16]

Petitioners filed an appeal dated March 22, 2012 before the OP questioning the March 15, 2012 Order of the Governor.[17] Petitioners also filed the instant petition dated April 16, 2012 and raised the following issues:

I.WHETHER RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION FOR IMPOSING THE PENALTY OF SIX (6) MONTHS SUSPENSION AGAINST PETITIONERS ON AN ISSUE ENSHRINED IN A PRIOR ADMINISTRATIVE CASE PREVIOUSLY DISMISSED WITH FINALITY BY THE OFFICE OF THE PRESIDENT;

II.WHETHER RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN IMPOSING A PENALTY OF SIX (6) MONTHS SUSPENSION WITHOUT HEARING AND PRESENTATION OF EVIDENCE, AND BEFORE THE SP DECISION COULD ATTAIN FINALITY, OR WHILE THE MOTION FOR RECONSIDERATION STILL PENDING DISPOSITION.

Our Ruling

The petition is without merit.

There are two pending actions assailing the March 15, 2012 Order of the Governor and Resolution No. 2K12-682 of the SP, to wit:

Office of the President

Court of Appeals

Appeal of petitioners seeking to stay, lift, set aside, invalidate, nullify and annul the Implementation Order of the Governor and the Resolution of the SP.[18]

Petition for Certiorari and Prohibition with a prayer, among others, to annul and set aside the Implementation Order of the Governor and the Resolution of SP.[19]

Petitioners against the Governor, the SP of Zamboanga del Sur and Vice Mayor Talumpa

Petitioners against the Governor, the SP of Zamboanga del Sur and Vice Mayor Talumpa

The Local Government Code of 1991 provides:

Section 67. Administrative Appeals. - Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:

(a)

The sangguniang panlalawigan, in the case of decisions of the sangguniang panlungsod of component cities and the sangguniang bayan; and

(b)

The Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities.

Decisions of the Office of the President shall be final and executory.

Section 68. Execution Pending Appeal. - An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event he wins such appeal. In the event the appeal results in an exoneration, he shall be paid his salary and such other emoluments during the pendency of the appeal.

"The doctrine of exhaustion of administrative remedies empowers the Office of the President to review any determination or disposition of a department head. The doctrine allows, indeed requires, an administrative decision to first be appealed to the administrative superiors up to the highest level before it may be elevated to a court of justice for review. Thus, if a remedy within the administrative machinery can still be had by giving the administrative officer concerned every opportunity to decide on the matter that comes within his jurisdiction, then such remedy should be priorly exhausted before the court's judicial power is invoked.[20]"

Pursuant to the Local Government Code of 1991, appeal before the Office of the President is the remedy for the decision of the SP. Petitioners followed this remedy when they filed, and admitted in the present petition, their appeal before the Office of the President.

Consequently, the instant petition must be dismissed to adhere to the doctrine of exhaustion of administrative remedies. And in the words of the Supreme Court, "It also behooves courts of justice, if only for reasons of comity and convenience, to shy away from a dispute until the system of administrative redress is completed so as to give the administrative office every opportunity to correct its error and to properly dispose of the case.[21]"

In addition, under Rule 65 of the Rules of Court, a petition for certiorari and prohibition is available only when "there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law." Thus, the petition must also be dismissed because an appeal is available for the petitioners.

Having found the propriety for the dismissal of the petition, there is now no need to discuss the issues raised by the petitioners.

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.

[*]Borja, (Acting Chairperson), and Perez, JJ., concur.

[*] Designated Member vice J. Camello, per Raffle dated June 18, 2014

[1] Rollo, pp. 2-24

[2] Rollo, pp. 31-32

[3] Rollo, pp. 33-36

[4] Rollo, pp. 29-30

[5] Rollo, pp. 7 and 37-42

[6] Rollo, pp. 8 and 65-69

[7] Rollo, pp. 8, 70-74 and 76-79

- [8] Rollo, pp. 9 and 80-82
- [9] Rollo, pp. 9 and 83
- [10] Rollo, pp. 9 and 85-89
- [11] Rollo, pp. 9 and 91-96
- [12] Rollo, pp. 10 and 106-112
- [13] Rollo, pp. 10 and 113-117
- [14] Rollo, pp. 10 and 31-32
- [15] Rollo, pp. 11 and 118-121
- [16] Rollo, pp. 11 and 29-30
- [17] Rollo, pp. 158-184
- [18] Rollo, p. 159
- [19] Rollo, p. 23
- [20] Land Car Inc. v. Bachelor Express Inc. et al., G.R. 154377, December 8, 2003
- [21] Land Car Inc. v. Bachelor Express Inc. et al., G.R. 154377, December 8, 2003

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