

FEDERICO DECANO, PETITIONER-APPELLEE, VS. ROMEO F. EDU, AS ACTING COMMISSIONER OF LAND TRANSPORTATION AND CIPRIANO POSADAS, AS ACTING REGISTRAR, LAND TRANSPORTATION COMMISSION, ...*G.R. No. L-30070. August 29, 1980*

Ponente: TEEHANKEE, J.

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In this appeal, the Court upholds the jurisdiction of the Court of First Instance of Pangasinan over the petition for "Mandamus and Injunction" filed by herein petitioner-appellee against respondents-appellants, although the official station of the first named respondent, whose official actuation is assailed, is in Quezon City which is outside the jurisdictional district of the said court. The main issue raised is the correctness and legality of said national official's order dismissing petitioner from the service of the Land Transportation Commission, and the power of judicial review of the administrative decisions of national officials is not confined to the courts of first instance of Metropolitan Manila where their offices are maintained to the exclusion of the courts of first instance in those localities where the aggrieved parties reside and the questioned decisions are sought to be enforced. The Court further affirms the decision of said court adjudging the order of removal from office as null and void for having been issued by said respondent who was not the appointing authority and had no authority to remove, since under the applicable law, the power to remove petitioner was vested in the department head as the appointing authority.

The facts are undisputed.

On September 12, 1962, the then Undersecretary of Public Works and Communications issued to Federico Decano, herein petitioner-appellee, a temporary appointment to the position of janitor in the Motor Vehicles Office[1], Dagupan City Agency, with compensation at the rate of P1,440.00 per annum. The appointment having been approved by the Commissioner of Civil Service, the said appointee assumed office on September 10, 1962 and he served therein for almost four years, or until April 29, 1966 when herein respondent-appellant Cipriano Posadas, as Acting Registrar, Land Transportation Commission, Dagupan City, received a telegram from respondent-appellant Romeo F. Edu, in his then capacity as Acting Commissioner of Land Transportation Commission (LTC), terminating his (Decano's) services effective as of the close of business on that day.

Shortly thereafter, the aggrieved petitioner-appellee filed before the Court of First Instance of Pangasinan a petition for "Mandamus and Injunction" claiming that the aforementioned officials of the LTC acted without power and in excess of authority in removing him from the service, and therefore praying of the court to declare as null and void the order for his removal, to declare him entitled to the position, to compel his reinstatement and payment of his regular salary, and to enjoin, preliminarily, and then permanently, respondents from disturbing, molesting or otherwise ousting him from his position as janitor.

As prayed for, a writ of preliminary injunction was issued by the trial court at the commencement of the

proceedings commanding respondents "to desist and refrain from disturbing, molesting or otherwise ousting the petitioner from his position as janitor in the Land Transportation Commission, Dagupan City Agency, and to pay the petitioner his corresponding salary from the date of notice of said preliminary injunction, until further orders from the Court."

After trial, while agreeing with respondent Edu that petitioner's appointment as janitor was temporary and therefore the latter could be ousted from his position at any time with or without cause, the lower court nevertheless declared in its judgment of October 29, 1968 that petitioner's removal was null and void upon the ground that under the law, respondent Commissioner of Land Transportation was not the appointing authority insofar as the position of petitioner and all other minor positions in his office were concerned; and thus lacking the power of appointment, said respondent had neither the power of removal.

Hence, this appeal interposed by respondents-appellants which we find to be not well taken.

There is no question that petitioner could be removed from office at any time, for it has been held repeatedly[2] that the acceptance of a temporary appointment divests an appointee of the right to security of tenure against removal without cause. It is readily apparent from petitioner's appointment papers that the character of his term of office was "Temporary" and signed by the then Undersecretary of Public Works and Communications.[3] He could therefore be removed at the pleasure of the appointing official.

But this is not to say that petitioner could be removed by the respondent Commissioner of Land Transportation since the latter was not the official who appointed him but the Undersecretary acting for the Secretary of Public Works and Communications nor had said respondent been granted by law the power of removal.

Per section 79(d) of the Revised Administrative Code, the provision then in force, it is the department head, upon the recommendation of the chief of the bureau or office concerned, who has the power to "appoint all subordinate officers and employees whose appointment is not expressly vested by the law in the President of the Philippines;[4] and it is also the department head who may remove or punish such employees, except as especially provided otherwise in the Civil Service Law." [5] It appears that this provision has been precisely applied in the appointment of petitioner, for upon the recommendation of the then Administrator of the defunct Motor Vehicles Office, it was signed and issued by the Undersecretary of Public Works and Communications.

It should be further noted that after petitioner's aforementioned appointment as janitor in the then Motor Vehicles Office, Republic Act No. 4136 known as the Transportation and Traffic Code created the Land Transportation Commission from which law respondent Edu is supposed to have derived his powers as Commissioner. Perusal of this law however shows nothing that vests in the said commissioner any power to appoint or to remove employees in that new office. On the contrary, the placement of said commission under the Department of Public Works and Communications is specifically provided.[6] Hence, the power to appoint, and the corollary power to remove, employees in the Land Transportation Commission thus remained with the Secretary of Public Works and Communications. As generally the power to remove is inherent in the power to appoint[7], it follows that the termination of petitioner's services by respondent Edu, who then had no power to appoint, was without authority and therefore null and void.

In seeking reversal of the trial court's decision, respondents make capital of the fact that the petition for mandamus with injunction was filed in the Court of First Instance of Pangasinan while respondent Edu holds office in Quezon City which, they claim, is beyond the territorial jurisdiction of the said court. Respondents cite the long line of cases from the 1960 case of *Acosta vs. Alvendia*[8] where this Court, pursuant to sec. 44 (h) of the Judiciary Act, jointly or alternatively with sec. 4, Rule 65 of the Rules of Court and/or section 2 of Rule 58, ruled that a court of first instance has no jurisdiction to require or control the execution of an act committed beyond the

limits of its territorial jurisdiction. These cases invariably involved petitions for writs of injunction seeking to control the actions of courts or officers outside the territorial jurisdiction of the respondent courts of first instance where said petitions had been filed. The Acosta ruling of non-jurisdiction does not apply, however, to the facts and circumstances at bar.

Here, petitioner seeks primarily the annulment of the dismissal order issued by respondent Edu, mandamus and injunction being then merely corollary remedies to the main relief sought, and what is prayed to be enjoined, as in fact the trial court did enjoin by preliminary injunction, is the implementation of the termination order against the petitioner. It is true that the order of dismissal was issued by respondent Edu, but it was to be implemented in Dagupan City by his subordinate officer, respondent Acting Registrar of the LTC stationed at Dagupan City. Insofar, therefore, as respondent Edu is concerned, the order terminating the services of respondent was a fait accompli and this he had done without authority, as earlier discussed. The injunction in question, consequently, must be taken only to restrain the implementation of respondent Edu's order by his co-respondent whose official station at Dagupan City is within the territorial boundaries of the trial court's jurisdictional district.

Thus, in *Director of the Bureau of Telecommunications vs. Aligaen, et al.*,^[9] in which the acts sought to be controlled by "Injunction with Preliminary Injunction" were relative to the establishment of a local telephone system being done within the territorial boundaries of the judicial district of the Court of First Instance of Roxas, the Court similarly upheld the jurisdiction of the Court of First Instance of Roxas over the petition, although two of the respondents named therein - the Director of the Bureau of Telecommunications, and the Regional Superintendent of Region IV of the Bureau of Telecommunications - had their official stations at Manila and Iloilo City, respectively, as follows:

"x x x In the instant case, the acts relative to the establishment of a local telephone system by petitioners were being done within the territorial boundaries of the province or district of respondent Court, and so said Court had jurisdiction to restrain them by injunction. It does not matter that some of the respondents in the trial court, against whom the injunction order was issued, had their official residence outside the territorial jurisdiction of the trial court. In the case of *Gonzales vs. Secretary of Public Works, et al.*, (G.R. No. L-21988, September 30, 1966, 18 SCRA 296), wherein the only question raised was whether the Court of First Instance of Davao had jurisdiction to entertain a case the main purpose of which was to prevent the enforcement of a decision of the Secretary of Public Works who was in Manila this Court held that, inasmuch as the acts sought to be restrained were to be performed within the territorial boundaries of the province of Davao, the Court of First Instance of Davao had jurisdiction to hear and decide the case, and to issue the necessary injunction order. This *Gonzales* case was an action for certiorari and prohibition with preliminary injunction and/or preliminary mandatory injunction to prevent the demolition of *Gonzales'* dam in Davao in compliance with the order of the Secretary of Public Works.

"It follows, therefore, that since the acts to be restrained were being done in Roxas City, or within the territorial jurisdiction of respondent court, the latter had jurisdiction to restrain said acts even if the office of respondent Director of the Bureau of Telecommunications is in Manila, and that of respondent Regional Superintendent of Region IV is in Iloilo City."

As in the above-cited case of *Aligaen*, the national official stationed at Quezon City, namely, respondent Commissioner Edu, was impleaded as respondent in the Pangasinan court for a complete determination of the issues involved, the legality of Edu's order of dismissal being the pivotal issue to determine the merits of the mandamus and injunction aspects of the petition. In other words, Mr. Edu was joined as respondent not for injunction purposes but mainly for testing the legality of his dismissal order and his transmittal thereof to his co-respondent registrar at Dagupan City to implement the same and terminate the services of the petitioner in Dagupan City.

As held by the Court in the 1965 case of *Gayacao vs. The Honorable Executive Secretary, etc., et al.*[10] where the main issue is the correctness of a national official's decision, the provincial courts of first instance have equal jurisdiction with the Manila courts to review decisions of national officials, as otherwise litigants of limited means would practically be denied access to the courts of the localities where they reside and where the questioned acts are sought to be enforced. Thus, Justice J.B.L. Reyes stressed on behalf of the Court that -

"A careful analysis of the allegations made in the petition will show that the petitioner's principal complaint was that the decision of the Director of Lands, as affirmed by the Secretary of Agriculture and the Executive Secretary, was contrary to law in giving retroactive application to Lands Administrative Order No. 7-1. In other words, the remedy sought was the judicial review of the administrative decision in question and its annulment on account of errors of law allegedly committed. x x x.

"The doctrines invoked in support of the theory of non-jurisdiction (*Castaño vs. Lobingier*, 7 Phil. 91; *Acosta vs. Alvendia*, L-14958, Oct. 31, 1960; *Samar Mining Co. vs. Arnado*, L-17109, June 30, 1961) are inapplicable, in that those cases involved petitions for writs of injunction seeking to control the actions of courts or officers outside the territorial jurisdiction of the respondent courts involved. Here the sole point in issue is whether the decision of the respondent public officers was legally correct or not, and without going into the merits of the case, we see no cogent reason why this power of judicial review should be confined to the courts of first instance of the locality where the offices of respondents are maintained, to the exclusion at the courts of first instance in those localities where the plaintiffs reside, and where the questioned decisions are being enforced.

"It is easy to see that if the contested ruling of the court below is sustained, the same would result not only in hardship to litigants of limited means, practically amounting to denial of access to the courts, but would also unnecessarily encumber the Manila courts whose dockets are already over-burdened. Actually, since *Ortua vs. Singson*, 59 Phil. 440, the power of provincial courts of first instance to review administrative decisions of national officials has been consistently recognized.

"While the petitioner herein also prayed that the land authorities be ordered to reinstate her original application, such remedy is purely a corollary to the main relief sought; for, as the allegations now stand, reversal of the questioned administrative decision would necessarily lead to the same result."

Respondents finally raise a technical point referring to the allegedly defective verification of the petition filed in the trial court, contending that the clause in the verification statement "that I have read the contents of the said petition; and that [to] the best of my knowledge are true and correct" is insufficient since under section 6 of Rule 7,[11] it is required that the person verifying must have read the pleading and that the allegations thereof are true of his own knowledge. We do not see any reason for rendering the said verification void. The statement "to the best of my knowledge are true and correct" referring to the allegations in the petition does not mean mere "knowledge, information and belief." It constitutes substantial compliance with the requirement of section 6 of Rule 7, as held in *Madrigal vs. Rodas*.^[12] At any rate, this petty technicality deserves scant consideration where the question at issue is one purely of law and there is no need of delving into the veracity of the allegations in the petition, which are not disputed at all by respondents. As we have held time and again, imperfections of form and technicalities of procedure are to be disregarded except where substantial rights would otherwise be prejudiced.

ACCORDINGLY, the decision appealed from is hereby affirmed.

Fernando, C.J., Concepcion, Jr.,[*] Guerrero, and Melencio-Herrera, JJ., concur.

[*] Concepcion Jr., J. was designated to sit in the First Division vice Fernandez, J. who is on leave. Makasiar and De Castro, JJ. took no part, having been the Solicitor General and Assistant Solicitor General who filed the brief

for respondents-appellants.

[1] Its personnel were absorbed without necessity of new appointments by the Land Transportation Commission per sec. 4 of R.A. 4136; said commission is now the Bureau of Land Transportation, per Executive Order No. 546 dated July 23, 1979 creating the Ministry of Transportation and Communications.

[2] In addition to cases cited by the lower court, see *Barangan vs. Hernando*, L-28652, Feb. 28, 1969, 27 SCRA 239; *Rodriguez vs. Rodriguez*, L-41381-82, Jan. 30, 1976, 69 SCRA; *Hojilla vs. Mariño*, L-20574, Feb. 26, 1965, 13 SCRA; *Ramos vs. Romualdez*, L-27946, April 30, 1970, 32 SCRA; *Parajinog vs. Marave*, L-33833, Jan. 31, 1973, 49 SCRA. In all these cases the appointees were even Civil Service eligibles.

[3] Presumably for and on behalf of the Secretary of Public Works and Communications.

[4] This has been modified by PD 1, the Integrated Reorganization Part III, Chapter III, Art. 11 thereof on Delegation of Authority.

[5] It is not shown whether the termination of services here was for the purpose of discipline. Under the Civil Service Law, RA 2260, then in force, for purposes of administrative discipline, the Commissioner of Civil Service, for grounds enumerated in sec. 33 thereof, or in the interest of the service, may remove any subordinate officer or employee from the service, demote him in rank, suspend him, etc.

The new law, PD 807 (sec. 37 thereof) provides that in case of appeals to the commission of administrative discipline cases, pending appeal, "the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation of the department head."

[6] RA 4136, Art. III, sec. 4.

[7] *David vs. Villegas, et al.*, L-36479, Feb. 28, 1978, 81 SCRA 642, citing *Bagatsing vs. Herrera*, L-34952, July 25, 1975, 65 SCRA 434, citing *Lacson vs. Romero*, 84 Phil. 740. In the *Bagatsing* case, it was provided that the exercise of the power of removal by the appointing authority would be subject to review by the Commissioner of Civil Service and PD No. 6 which amended certain rules on discipline.

[8] 109 Phil. 1017; *Samar Mining Co., Inc. vs. Arnaldo*, 112 Phil. 679; *Alhambra Cigar & Cigarette Mfg. Co., Inc. vs. The National Administrator of Regional Office No. 2*, 14 SCRA 1019; *People vs. Mencias*, 18 SCRA 807; and *Palanan Lumber & Plywood Co., Inc., et al., vs. Arranz*, 22 SCRA 118.

[9] 33 SCRA 368 (1970).

[10] 13 SCRA 753; 756-757 (1965); emphasis supplied. The same ruling has been applied in *Zamboanga General Utilities, Inc. vs. Secretary of Agriculture and Natural Resources, et al.*, 20 SCRA 881 (1967).

[11] The text reads: "SEC. 6. Verification. - A pleading is verified only by an affidavit stating that the person verifying has read the pleading and that the allegations thereof are true of his own knowledge.

"Verifications based on 'information and belief', or upon 'knowledge, information and belief' shall be deemed insufficient."

[12] 80 Phil. 252.

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