

**MELECIA M. MACABUHAY, PETITIONER, VS. HON. JUAN L. MANUEL,
SECRETARY OF EDUCATION AND CULTURE, HON. NARCISO
ALBARRACIN, CHAIRMAN, INVESTIGATING COMMITTEE; NELLIE
TANSIOCO AND CR...**

G.R. No. L-40872. December 29, 1980

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Before Us are two motions filed separately by petitioner Melecia M. Macabuhay and Adela A. Pesigan after the promulgation on December 5, 1978 of Our decision in this case stating in the dispositive portion that:

"WHEREFORE, the petition to have Melecia M. Macabuhay appointed Public Schools Superintendent of the New Division of Batangas, being moot and academic in view of her reaching the age of compulsory retirement, is hereby dismissed. However, the prayer in her Reply with Supplemental Pleading, dated November 6, 1976, is granted. Administrative Case No. R-423 against Melecia M. Macabuhay is consequently considered dismissed and terminated and she is absolved and declared innocent of all the charges against her. Furthermore, she is hereby granted all the retirement benefits she is entitled under the law at the time of her compulsory retirement on August 25, 1976 and the immediate payment of such benefits by the Government Service Insurance System is hereby ordered. Without costs."

The "Motion for Execution" of petitioner Melecia M. Macabuhay, filed on August 30, 1979, is premised on the allegation that the Government Service Insurance System paid her only partial retirement benefits "in view, allegedly, of the fact that the petitioner, according to the records, had not yet been paid her salaries for the period from October 23, 1974 to August 24, 1976, and said partial retirement benefits would be 'subject to adjustment upon payment of her salaries per paragraph 3, footnote 5 of decision in G.R. No. L-40872', x x x". Petitioner Macabuhay prays in her Motion that "a writ of execution be issued forthwith ordering the Hon. Minister of Education and Culture to pay the petitioner immediately her back salaries for the period from October 23, 1974 to August 24, 1976 and other benefits due her under the Resolution of this Honorable Court dated July 31, 1974 in G.R. No. L-38568, and the Government Service Insurance System to pay the petitioner immediately her full retirement benefits she is entitled to under the law at the time of her compulsory retirement on August 25, 1976, without having to wait for the payment of the petitioner's back salaries by the Ministry of Education and Culture." The GSIS filed its comment on the motion on October 30, 1979 and a reply thereto came on November 24, 1979. The comment of the Solicitor General on behalf of the public respondents was filed on January 16, 1980, to which petitioner Macabuhay replied on January 28, 1980.

The motion of Adela A. Pesigan, filed on December 22, 1978, is titled "Motion For Judgment on the 'Supplemental Pleading' dated November 6, 1975, with Respect to Petitioner Adela A. Pesigan". Movant Pesigan alleges that she was included as an additional petitioner in this case in the said "Supplemental Pleading"; that she and petitioner Macabuhay are similarly situated as regards the "issues of fact and law" raised in the pleading; and that she "fairly and justly deserves the same findings or rulings as those in the case of or with respect to petitioner

Macabuhay x x x." She prays that a judgment be rendered declaring null and void her dismissal based on the list submitted by the respondent Secretary of Education and Culture to the President of the Philippines on September 19, 1975. She likewise prays that she be declared innocent and absolved from all the charges against her in Administrative Case No. R-423 and that such case be considered dismissed and terminated. The Solicitor General filed the Comment on Pesigan's motion on April 18, 1979 and on October 6, 1979, movant Pesigan gave her reply adopting the contents of her earlier "Motion of Early Decision" dated September 1, 1979.

I

As things now stand, it appears that the Minister of Education and Culture, has not paid the petitioner the salaries corresponding to the October 23, 1974 - August 24, 1976 period and that while the amount of P51,680.53 as retirement benefits has already been paid by the GSIS to the petitioner, the former did not include as part of petitioner's creditable service the period during which, according to its records, the petitioner was not paid her salaries.

During the period under discussion, which extends up to the day immediately preceding the date of her compulsory retirement, the petitioner was on leave without pay as all her leave credits had been previously exhausted. Petitioner however maintains in her motion for execution[1] that the salaries for said period are due her under the Resolution of this Court in G.R. No. L-38568, cited in Our decision, particularly the portion of the parties' agreement therein which states that the "(P)etitioners will go on official leave with pay pending the continuation of the investigation of the charges against them." In their comment,[2] the public respondents argue that the official leave with pay mentioned in the Resolution can only refer to that authorized by the Civil Service Law which is either a vacation or sick leave and that, if her leave credits had already been consumed, petitioner should not now be heard to complain against the refusal of the Minister of Education and Culture to pay for her official leave subsequent thereto. The public respondents also point out that We did not specifically order the payment of backwages to the petitioner. The Government Service Insurance System, on the other hand, states that in the computation of the monthly annuity on which the amount of P51,680.53 was based, it had to rely on the records then available and since it appeared therefrom that there was a period during which petitioner was not paid her salaries, it had, in implementation of CA 186, to exclude such period in the computation of petitioner's creditable service.[3] The GSIS cites as its authority Sec. 13 of CA 186, which states that " x x x the term 'service' shall include only full-time service with compensation."

To set things aright, and as prayed for by the petitioner, We hereby order the Minister of Education and Culture to immediately pay petitioner her back salaries corresponding to the October 23, 1974 - August 24, 1976 period and the Government Service Insurance System to accordingly adjust the amount of petitioner's retirement benefits, and to forthwith pay whatever balance is due her, without waiting for the actual payment of the backwages by the Minister of Education and Culture.

We do this not because, as petitioner argues in her motion, back salaries are due her under the Court's Resolution in G.R. No. 38568 but, as she later states in her Reply,[4] by virtue of Our decision in this case the pertinent portion of which states:

"Administrative Case No. R-423 against Melecia M. Macabuhay is consequently considered dismissed and terminated and she is absolved and declared innocent of all the charges against her. Furthermore, she is hereby granted all the retirement benefits she is entitled to under the law at the time of her compulsory retirement on August 25, 1976 and the immediate payment of such benefits by the Government Service Insurance System is hereby ordered."

Otherwise stated, the petitioner should be paid salaries for the period under discussion not because she is entitled

to leave pay but because, as a consequence of Our decision, she should be considered, for all legal purposes, not to have left her office so that she is entitled to all the rights and privileges that accrue to her by virtue of the office thus held.[5]

Indeed, there can be no question that the petitioner was forced to go on leave even if she no longer had any leave credits only because of the administrative case that was filed against her. If the petitioner then is not allowed, now that We have dismissed the administrative case, to collect the salaries pertaining to the period of her forced leave, she will, in effect be punished after having been declared innocent of the administrative charges. We never intended such an absurdity.

Moreover, We made it clear in Our decision that the petitioner was thereby "granted all the retirement benefits she is entitled to under the law at the time of her compulsory retirement on August 25, 1976. Evidently, We considered petitioner as having been continuously employed by the government, uninterruptedly receiving compensation for her services, up to and until August 25, 1976. No other inference may be drawn if Our decision is to be given the full measure of respect that it deserves.

Since the petitioner, after having been absolved of the administrative charges, is, of right, entitled to the salaries for the period during which she was forced to go on leave without pay, the Government Service Insurance System need not wait for the actual payment of the salaries by the Minister of Education and Culture before making the necessary adjustment in the retirement benefits of the petitioner. The petitioner's right exists and the failure of the Minister of Education and Culture to timely recognize such right should not itself be the reason for the denial of another right which flows therefrom.

II

The main purpose of the "Supplemental Pleading"[6] filed by petitioner Melecia M. Macabuhay on November 6, 1975, in which movant Adela A. Pesigan was included as an additional petitioner, was the nullification, in so far as they were concerned, of the list submitted by the respondent Secretary to the President of the Philippines as basis of their dismissal from the government service.

It will be recalled that, as set forth in Our decision, petitioner Macabuhay and movant Pesigan were co-petitioners in a petition for mandamus and prohibition, docketed as G.R. No. L-38568 and entitled "Melecia M. Macabuhay and Adela A. Pesigan vs. Hon. Juan L. Manuel, et al." where they claimed that they were not accorded due process by the respondent Director of Public Schools and by the respondent Secretary of Education and Culture, who, in the decision rendered in an administrative case filed by one Irma P. Ortiz, considered petitioner Macabuhay resigned from the service and movant Pesigan dismissed therefrom. G.R. No. L-38568 was dismissed by this Court on July 31, 1974 for having become moot and academic, after the parties, upon this Court's suggestion, had arrived at an agreement on a modus operandi in the disposition of the administrative complaint against the co-petitioners. This agreement provided, among others, for the continuation by a specially formed committee of the administrative investigation of the co-petitioners "consonant with the requirements of due process" and that "afterwards, a new decision will be rendered." It also required petitioners to go on official leave with pay pending the continuation of the investigation. During the pendency of the administrative investigation, and after the reorganization of the Department of Education and Culture had resulted in the merger of Divisions I and II of the Province of Batangas, petitioner Macabuhay filed the main petition in the case at bar for prohibition and mandamus seeking primarily to prohibit the respondent public officials from appointing respondent Manalo as superintendent of the new division and to have her, instead, appointed to the position in the event that she is exonerated of the charges under investigation in the administrative case. The petition also sought to require the members of the investigating committee to hold more frequent and longer hearings to expedite the termination of

the case. After the respondent public officials had filed their comment to the main petition, the President of the Philippines directed all department heads to submit a list of government officials and employees under their respective departments facing administrative charges and pursuant thereto, the respondent Secretary prepared the required list which included petitioner Macabuhay and movant Adela A. Pesigan. On the basis of this list, petitioner Macabuhay and movant Pesigan were purged from the Department of Education and Culture. Hence, the filing of the "Supplemental Pleading", priorly mentioned, on November 6, 1975.

From the foregoing facts, each detailed in Our Decision, it is evident that petitioner Macabuhay and movant Pesigan share a common interest in the issue raised in the "Supplemental Pleading."

Accused in the administrative case initiated by Irma Ortiz, they were both spared from the respondent Secretary's decision outrightly removing them from the service by virtue of the Resolution of this Court in G.R. No. L-38568 which called for the continuation of their investigation and the rendition of a new decision. This was the existing arrangement regarding the disposition of the administrative case against both petitioner Macabuhay and movant Pesigan when the respondent Secretary, in disregard of such arrangement, included their names in the list of officials and employees in the Department of Education and Culture facing administrative charges. The rulings, therefore, in Our decision with respect to petitioner Macabuhay that in including her name "the respondent Secretary acted not only oppressively but also in flagrant violation of the agreement of the parties in the previous case (L-38568)",[*.] that "petitioner's inclusion in the aforesaid list and her consequent summary dismissal from the government service are unwarranted, and in effect, deprived the petitioner of her right to due process" and that "petitioner's summary dismissal is null and void", are wholly applicable to movant Pesigan since, as just pointed out, her situation is clearly, on all fours, similar to that of petitioner Macabuhay as regards the questioned act of the respondent Secretary. This is an obvious conclusion and movant Pesigan need not have come before Us to have it so declared. On the basis of Our decision as it now stands, she can ask the respondent Secretary to continue with the investigation of her case and to forthwith render a new decision thereon since the necessary consequence of the aforesaid rulings, as far as they affect her, is the re-establishment, nay affirmation, of the arrangement forged in G.R. No. L-38568.

Movant Pesigan, however, has a greater purpose in filing with the Court the present motion. She wants Us to declare, as We have done in the case of petitioner Macabuhay, the administrative case against her dismissed and terminated and to pronounce her absolved and innocent of all the charges therein. In support of this plea she argues in her "Motion for Early Decision"[7] filed in connection with her present motion that in Our decision, We dismissed the administrative case with respect to petitioner Macabuhay as a consequence of Our having granted the prayers in the "Supplemental Pleading" to nullify the purge list and to order the respondents "to reinstate petitioners in government service."

The argument of movant Pesigan proceeds from a misinterpretation of Our decision in this case and We have no recourse but to deny her prayer.

The fact of the matter is that Our statement in the dispositive portion of Our decision which states that "(A)dmnis-trative Case No. R-423 against Melecia M. Macabuhay is consequently considered dismissed and terminated and she is absolved and declared innocent of all the charges against her" was premised on the reason that she has reached the compulsory age of retirement without any decision being reached in the administrative case against her. This is clear from the paragraph immediately preceeding the dispositive portion where in it was stated that:

"Petitioner is in no way to blame for the unreasonably long delay in the investigation of the administrative case against her. Because of the protracted investigation, she reached the compulsory age of retirement without any decision being reached in the administrative case against her. Nonetheless, she is entitled to such a Decision."

This paragraph is, as it plainly should be, the proper guide in the appreciation of the statement in the dispositive portion regarding Our termination of the administrative case against petitioner Macabuhay. Such statement should not be taken, as movant Pesigan takes it, as having resulted from the immediately preceeding sentence declaring that "(H)owever, the prayer in her Reply with Supplemental Pleading, dated November 6, 1976, is granted." This preceeding sentence is nothing more than a recapitulation and a re-statement of the rulings earlier made in Our decision that petitioner Macabuhay's inclusion in the purge list is unwarranted and that her consequent summary dismissal from the government service is null and void. And it must be, as We have intended it to be, read together with the first dispositive sentence declaring the main petition moot and academic. It has been stated before, and We here reiterate, that the meaning, operation and consequences of a judgment must be ascertained like any other written instrument and that a judgment rests on the intention of the Court as gathered from every part thereof including the situation to which it applies and the attendant circumstances.[8]

The argument of movant Pesigan has one other flaw. It assumes that the prayer in the "Supplemental Pleading" asking Us to order the respondents "to reinstate petitioners in the government service - which, she maintains, was granted by Us - is equivalent to a prayer to have them absolved of the administrative charges levelled against them.

It cannot be so.

The "Supplemental Pleading" under discussion was filed - and movant Pesigan knows this fully well - because she and petitioner Macabuhay were removed from the service during the pendency of the investigation which We have previously ordered continued until the rendition of a new decision. With this as factual backdrop, the phrase "to reinstate petitioners in government service" can only have one meaning: the re-version of their status from dismissed officials to that of school officials under investigation but on official leave as We have required in G.R. No. L-38568. Indeed, if petitioner Macabuhay and movant Pesigan had meant, by the phrase, to have them-selves then and there absolved of the administrative charges, they could have so stated. More importantly, they could not have included in the very same supplemental pleading the incompatible prayer which states:

"6. That Chairman Undersecretary Narciso Albaracin of the Investigating Committee be ordered to resume the investigation of Administrative Case No. R-423 and terminate the said investigation with the least possible delay as required by existing rules and regulations regarding administrative investigations."

For the foregoing reasons, and as We stated at the out-set, We have no recourse but to deny the prayer of Movant Pesigan for a judgment declaring her absolved and innocent of the charges against her in Administrative Case No. R-423. We note her fear, manifested in her motion, that the denial of her prayer would leave her "at the mercy of the cruel discretion of the respondent Minister of Education and Culture." However, We do not consider this as enough reason for Us to supplant the respondent Secretary, who has all the records that have thus far been gathered in the case, and to render a decision Ourselves. There still is a need for the ascertainment of decisive facts and this is best done in the administrative level.[9] Moreover, Movant Pesigan's fear may be more fancied than real. The respondent Secretary has been twice rebuffed by this Court, first in G.R. No. L-38568 and then in the present case, in the attempts to arbitrarily remove petitioner Macabuhay and the movant from the service. More care and prudence can now be expected in the disposition of the administrative case.

WHEREFORE, it is hereby resolved that:

1. A Writ of Execution be issued, as it is hereby issued, ordering the present Minister of Education and Culture to immediately pay petitioner Macabuhay her back salaries corresponding to the October 22, 1974 - August 24, 1976 period and the Government Service and Insurance System to accordingly adjust the amount of petitioner Macabuhay's retirement benefits and to forthwith pay whatever balance is due her without waiting for the actual

pay-ment of the backwages by the present Minister of Education and Culture;

2. The prayer of movant Pesigan for a judgment declaring her absolved and innocent of the charges in Administrative Case No. R-423 be denied and that, as a consequence of Our main decision in this case, the respondent Secretary (now Minister) of Education and Culture be ordered to resume the investigation of movant Pesigan as agreed upon by the parties in G.R. No. L- 38568.

So much time has passed since We promulgated the Resolution in G.R. No. L- 38568 and the terms of the agreement, particularly those in Paragraph No. 1, may need to be up-dated. We thus hereby direct the present Minister of Education and Culture to do so, consistent with the spirit that originally led to their formulation. For the same reason, We likewise direct that the administrative in-vestigation be terminated within sixty days from receipt of this Resolution and that if, for any reason other than that caused by movant Pesigan herself, no administrative decision is reached within sixty days, then movant Pesigan should be allowed to reassume, in the meantime, her post as Principal Teacher of Balisong Elementary School at Balisong, Taal, Batangas or, if this is not possible, of any school acceptable to her within the Division of Batangas.

SO ORDERED.

Barredo, Makasiar, Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., in a separate opinion votes also for the granting of Pesigan's motion for outright dismissal of the case against her.

Fernando, C.J., concurs in the concurring and dissenting opinion of J. Teehankee.

[1] Rollo, pp. 367-371.

[2] Id., pp. 415-420.

[3] Id., pp. 391-397.

[4] Id., pp. 425-426.

[5] Cf. Tañada vs. Legaspi, No. L-22537, March 31, 1965, 13 SCRA 566-577.

[6] Rollo, pp. 147-148.

[*] Inadvertently written as L-40873 in Our decision.

[[7]] Rollo, pp. 376-377.

[[8]] Padua vs. Robles, L-40486, August 29, 1975, 66 SCRA 485.

[[9]] Cf. Ozaeta vs. Oil Industry Commission, Nos. L-35812-17, February 23, 1973, 49 SCRA 409.

SEPARATE OPINION

TEEHANKEE, J.:

I concur in the granting of petitioner Macabuhay's Mo-tion for Execution. But I dissent from the majority's denial of petitioner Pesigan's motion for a judgment ordering the termina-tion of her seven-year old administrative case and instead adjudg-ing that respondent minister now "be ordered to resume the investigation of movant Pesigan as agreed upon by the parties in G.R. No. L-38568" almost seven years ago as made of record in the Court's

Resolution of July 31, 1974 in said case bearing the same title as this case (reported in 58 SCRA 314).

The record shows that petitioner Pesigan has twice been denied elementary due process. In the agreement of the parties in the above-referred to 1974 case, petitioner Pesigan's dismissal from the service was set aside and respondents officials expressly agreed that "the administrative investigation of petitioners will continue to be conducted with the formalities and under the rules and procedure provided by law in administrative hearings and that, needless to say, both the complainant and respondents in said investigation will be accorded a fair and impartial investigation consonant with the requirements of due process."

Such agreement was not honored. Instead, respondents tried to effect herein petitioners' arbitrary dismissal through their inclusion in the September 19, 1975 purge list of "undesirables", which the Court unanimously declared as "null and void", a "deprivation of petitioners' right to due process" and an "oppressive act . . . in flagrant violation of the agreement of the parties in the previous case" in its decision at bar of December 5, 1978 (reported in 87 SCRA 153).

It is time to write finis to the long ordeal of petitioner Pesigan, despite the happenstance that she has not reached the age of compulsory retirement like her co-petitioner Macabuhay. Respondents' failure to resume and terminate the investigation of the case against Pesigan for almost seven years and their deprivation of her right to due process and to the speedy termination of the case divest them of jurisdiction over the same. Only thus can such elementary rights to due process, the parties' solemn agreements and this Court's judgments be given life and meaning.

I therefore vote, in line with the Court's action in the case of co-petitioner Macabuhay as well as the precedent of Villanos vs. Subido, 45 SCRA 299, and the separate concurring opinions of the now Chief Justice and of myself therein, that the case against petitioner Pesigan should forthwith be declared terminated and her immediate reassumption of her position (from which she has been on official leave as per the parties' agreement in the first case) without loss of seniority rights and other benefits and increases granted or recognized by law during the period of her leave corresponding to her position together with full payment of backwages, as in the case of her co-petitioner Macabuhay, should now be ordered.

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