

DANTE P. FLORES, COMPLAINANT, VS. JUSTICE BENNIE A. ADEFUIN-DE LA CRUZ, JUSTICE WENCESLAO I. AGNIR, JR. AND JUSTICE REBECCA DE GUIA-SALVADOR AND DIVISION CLERK OF COURT JOSEFINA...

A.M. No. CA-04-39. October 05, 2004

Ponente: CORONA, J.

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CORONA, J.:

The administrative complaint before us arose from a letter-complaint received by the Office of the Court Administrator (OCA) on October 10, 2003, filed by complainant Dante P. Flores, a member of Philippine Veterans Bank Employees' Union-NUBE (PVBEU-NUBE).

The complainant alleged that respondent justices Bennie A. Adefuin de la Cruz, Wenceslao I. Agnir, Jr., Rebecca De Guia-Salvador, and Division Clerk of Court Atty. Josefina C. Mallari, all of the Court of Appeals, committed grave abuse of discretion in rendering the decision in the consolidated cases in CA-G.R. SP No. 51218, CA-G.R. SP No. 51219 and CA-G.R. SP No. 51220 entitled "Philippine Veterans Bank vs. National Labor Relations Commission and Philippine Veterans Bank Employees Union – NUBE," "Philippine Veterans Bank Employees Union – NUBE vs. National Labor Relations Commission and the Philippine Veterans Bank" and "Lady Lydia Corneta Domingo, et al. vs. National Labor Relations Commission, Labor Arbiter Eduardo J. Carpio, Philippine Veterans Bank and/or Sunday Lavin, Philippine Veterans Bank Employees Union and/or Felizardo Sarapat, et al.," respectively.

The assailed decision of the Court of Appeals (CA) dated December 21, 2001, declared as null and void the decision of the NLRC dated September 14, 1993, as well as its resolution dated November 22, 1993. In these aforementioned decisions, the NLRC ordered the reinstatement of certain dismissed employees of the Philippine Veterans Bank (PVB). The CA decision in the consolidated cases in effect reinstated the ruling of Labor Arbiter Eduardo J. Carpio dated March 31, 1993 which held:

WHEREFORE, premises considered, the claim of the Union for reinstatement of the individual complainants it represent as well as the claims for payment of backwages, other benefits and damages are hereby, as they should be dismissed, for lack of merit.

The charges for unfair labor practice filed by the Union against the respondent Bank is likewise dismissed for lack of factual and legal basis.[1]

Two other petitions for certiorari relative to CA-G.R. SP No. 51219 and CA-G.R. SP No. 51220 filed by the union and a certain Lydia Domingo were also dismissed by the CA for lack of merit.

Complainant claimed that the Court of Appeals committed grave abuse of discretion, ignorance of the law and violation of the lawyer's oath in deciding the consolidated cases because:

- Decision for reinstatement is inappellable (sic) per Article 223 of the Labor Code.

- Decision for reinstatement has long been final and executory.
- No supervening event after it became final and executory.
- Petition for certiorari of PVB was filed after the issuance of 1st Writ of Execution which was only forum-shopping.
- Compromise Agreement was legal and binding, when in fact, subject of the Agreement was the issue of reinstatement which they declared NULL and VOID. No common sense. It sounds stupid.
- The fact that PVB entered into Compromise Agreement with some union members was a clear manifestation that PVB had already accepted, respected and complied [with] the September 14, 1993 NLRC Decision.[2]

In its final report and recommendation, the OCA found that:

Preliminarily, the complaint against Justice Agnir may no longer be given due course. At the time of the filing of the complaint, Justice Agnir is no longer a member of the judiciary having compulsorily retired on September 29, 2002.

For determination is whether the respondent justices and clerk of court committed gross ignorance of law that may warrant an administrative sanction.

Even a cursory reading of the complaint would show that it pertains to respondent justices' appreciation of the evidence before them and the interpretation, as well as the application, of the laws and jurisprudence in relation thereto. The remedy of the complainant is judicial and not the filing of this administrative case.

The Supreme Court has already ruled on the matter and made a pointed observation in the case of *IN RE: JOAQUIN T. BORROMEO* (Adm. Matter No. 93-7-696-0, February 21, 1995). Said the Supreme Court: Now, the Court takes judicial notice of the fact that there has been of late a regrettable increase in the resort to, administrative prosecution – or the institution of a civil or criminal action – as a substitute for or supplement to appeal. Whether intended or not, such a resort to these remedies operates as a form of threat or intimidation to coerce judges into timorous surrender of their prerogatives, or a reluctance to exercise them. With rising frequency, administrative complaints are being presented to the Office of the Court Administrator; criminal complaints are being file[d] with the Office of the Ombudsman or the public prosecutor's office; civil actions for recovery of damages commenced in the Regional Trial Courts against trial judges, and justices of the Court of Appeals and even of the Supreme Court.

- Common Basis of Complaints Against Judges

Many of these complaints set forth a common indictment that the respondent Judges or Justices rendered manifestly unjust judgments or interlocutory orders –i.e., judgments or orders which are allegedly not in accord with the evidence, or with law or jurisprudence, or are tainted by grave abuse of discretion – thereby causing injustice, and actionable and compensable injury to the complainants (invariably losing litigants). Resolution of complaints of this sort quite obviously entails a common requirement for the fiscal, the Ombudsman or the Trial Court, a review of the decision or order of the respondent Judge or Justice to determine its correctness or erroneousness, as basic premise for a pronouncement of liability.

- Exclusivity of Specific Procedures for Correction of Judgments and Orders

The question then, is whether or not these complaints are proper; whether or not in lieu of the prescribed recourses for appeal or review of judgments and orders of courts, a party may file an administrative or criminal complaint against the judge for rendition of an unjust judgment, or, having opted for appeal, may nonetheless simultaneously seek also such administrative or criminal remedies.

Given the nature of the judicial function, the power vested by the Constitution in the Supreme Court and the

lower courts established by law, the question submits to only one answer: the administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review i[s] available, and must wait on the result thereof.

Simple reflection will make this proposition amply clearly, and demonstrate that any contrary postulation can have only intolerable legal implications. Allowing a party who feels aggrieved by a judicial order or decision not yet final and executory to mount an administrative, civil, or criminal prosecution for unjust judgment against the issuing judge would, at a minimum and as an indispensable first step, confer the prosecutor (or Ombudsman) with an incongruous function pertaining, not to him, but to the courts; the determination of whether the questioned disposition is erroneous in its findings of fact or conclusions of law, or both. If he does proceed despite that impediment, whatever determination he makes could well set off a proliferation of administrative or criminal litigation, a possibility hereafter more fully explored.

Such actions are impermissible and cannot prosper. It is not, as already pointed out, within the power of public prosecutors, or the Ombudsman or his deputies, directly or vicariously, to review judgments or final orders or resolutions of the Courts of the land. The power of review – by appeal or special civil action – is not only lodged exclusively in the Courts themselves but must be exercised in accordance with a well-defined and long established hierarchy, and long-standing processes and procedures. No other review is allowed; otherwise litigation would be interminable, and vexatiously repetitive.

The Court has reiterated this doctrine in later cases and pronounced that “an administrative complaint is not the appropriate remedy for every act of a Judge deemed aberrant or irregular where a judicial remedy exists and is available, such as a motion for reconsideration, or an appeal. Obviously, if subsequent developments prove the Judge’s challenged act to be correct, there would be no occasion to proceed against him at all” (Santos vs. Orlino, Adm. Matter No. Rtj-98-1418, September 25, 1998).

Further, the complaint against Division Clerk of Court Josefina C. Mallari is utterly without basis. There is no showing that she participated in the writing of the decision or the resolution of the appellate court.

EVALUATION: WHEREFORE it is respectfully recommended that the complaint against Justices Bennie Adefuin-Dela Cruz, Wenceslao Agnir and Rebecca De Guia-Salvador and Division Clerk of Court Josefina C. Mallari be DISMISSED for lack of merit.[3] (*italics ours*)

We agree with the recommendation.

Philippine Veterans Bank (PVB) was originally organized and established by virtue of RA 3518 which took effect on June 18, 1963. On April 10, 1983, PVB was placed under receivership by virtue of Resolution No. 334 of the Monetary Board of the Central Bank. Subsequently, the PVB underwent a retrenchment and reorganization program which PVBEU-NUBE questioned before the Supreme Court on the ground of violation of security of tenure. On June 7, 1985, the PVB was placed under liquidation by the Monetary Board after finding that the PVB had incurred an outstanding liability of P540,835,860.75. The liquidator subsequently terminated the employment of all the employees of PVB effective June 15, 1985 and offered payment of separation pay and other benefits. A number of employees accepted the settlement but some chose to question their termination.

Thus, PVBEU-NUBE questioned the validity of the liquidation order of the Central Bank. A writ of preliminary injunction was issued by this Court halting the bank’s liquidation. Consequently, in a decision dated August 24, 1990, we dismissed PVBEU-NUBE’s petition and ruled, *inter alia*, that the claims for backwages must be rejected because the claimant-employees were not illegally dismissed but lawfully separated as a result of the liquidation of the bank on orders of the monetary authority. The Supreme Court also lifted the writ of preliminary injunction issued on March 26, 1987.

On January 2, 1992, Congress enacted RA 7169 rehabilitating the PVB and authorizing its re-opening. To facilitate the implementation of RA 7169, a rehabilitation committee was created to select and organize an initial manning force headed by a management team staffed by a trained workforce. On August 3, 1992, PVB reopened its head office.

PVBEU-NUBE again demanded from the rehabilitation committee the reinstatement of its members with backwages from 1985. PVB denied the demand on the ground that their employer-employee relationship was dissolved when the bank ceased operations by virtue of the liquidation ordered by the Central Bank.

On January 20, 1992, PVBEU-NUBE filed a petition with the Secretary of Labor and Employment praying for an order directing the PVB rehabilitation committee to cease and desist from screening and hiring new employees, and directing the immediate reinstatement of its members. In the same petition, the union sought payment of the remaining accrued collective agreement (CBA) benefits and backwages of its members from the time their employment was terminated in 1985 up to the time of their actual reinstatement. It also charged PVB with unfair labor practice. The said petition was referred to the Regional Arbitration Branch, NCR of the NLRC.

As already mentioned, the claim of the union was eventually dismissed for lack of merit, with the labor arbiter holding that the PVB employees were not entitled to reinstatement. The NLRC reversed the labor arbiter and ruled that:

ACCORDINGLY, the decision of the Labor Arbiter is hereby SET ASIDE and a new one entered, finding the claim for reinstatement of the appellant to be legal and proper. Accordingly, Appellee bank therefore is hereby ordered to immediately reinstate all the members of the appellant union inclusive of those who have executed their quitclaims and release and all the rest of the PVBEU members, who will signify their intention to be reinstated from the date of this decision. In the meanwhile however, that the bank has not fully reopened and activated, all its operations departments, offices and branches, the employees' reinstatement shall be conditioned to actual personnel requirement of the department branch office to be reopened, for which reason, preference shall be given to employees formerly occupying the position being reinstated or reactivated or at the prerogative and discretion of management, to any position in the office provided the latter is of equivalent rank and at least has the same rate of pay.[4]

In opposing the NLRC ruling, PVB cited the 1990 decision of the Supreme Court in G.R. No. 67125 (PVBEU-NUBE, et al. vs. PVB, et al.) where we held that members of the union were terminated from employment by virtue of the liquidation ordered by the Monetary Board and were not illegally dismissed. They were therefore not entitled to backwages. In its decision now being assailed, the Court of Appeals held:

We cannot agree with the ratiocination of the NLRC for the following reasons:

- The Supreme Court said in G.R. No. 67125 (189 SCRA 14) that the PVB employees were “not illegally dismissed but lawfully separated.” This is a pronouncement as categorical as can be, that the employment relationship between the Bank and the separated employees had definitely ceased to exist as of that time.
- The subsequent rehabilitation of PVB did not, by any test of reason “revive” what was already a “dead” employment relationship. It is therefore incorrect to say that the former employees can be reinstated because the liquidation was halted with the issuance by the Supreme Court of a writ of preliminary injunction in G.R. No. 67125. Firstly, the injunction was eventually lifted when the case was decided. Secondly, the liquidation of PVB proceeded after the Supreme Court’s pronouncement that the employees had been lawfully dismissed. The circumstance of PVB was not finally liquidated because it was eventually rehabilitated is therefore irrelevant to the issue of reinstatement.
- The rehabilitation of the Bank did not affect the Supreme Court’s pronouncement that the PVB employees were already “lawfully separated.” This is the correct interpretation of the prologue of the Supreme Court

decision in G.R. No. 67125 as far as the issue of reinstatement is concerned.

- It is a well-settled doctrine that reinstatement is proper only in cases of illegal dismissal. The pronouncement of the Supreme Court that the PVB employees were “not illegally dismissed” forecloses any right of reinstatement under any circumstance.

While the PVB employees concerned should be given priority in hiring, they cannot demand it as a matter of right.

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Further, as earlier extensively discussed, the Supreme Court has already spoken loud and clear on G.R. No. 67125 (189 SCRA 14, 30) that the Union members were not entitled to backwages because they were lawfully separated due to the forcible closure of the Bank.[5]

While it is true that an administrative proceeding against a judge is predicated on his continuance in office in the judiciary and that his retirement[6] or resignation will moot a pending administrative case,[7] we are unable to find anything in the records for which respondents can be held liable. Even a cursory reading of the complaint reveals that it pertains to respondents’ appreciation of evidence. Thus, it is evident that an administrative complaint is not the appropriate remedy. As a matter of public policy, the acts of a judge in his official capacity are not subject to disciplinary action even though such acts may be erroneous, provided he acts in good faith and without malice. In this case, the respondents cannot even be faulted for any error.

The allegation of the complainant that respondent justices of the Court of Appeals committed grave abuse of discretion in reinstating the labor arbiter’s decision (which was unfavorable to him) must likewise fail. Grave abuse of discretion is the capricious and whimsical exercise of judgment equivalent to lack of jurisdiction. As long as the court has jurisdiction, any error committed by the judge in the exercise of his judicial prerogatives will amount to nothing more than an error of judgment which may be reviewed or corrected only by appeal.[8]

WHEREFORE, the administrative complaint against JUSTICE BENNIE A. ADEFUIN-DE LA CRUZ, JUSTICE WENCESLAO I. AGNIR, JR. and JUSTICE REBECCA DE GUIA-SALVADOR and DIVISION CLERK OF COURT JOSEFINA C. MALLARI, all of the Court of Appeals, is hereby DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., and Tinga, JJ., concur.
Azcona, and Chico-Nazario, JJ., on leave.

[1] Rollo, pp. 31-32.

[2] Rollo, pp. 1-2.

[3] Rollo, pp. 2-3.

[4] Rollo, pp. 11-12.

[5] Rollo, pp. 35-37.

[6] Justice Agnir retired on September 29, 2002, more than a year before this complaint was filed on October 10, 2003. On the other hand, Justice Adefuin-de la Cruz retired on May 14, 2004.

[7] *Ambrosio Diamalon vs. Hon. Jesus Quintillan*, 139 Phil. 654 (1969).

[8] Jalandoni vs. Drilon, 383 Phil. 855 (2000).

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