

ANTONIO GUISADIO, PETITIONER-APPELLEE VS. RUBEN A. VILLALUZ, ET AL., RESPONDENTS-APPELLANTS.*G.R. No. L-15663. August 31, 1962*

Ponente: BENGZON, C.J.

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On or before Dec. 19, 1958 Antonio Guisadio was chauffeur-examiner and acting registrar of the Motor Vehicles branch in Cebu City. On that date he received a letter of the Chief of the office in Manila notifying him of the decision of the Commissioner of Civil Service in connection with the administrative investigation conducted for his laxity and negligence in the performance of official duties. The decision, the letter said, "considered Guisadio resigned from the service effective on (his) last day of service with pay." Such letter was transmitted to Guisadio on Dec. 19, 1958 by a communication of District Supervisor F. D. Singculan, which ended thusly: "You are hereby directed to turn over all your property accountabilities" to me.

Unwilling to vacate his post immediately and pleading that he had not yet received the full text of the Civil Service decision and that it was not yet final and executory, Guisadio filed this suit in the Cebu court—on Dec. 19, 1958—to enjoin his said two official superiors from actually effecting his separation from the Government service.

The respondents on Jan. 9, 1959 answered that the Civil Service Commissioner should be made a party; that the decision could be, and should be immediately executed in the best interest of the public; and that they were merely implementing the orders of aforesaid Commissioner.

On Jan. 5, 1959 Guisadio received a copy of the decision of the Civil Service Commissioner; and on Jan. 8, 1969 he filed a motion for reconsideration of the said decision.

After hearing the parties, and aware of the happenings hereinabove described, the Honorable Modesto R. Ramolete, Judge, rendered judgment for Guisadio, in these words:

"* * * the respondents are hereby enjoined and restrained from enforcing said decision of the Commissioner of Civil Service rendered against the petitioner and prohibiting said respondents from requiring the petitioner to give up his office and to surrender property accountability until petitioner's motion for reconsideration shall have been resolved by the Commissioner of Civil Service, or until petitioner's appeal, if he will appeal to the Civil Service Board of Appeals will confirm the decision appealed to it and such confirmatory decision has become final; or until the petitioner has lost his right of appeal, either by lapse of time or desistance from appealing to the said Civil Service Board of Appeals."

We perceive no merit in this appeal by the respondents to this Court. The decision of the Commissioner had not yet become executory. Guisadio could still file a motion for reconsideration; and he still could appeal to the Civil Service Board of Appeals.

Nothing in the decision may be construed as requiring immediate implementation. So, it was unnecessary to implead the Commissioner of Civil Service. Guisadio, it will be noted, did not request the court to review said

officer's decision. He merely questioned the immediate execution of such decision. For at that time the administrative adjudication was still subject to reconsideration and appeal to the Civil Service Board of Appeals. And His Honor, adopted the proper view.

Respondents, suggest that, during the pendency here of the appeal, the Civil Service Board of Appeals has dismissed the appeal thereto by Guisadio. (Evidently his motion for reconsideration was denied by the Commissioner, and he resorted to the Board of Appeals.) But he counters with the statement that he requested reconsideration of such dismissal by the Board of Appeals.

At any rate, we are called upon to decide on the basis of facts presented to the trial judge. Upon consideration thereof, we find that he did not err.

Judgment affirmed. No costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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