

EUGENIO DE LA CRUZ AND MANUEL MONSALUD, PETITIONERS, VS. HON. COURT OF APPEALS AND LUIS AGUILAR, RESPONDENTS.

G.R. No. L-24000. November 29, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The only issue in this appeal by certiorari is whether the herein petitioner Eugenio de la Cruz has been correctly adjudged by the respondent Court in its CA-G.R. No. 27196-R to pay the sum of P1,000.00 as attorney's fees to respondent Luis Aguilar.

The facts as found by the Court of Appeals, which are substantially the same as those found by the trial court, are as follows:

"Pursuant to Reorganization Plan No. 77 implemented by Executive Orders 257 of July 5, 1957, the Reorganization Commission, acting upon the authority of Republic Act No. 997 as amended by Republic Act No. 1241, created the Forest Products Research Institute. The Institute's office was at College, Laguna. Petitioner Luis Aguilar was its assistant director; respondent Eugenio de la Cruz, the director. Manuel Monsalud, the other respondent, was Chief, Chemical Investigation Division thereof.

"On March 27, 1958, thirty-nine of the Institute's employees adopted a resolution urging the President of the University of the Philippines not to recommend the further extension of the services of respondent director De la Cruz after his automatic retirement in July following.

"On April 16, 1958, Santos Tabuena, a Junior Forestry Research Scientist of the Institute, wrote the Assistant Director of the National Bureau of Investigation requesting that respondent director 'be investigated for suspicious and anomalous transactions as a public servant.'

"Respondent director suspected that petitioner was behind these actions of the employees of the Institute. On June 12, 1958, Director De la Cruz filed with the Board of the Institute a complaint charging petitioner with sowing dissensions in said Institute by organizing factions or cliques therein.

"In July, 1958, a special committee designated by the Board chairman undertook the investigation of the director's June 12 complaint. It 'resulted into an amicable settlement only, with a warning that the Board will not tolerate any further intrigues between the Director and the Assistant Director.'

"On August 22, 1958, Santos Tabuena and Emiliano F. Roldan, employees of the Institute, filed another administrative complaint with the Presidential Committee on Administrative Performance Efficiency (PCAPE) charging Director De la Cruz with 'grave misconduct in office, oppression of employees and dishonesty' therein set forth. This complaint was thrown on the lap of the President of University of the Philippines who, in turn, forwarded the same to the Forest Products Research Board for investigation. On December 18, 1958, the Board chairman required De la Cruz to answer the charges, which he did on December 27, 1958 in a letter, Exhibit E, wherein De la Cruz aired his feelings towards petitioner.

"On January 30, 1959, De la Cruz filed his answer listing six counts against petitioner Aguilar. On demand by

the Board, Aguilar, on February 3, 1959, filed an itemized answer to the charges.

"A few days thereafter, that is, on February 12, 1959, respondent, in a letter to petitioner, advised the latter that he was 'suspended from office effective today, February 12, 1959, until your case shall have been terminated.' Instead of having said letter delivered to petitioner whose office was just opposite respondent Director's, the latter coursed it through the mails. Result: Aguilar re-received the letter only at 1:00 o'clock, p.m., on February 13, 1959 when he had to take delivery thereof at the Post Office of the College of Agriculture two kilometers away. Aguilar protested his suspension.

"On February 16, 1959, respondent Director issued Office Order No. 20 designating respondent Monsalud as 'Act-ing Assistant Director' of the Institute effective February 17, 1959.

"Early in the morning of February 17, 1959, Aguilar reported for duty. He found his office padlocked.

"On the same day, February 17, 1959, respondent De la Cruz promulgated office memorandum addressed to his co-respondent Monsalud, as follows:

'In view of the open violation by Mr. Luis Aguilar to keep away from the premises during his suspension, in open disobedience to the order of the under-signed dated February 12, 1959, it is hereby enjoined that beginning today he should not be allowed to enter the building or loiter around its premises or to enter his office which has been padlocked. Insistence on his part to violate said order, he should be turned over to the police authorities by our Security Guards to be dealt with according to law. Violence of any sort should be avoided unless forced to use it so as to keep peace and order. Instructions of the same nature should be passed to the Chiefs of Division and the Chiefs of Section down to the last man who should not deal with him in any official manner as he is no longer the Assistant Director of the Institute, neither receive any instructions from him under any category and each one of them should report any incident where Mr. Luis Aguilar tries to violate these instructions, for record purposes.'

"Monsalud promptly obeyed by circulating on even date a directive to that chiefs of division and the chiefs of section down to the last man enjoining compliance of the Director's memorandum."

On February 20, 1959 Aguilar filed with the Court of First Instance of Laguna a petition for prohibition and quo warranto (Civil Case. No. B-182) against De la Cruz and Monsalud, praying:

"a - that a writ of preliminary injunction issue immediately restraining respondents from enforcing the order of suspension as well as the Office Order No. 20 and memoranda (Annexes 'E', 'G', 'H', and 'H-1', respectively) aforementioned during the pendency of this action, upon the filing of a bond by petitioner in the amount fixed by this Honorable Court;

"b - that after due notice and hearing, a writ of prohibition issue commanding respondent Director to desist from further enforcing his said suspension order, for the reason that the same is null and void; that also a writ of quo warranto issue finding respondent Monsalud guilty of usurping, intruding into, or unlawfully holding, as well as illegally exercising and performing the power and duties attached to, the office of Assistant Director of the Institute and that said respondent be ousted and altogether excluded therefrom, and at the same time declaring petitioner the officer legally entitled thereto;

"c - that petitioner be allowed to recover his cost and damages against both respondents, jointly and severally or either of them.

"d - that such other reliefs just and equitable in the premises be awarded to petitioner."

After due hearing, the trial court on August 26, 1959 rendered its decision, of which dispositive portion reads:

"WHEREFORE, judgment is hereby rendered as follows:

"1) The order of suspension dated February 12, 1959 issued by defendant Eugenio de la Cruz together with his office order No. 20 dated February 16, 1959 and memorandum dated February 17, 1959 as well as the memorandum issued by defendant Manuel R. Monsalud dated February 17, 1959 are hereby declared null and void and of no further force and effect.

"2) The defendant Eugenio de la Cruz is hereby sentenced to pay the plaintiff the sum of P1,000.00 as compensatory damages and P2,000.00 as exemplary damages in addition to the costs of suit; and

"3) The preliminary injunction dated March 2, 1959 is hereby made permanent."

The respondents appealed to the Court of Appeals which, in turn, affirmed the decision of the Court of First Instance, except with respect to the award of exemplary damages in the sum of P2,000.00, which was eliminated. With respect to the other award of P1,000.00, the same was sustained, but in concept of attorney's fees instead of compensatory damages. On this point the appellate court said:

"2. We now go to the award of P1,000.00. We feel that this does not fall in the category of "pecuniary and actual loss" or "compensatory damages", as recited in the judgment below. Rather, it is quite clear that such amount is payable in concept of attorney's fees. And, this is confirmed by the very decision itself from which is culled the following, viz:

'There is evidence on record which stands uncontradicted that as a result of the illegal suspension of the plaintiff by Director de la Cruz, the former was compelled and had to retain the services of counsel for the protection of his rights and has agreed to pay for said purpose the sum of P1,000.'

See Article 2208, paragraph 11, Civil Code."

Both parties filed motions for reconsideration, respectively. In support of their motion the appellants, petitioners here, submitted the report of the U.P. Investigating Committee dated February 29, 1960, dismissing the appellee from his position as Assistant Director of the Institute, but which report had not been offered in evidence in the trial court. In a resolution dated December 17, 1964 the Court of Appeals denied both motions for reconsideration, whereupon the appellants instituted the instant petition for review by certiorari.

To show that the respondent court erred in sustaining the award of P1,000.00 by way of attorney's fees, the petitioners quote extensively from the report of the U.P. Investigating Committee and point out that in the light of the findings of fact therein petitioner De la Cruz was justified in suspending respondent Aguilar, in padlocking his office and in prohibiting him from loitering in the premises of the Institute. The said report was considered neither by the trial court nor by the Court of Appeals for the obvious reason that it had not been properly presented as evidence. It was merely submitted together with the herein petitioners' motion for reconsideration of the decision of the trial court, which was based upon its own evaluation of the evidence before it.

Relevant to the issue of whether or not the order of preventive suspension was justified are the facts as found by the trial court and reproduced with approval in the decision of the Court of Appeals. These facts are binding upon this Court for purposes of the present appeal, in which only questions of law may be raised. The trial court said:

"A review of the actuations of Director de la Cruz in the light of the surrounding circumstances persuade the Court to believe that he acted in bad faith and for no other purpose than to wreak vengeance on the plaintiff. Director de la Cruz had long suspected that the plaintiff must have encouraged or prompted Santos Tabuena in suing him in Court. This suspicion later became a belief and finally a conviction because the plaintiff was present during the entire course of the trial and in fact testified for Santos Tabuena. All of these must have engendered in the mind of Director de la Cruz a feeling of resentment or hatred against the plaintiff which he unwittingly disclosed for the first time when he submitted to the Forest Products Research Board his reply to the charges filed against him with the PCAFE by Tabuena and Roldan. Instead of answering the specific

charges him he merely contended himself to stating that they were groundless and then laid the blame therefor on the shoulders of Assistant Director Aguilar. On page 3 of the letter complaint were listed the witnesses whom the complain-ants would present in support of their charges and Assistant Director Aguilar was not among them and yet in his reply (Exh. E), Director de la Cruz unnecessarily attacked the plaintiff when he stated among others –

1. '... Assistant Director Aguilar who was bent on demoralizing the employ-ees of the Institute by injecting the element of favoritism or regionalistic consideration for any promotion or appointment (par. 2)

'The fault is purely his own for having allowed himself to be a tool of Aguilar (par. 3).

3. 'Aguilar feeling guilty of his acts that led to the termination of Tabuena's services last June 16, 1958 by the Civil Service is now taking active part in the Civil Case No. 152 for Mandamus and damages against me (par.4).

4. '... these accusations are not only vicious, malicious and purely intended to harass the undersigned thru the evil machinations of Aguilar (par. 6).

5. '... although maliciously twisted by Aguilar and company (par. 7).

Not content with the foregoing, Director de la Cruz under the guise of supplementing his answer to the complaint filed against him with the PCAFE, made formal charges against the plaintiff in his letter to the Forest Products Research Board on January 30, 1959 (Exh. F). By his own admission Director de la Cruz had not confronted the plaintiff with his grievances against the alleged actuation of the latter (p. 76, t.s.n. – March 17, 1959).

After the plaintiff has submitted his answer to the charges filed against him by Director de la Cruz, the latter of his own initiative and without any action having been taken by the Forest Products Research Board on his complaint, suspended the plaintiff on the basis that 'there is a prima facie case ...as shown by the charges filed by him.' The suspension was made effective as of February 12, 1959 or the day before the letter containing the order was posted in the mail. Director de la Cruz sent the letter of suspension by registered mail instead of causing it to be delivered by a messenger to the office of the plain-tiff which is only four meters away from his own –thus making it necessary for the plaintiff to go to the Post Office situated two kilometers away.

Not content with the suspension he decreed, and to barrow the language used by counsel for the plaintiff in his memorandum – 'to add insult to injury', Director de la Cruz directed the padlocking of the room of the plaintiff and issued a memorandum containing among others –

1. Assistant Director Aguilar 'should not be allowed to enter the building or loiter around its premises or to enter his office which has been padlocked';

2. 'Insistence on his part to violate said order, he should be turned over to the police authorities by our Security Guards to be dealt with according to law';

3. 'Instruction of same nature should be passed to the Chiefs of Divisions and the Chiefs of Section down to the last man who should not deal with his in any official manner';

4. 'Neither (said Chiefs or Division and Sections should receive any instruction from him (Aguilar) under any category';

5. Aguilar 'is no longer the Assistant Director of the Institute' (Exh. J.)

To justify the issuance of this memorandum, Director de la Cruz premised it upon the fact that Assistant Director Aguilar committed an open disobedience to the suspension order of February 12, 1959, to keep away from the premises of the Forest Products Research Institute during his suspension. The order of suspension did

not contain any such pro-hibition and for this reason the plaintiff could not have been guilty of open violation of the suspension order. But even if it did, it would certainly, be high handed, unduly oppressive and outright illegal."

The conclusions that the Court of Appeals drew from the foregoing facts are that petitioner De la Cruz acted as "the accused and the Judge at the same time as to the propriety of his suspension order based on his own complaint which is not even verified;" "that the bare statement of petitioner to the effect that there was a prima facie case against Aguilar is not in accordance with Section 21 of Civil Service Rule XVII which prescribes that no suspension pending removal should be made unless there are strong reasons to believe that the respondent is guilty of charges which would warrant his removal from the service;" and that "the power of suspension cannot be used as a strong arm for purposes of giving vent to revenge, hatred or resentment, or a vehicle for attack or oppression."

The petitioners do not directly question the ruling of the Court of Appeals, sustaining the trial court, that under the law Director De la Cruz was not empowered to suspend Assistant Director Aguilar preventively during the pendency of an administrative investigation. It bears mentioning that the investigation then pending involved a complaint filed by two employees of the Research Institute against De la Cruz, and that the order of suspension he issued was based on his own answer to the said complaint wherein he listed a number of charges against Aguilar, who was not one of the complainants and therefore was not a party in the administrative case.

Under Reorganization Plan No. 77 the Director of the Research Institute has the following powers: "Sec. 14.... (d) appoint, with the approval of the Board, and remove or otherwise discipline for cause, the officers of the Institute, as follows: Assistant Director and Chiefs of Divisions; (e) appoint, promote, remove, suspend, or otherwise discipline for cause, employees of the Institute." It is noteworthy that the power to suspend, let alone suspend preventively, is not expressly mentioned in paragraph (d) as it is in paragraph (e) of Section 14 above-quoted. But whether or not the power to suspend preventively may be implied from the power to remove, the Court of Appeals found that the reason for the exercise of such power, namely, to prevent the suspended party from hampering the normal course of the investigation with his influence and authority over possible witnesses, did not exist in this case.

The award of attorney's fees in favor of respondent Aguilar was predicated on the finding of the trial court that "as a result of the illegal suspension of the plaintiff by Director De la Cruz, the former was compelled and had to retain the services of counsel for the protection of his rights and has agreed to pay for said purpose the sum of P1,000.00."

We do not believe that the Court of Appeals erred in affirming the award of the said amount by way of attorney's fees in accordance with Article 2208, paragraph 11, of the Civil Code, which authorizes recovery of such fees "in any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered." (See *Estate of Buan v. Camaganacan*, L-21569, February 28, 1966, 16 SCRA 321).

WHEREFORE, the decision appealed from is affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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