

MELANIO S. TORIO, PETITIONER, VS. CONCERNED NPO EMPLOYEES, RESPONDENTS.

Ponente: BARRIOS, J.

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BARRIOS, J.:

The petitioner Melanio S. Torio (or hereafter Torio) by this Petition for Review asks that the Resolution dated May 29, 2003 and the Order dated June 30, 2003 of the Office of the President (or OP) in O.P. Case No. 02-A-033, be reversed and set aside.

On November 27, 1998 a letter-complaint was filed before the then Press Secretary Rodolfo C. Reyes by persons who referred to themselves as concerned employees of the National Printing Office (or NPO) against some officials of the said office. They charged them of: (a) uncontrolled farming out of jobs to private printers; (b) giving conflicting reasons in the decision to use watermarked papers instead of carbonless ones in printing accountable forms with the following deficiencies - (i) there was no leak and stability test conducted; (ii) invitation to bid was signed by PBAC Chairman while the Multi-Forms, the winning bidder sent its reply through the respondent; and (iii) Multi-Forms the failed to post bidder's performance bond as required; (c) excessive rental of printing machines upon the recommendation of the respondent; and (d) overstocking of the items for sale.

Torio, who is the Director of the NPO, was one of the officials charged.

The then Presidential Commission against Graft and Corruption (or PCGC) now Presidential Anti-Graft Commission (PAGC), commenced an administrative investigation against the said officials. This was docketed as PCAG-ADM-98-0543. At the preliminary conference, Torio agreed to limit the issues on the following: (a) Uncontrolled farming out of jobs to private printers resulting in the deprivation of additional sales and/or revenues to NPO with the probable collusion of private printers; (b) Jobs were not awarded through public bidding but were merely given/endorsed by NPO contrary to standard operating procedure; (c) Lease of five (5) printing machines (despite purchase of printing equipments) and one (1) automatic cutter at a cost of P5,625,000.00 representing an increase in rental expense at about 167.85% from 1992 and 47.05% from 1997; (d) overstocking of finished goods for sale; (e) Giving conflicting reason in the decision to shift from watermarked papers to carbonless ones in printing accountable forms; (f) Purchase of 1,000 reams of watermarked papers even after the decision to shift to carbonless ones with security features (purchasing 3,000 reams of carbonless papers from Multi-Forms Corporation) resulting in the two (2) types of official receipts being sold, contrary to the objective of avoiding the proliferation of fake official receipts; and (g) In the procurement of 3,000 reams of carbonless papers, the rules and regulations of public bidding were not complied with; there was no leak and stability test conducted; and Multi-Forms Corporation failed to post performance bond as required.

After hearing, the PAGC issued a Resolution finding Torio guilty for the anomalous / irregular procurement of 3,000 reams of carbonless paper, and recommended the penalty of suspension for six (6) months. The other charges were dismissed though, for insufficiency of evidence.

The PAGC's Resolution was forwarded to the OP for approval where it was docketed as O.P. Case No. 02-A-033. On May 29, 2003, the OP issued a Resolution decreeing that:

WHEREFORE, and as recommended by the PAGC, the penalty of suspension for six (6) months is hereby imposed upon respondent Melanio S. Torio, Director IV of the National Printing Office (NPO), effective upon receipt hereof.

SO ORDERED. (p. 26, rollo)

It appears that for the same acts and transactions a criminal case for Violation of Republic Act No. 3019 as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, was also filed with the Office of the Ombudsman against Torio and a Merlina Eusebio. On January 29, 2001 a Resolution was rendered on this by the Ombudsman dismissing the case for want of sufficient evidence:

WHEREFORE, premises considered, let the instant complaint be DISMISSED for want of sufficient evidence.

SO RESOLVED. (p. 99, rollo)

Claiming that this Resolution of the Ombudsman is a new evidence which materially affect the decision rendered in the administrative case, Torio moved for the reconsideration of the OP's Resolution. Torio also submitted Philippine Patent Certificate No. 18978 dated May 2, 2002 to prove that Multi Forms, Inc. is the sole distributor of the carbonless product.

On June 30, 2003, the OP issued an Order resolving that:

Upon consideration, this Office finds no cogent reason to disturb its ruling. Respondent's acquittal in the criminal case does not necessarily exculpate him administratively. The basic premise in criminal and civil cases are altogether different from administrative matter, such that the disposition in the first two will not inevitably govern the third and vice versa. (Gatchalian Promotions Talents Pool, Inc. vs. Atty. Primo R. Naldoza, 315 SCRA 406) A motion for reconsideration which does not make out "[a]ny new matter sufficiently persuasive to induce modification of judgment" will be DENIED (Phil. Commercial and Industrial Bank vs. Escolin, Nos. L-2760 and 2780, Sept. 30, 1975, 67 SCRA 202)

WHEREFORE, the motion for reconsideration is hereby DENIED.

SO ORDERED. (p. 42, rollo)

Torio next sought relief through this Petition for Review where he posits these issues for resolution:

I

WHETHER OR NOT PETITIONER-RESPONDENT TORIO IS ADMINISTRATIVELY LIABLE FOR ELECTING TO CONDUCT A NEGOTIATED BIDDING IN REGARD TO THE PROCUREMENT OF 3,000 REAMS OF CARBONLESS PAPERS.

II

WHETHER OR NOT PETITIONER-RESPONDENT TORIO IS ADMINISTRATIVELY LIABLE FOR APPROVING THE DISBURSEMENT VOUCHER FOR THE PAYMENT OF THE SAID 3,000 REAMS OF CARBONLESS PAPERS WITHOUT THE SIGNATURES OF THE TWO (2) UNDERSECRETARIES. (pp. 10-11, rollo)

Executive Order No. 301 is explicit and makes public bidding a must for the procurement of the said carbonless papers. Admittedly the 3,000 reams of carbonless paper were purchased without a public bidding. Torio

nonetheless invokes the exceptions provided in Section 1 (b) (c) and (e) of E.O. No. 301, and advances that the delay in the delivery of the supplies would have caused detriment to public service. Also, Multi Forms was the only pre-qualified supplier which submitted samples of the needed carbonless papers and the sole distributor of the paper with security features. Hence, the purchase without bidding cannot be considered irregular.

But the PAGC and the OP correctly observed that (T)he demands for carbonless official receipts by requisitioning government agencies was not sufficient to create an emergency; neither had it shown that the delay in the printing of said carbonless official receipts would cause detriment to the public service, nor had it been shown that the purchase of said materials through the negotiation was “most advantageous” to the NPO as determined by the Press Secretary, so as to dispense with the conduct of public bidding. Torio’s claim must therefore necessarily fail.

Torio capitalizes on the approval by then Secretary Reyes of the negotiated bidding to escape administrative liability. But then Sec. 2 of Executive Order No. 301 provides that transactions amounting to more than P2 million should be signed by a Secretary and two (2) Undersecretaries. The Purchase Order covering this particular transaction (P.O. No. 3820 dated September 9, 1998) in the amount of P5,842,780.00 was signed only by the respondent himself and Press Secretary Rodolfo T. Reyes without the signatures of the two (2) Undersecretaries (p. 26, records). This, notwithstanding, the respondent allowed the payment of said amount of P5,842,780.00 under Disbursement Voucher No. 161-98-10-706 xxx (pp. 35-36, rollo).

Torio’s own pieces of evidence show that he was the apparent moving spirit in this subject negotiated contract (vide: Annexes “P” “Q” and “S” pp. 87, 88 and 93, respectively, rollo) and obviously, Secretary Reyes relied heavily on his recommendation. Torio cannot now claim that he just relied on the approval of Secretary Reyes. Accordingly, he cannot take refuge in the ruling of the Supreme Court in *Arias vs. Sandiganbayan* (180 SCRA 309) to escape administrative liability as the facts of these cases are not on all fours.

The evidence on record is substantial and supports the finding that Torio is guilty of this charge against him. It bears stressing that in administrative proceedings, the quantum of evidence required is only substantial or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine differently. The gauge of substantial evidence is satisfied where there is a reasonable ground to believe that the petitioner is guilty of misconduct, even if the evidence might not be overwhelming (*Advincula vs. Dicen*, G. R. No. 162403, May 16, 2005).

Torio’s claim of forum shopping has to be rejected too. Jurisprudence is replete that dismissal of the criminal case does not foreclose the administrative action involving the same facts. For while proof beyond reasonable doubt is required in criminal cases, substantial evidence suffices in administrative proceedings, which merely requires such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Thus, considering the difference in quantum of evidence, as well as the procedure followed and the sanctions imposed in criminal and administrative proceedings, the findings and conclusions in one should not necessarily be binding on the other (*de la Cruz vs. Department of Education Culture and Sports – Cordillera Administrative Region*, G. R. No. 146739, January 16, 2004). Thus, the dismissal of the criminal case on ground of insufficiency of evidence against an accused who is also respondent in an administrative proceeding does not necessarily foreclose the administrative proceeding against him or carry with it the relief from administrative liability (*Office of the Court Administrator vs. Cañete*, A. M. No. P-91-621, November 10, 2004).

The rule is that the findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authority. It is settled that it is not for the appellate court to substitute its own judgment for that of the administrative agency on the sufficiency of evidence and the credibility of the witnesses. Administrative

decisions on matters within their jurisdiction are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud or error of law (Bernardo vs. Court of Appeals, G. R. No. 124261, May 27, 2004, 429 SCRA 285). As none of these vices has been shown in this case -

WHEREFORE, the instant petition is DENIED DUE COURSE and DISMISSED.
SO ORDERED.

Guariña, III and Tagle, JJ., concur.

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