

PASCUALA R. VITO, PETITIONER AND APPELLANT, VS. THE HON. ARSENIO H. LACSON, ETC., ET AL., RESPONDENTS AND APPELLEES.*G.R. No. L-16173. December 23, 1961*

Ponente: BAUTISTA ANGELO, J.

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Petitioner is a civil service eligible and has held various positions in the government service such as classroom teacher in 1940 and property custodian in the Office of the Mayor of the City of Manila effective. July 1, 1946. When respondent assumed the Office of Mayor in the City of Manila petitioner was transferred to the office of the city treasurer on September 4, 1952. On September 8, 1953, petitioner filed certain administrative charges against respondent Mayor Lacson with the Office of the President. On December 21, 1953, petitioner was arrested as she was; criminally charged with breach of the peace together with one Lourdes Caruncho which was later dismissed for lack of sufficient evidence. Related to the same incident, an administrative charge for misconduct involving breach of the peace with malicious damage to government property was filed by Mayor Lacson against petitioner as a result of which Mayor Lacson dismissed her from the service on June 11, 1954. In due time, petitioner appealed to the then Executive Secretary Mariano Yengco, Jr. who, acting under the authority of the President, rendered decision modifying that of Mayor Lacson is by imposing upon petitioner only two months suspension without pay and adding, "As she is at present under suspension, her immediate reinstatement into the service is also hereby ordered."

On May 23, 1955, Mayor Lacson received copy of this decision and on June 29, 1955, or 37 days thereafter, he filed a motion for reconsideration which was denied. On January 11, 1956, he filed a second motion for reconsideration, and this time Executive Secretary Fortunato de Leon issued a resolution dated February 8, 1956 reversing the former decision of Secretary Yengco, Jr. and in lieu thereof ordered the dismissal of petitioner from the service. Petitioner's motion for reconsideration was denied on March 26, 1957.

Subsequently, petitioner filed a petition for certiorari and mandamus against Mayor Arsenio H. Lacson and Secretary Fortunato de Leon before the Supreme Court seeking the setting aside of the latter's resolution dismissing her from the service alleging lack of authority to act thereon on the part of said official, which petition was dismissed without prejudice of reiterating it in the court of first instance. Thereupon, petitioner instituted the present action seeking the same relief before the Court of First Instance of Manila on March 25, 1958. And acting on a motion to dismiss set up by respondents, the court a quo dismissed the petition holding that respondent mayor is not bound by the rules and regulations governing appeals to the Executive Secretary from decisions or orders of the Mayor of Manila in administrative cases and, therefore, his co-respondent acted within his authority in issuing the resolution disputed in the petition. The case is now before us on a direct appeal taken by petitioner.

The pertinent provisions of the rules and regulations relative to appeals in administrative cases from decisions of the Mayor of Manila are quoted hereunder for ready reference:

" 12.00 RULES AND REGULATIONS GOVERNING APPEALS TO THE SECRETARY OF THE

INTERIOR FROM THE DECISION OF THE MAYOR OF MANILA IN ADMINISTRATIVE CASES, PURSUANT TO THE PROVISIONS OF SECTION 22 OF REPUBLIC ACT 409, KNOWN AS THE REVISED CHARTER OF THE CITY OF MANILA.

Pursuant to the provisions of Section 22 of Republic Act No. 409, otherwise known as the Revised Charter; of the City of Manila, the following rules and Regulations governing administrative cases on appeal to this Department are hereby prescribed.

- Period within which to perfect an appeal.— The respondent-appellant shall, within ten (10) days from and after receipt by him of the decision of the Mayor of Manila, file with the latter his appeal, stating distinctly the date he received the decision and the grounds of the appeal, together with the supporting arguments. * * *

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- Extension of time.—In case the respondent-appellant should find the period of filing his appeal, as prescribed in the preceding rule, insufficient for the purpose, he may request an extension thereof before the expiration of said period by filing a petition thereof with the Mayor of Manila, stating the reason or reasons for such extension. * * *

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- Appearance of respondent-appellant or his counsel before the Secretary of Interior.—With the permission of the Secretary of the Interior first obtained or upon requirement by him *motu proprio*, the respondent-appellant may, in the interest of justice, "appear personally before said Secretary, with or without counsel, to give oral explanation on certain facts or points pertinent to the appeal which require further elucidation.

* * * * *

- Petition for reconsideration of decision rendered by the Secretary of the Interior.—(now Executive Secretary)—

(a) A petition for reconsideration may be filed by the appellant with the Secretary of the Interior thru the Mayor of Manila, within five (5) days from and after receipt by him of a copy of the decision or notice thereof.

* * * * *

(c) Upon the expiration of this period (5) days without appellant having filed such petition the decision of the Secretary of the Interior shall become final unless within the said period appellant shall have secured or was granted an extension of time by the Secretary of the Interior within which to file such petition.

* * * * *

(d) No second motion for reconsideration shall be entertained

(e) Within three (3) days from and after receipt of the petition, the Mayor of Manila shall transmit the same together with all the records of the cases with statements as to whether or not said petition was filed within the time prescribed above."

The question to be determined is whether the above-quoted rules apply to respondent mayor particularly the 5-day period within which to file a motion for reconsideration of the decision of the Secretary of Interior or the Executive Secretary in cases taken to him for review of decisions of said respondent.

It should be noted that when a case is decided adversely against an employee who is a respondent in an administrative case, he may appeal within 10 days from receipt by him of the decision of the mayor stating therein the grounds for his appeal and the arguments he may have in support thereof. He is referred to therein as respondent appellant. This is an indication that this rule applies exclusively to him for certainly the mayor cannot

appeal from his own decision. The rule, however, differs when the case has already been acted upon by the Executive Secretary or the Secretary of Interior. Note that when the rule speaks of the filing of a petition for reconsideration of the decision that may be rendered by the Secretary of Interior it makes mention of appellant without adding the word respondent. The reason is obvious. A decision of the Executive Secretary or the Secretary of Interior on appeal from that of the mayor may either be favorable or adverse to the latter, and if adverse, then the mayor is the one prejudiced, and he may desire to have the decision reconsidered. The one to file the petition does not, therefore, necessarily have to be the respondent. It is, therefore, logical to conclude that while with regard to appeals from a decision of the mayor the rule only refers to respondent, because he alone could be interested in appealing from the adverse decisions of the mayor, the rule relative to petitions for reconsideration of decisions of the Executive Secretary refers to both respondent and the mayor, or whoever may be adversely affected by the decision. No other interpretation can be adopted if we want to have a rational and impartial application of the rule for, to hold otherwise, would be discriminatory or derogatory to the principle that no one should be denied the equal protection of the laws.

It appearing from the facts extant in the record that the decision of Executive Secretary Yengco, Jr. dated May 16, 1955 was received by Mayor Lacson on May 23, 1955 and he filed his petition for reconsideration only on June 29, 1955, or 37 days thereafter it is clear that in the light of the rules and regulations adopted by the Department of Interior governing appeals in administrative cases, such petition came late and cannot serve as basis for a valid resolution on the part of Executive Secretary Fortunato de Leon. As a consequence, the decision of Secretary Yengco, Jr. had already become final and executory at the time Mayor Lacson filed his petition for reconsideration. Such petition cannot, therefore, have any valid effect.

The case of *Negado vs. Ruiz Castro*, 104 Phil., 103; 55 Off. Gaz., (51) 10534 invoked by respondents, is not in point. An analysis of our decision in that case will reveal that the 30-day period mentioned therein refers to the period within which an appeal may be made to the Civil Service Board of Appeals from a decision of the Commissioner of Civil Service, and as there is nothing said as to when and who can appeal from the decision of the Civil Service Board of Appeals to the President, we stated that that period could not apply to the latter for as to it there is no limitation as to time or persons. We even added that, even if there is no appeal, the President could *motu proprio* review the decision of the Appeals Board by virtue of his constitutional control of the executive departments of our government. Such is not the instant case. While it may admitted that the Executive Secretary may alter, modify or reverse the previous actuation of his office even without any petition for reconsideration, or can *motu proprio* alter, modify or reverse his own decision, the same can only be done before it becomes final and executory. Otherwise, such action can no longer be taken, for it would be contrary to the very rule adopted by the Department of Interior. Thus, Rule 7(c) provides that upon the expiration of the 5-day period within which a petition for reconsideration may be filed, without the same having been filed, the decision shall become final unless that period is extended. And this period has long expired.

Wherefore, the decision appealed from is reversed. As a consequence, decision is hereby rendered setting aside the resolution issued by Executive Secretary Fortunato de Leon on February 8, 1956 reversing the decision of former Secretary Yengco, Jr., as well as his confirmatory resolution dated March 26, 1957. No pronouncement as to costs.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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